



## Fire Suppression Interim Committee 60th Montana Legislature

### SENATE MEMBERS

JOHN COBB  
KEN HANSEN  
RICK LAIBLE  
DAVE LEWIS  
GERALD PEASE  
CAROL WILLIAMS

### HOUSE MEMBERS

STEVE BOLSTAD  
JIM KEANE  
ROGER KOOPMAN  
RICK RIPLEY  
CHAS VINCENT  
BILL WILSON

### COMMITTEE STAFF

LEANNE HEISEL, Lead Staff  
TODD EVERTS, Staff Attorney  
BARBARA SMITH, Fiscal Analyst

# MINUTES

October 29, 2007

Room 137, State Capitol  
Helena, Montana

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

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

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

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### COMMITTEE MEMBERS PRESENT

SEN. JOHN COBB  
SEN. KEN HANSEN  
SEN. RICK LAIBLE  
SEN. DAVE LEWIS  
SEN. GERALD PEASE  
SEN. CAROL WILLIAMS

REP. STEVE BOLSTAD  
REP. JIM KEANE  
REP. ROGER KOOPMAN  
REP. RICK RIPLEY  
REP. CHAS VINCENT  
REP. BILL WILSON

### STAFF PRESENT

LEANNE HEISEL, Lead Staff  
TODD EVERTS, Staff Attorney  
BARBARA SMITH, Fiscal Analyst  
DAWN FIELD, Committee Secretary

### **AGENDA & VISITORS' LIST**

Agenda, Attachment #1.  
Visitors' list, Attachment #2.

### **COMMITTEE ACTION**

The Fire Suppression Interim Committee:

- elected Sen. Cobb as Committee Chair;
- elected Rep. Wilson as Vice Chair; and
- approved formation of three subcommittees.

### **CALL TO ORDER AND ROLL CALL**

00:00:01 SEN. COBB called the meeting to order at 9:03 a.m. The secretary took roll, all members were present. **Leanne Heisel, Research Staff, Legislative Services Division (LSD)**, explained how interested persons could sign up for meeting notices and to receive information related to the Fire Suppression Interim Committee (FSIC).

### **ELECTION OF CHAIR AND VICE CHAIR**

00:02:07 REP. KOOPMAN nominated SEN. COBB to serve as committee chair. SEN. LAIBLE moved to close nominations. The motion passed on a unanimous voice vote. SEN. LEWIS nominated REP. KOOPMAN for Vice Chair. SEN. WILLIAMS nominated REP. WILSON and noted he is the senior member from the House of Representatives. REP. KEANE said it would be appropriate to have the Chair and Vice Chair from separate parties. REP. KOOPMAN said he was honored to be nominated but asked that his name be withdrawn from nomination and recommended that REP. WILSON be elected as Vice Chair. SEN. LEWIS agreed to withdraw REP. KOOPMAN's name as a nominee. The motion passed on unanimous voice vote.

### **INTENT OF ENABLING LEGISLATION HB 1**

00:04:33 REP. KOOPMAN provided a brief history of HB 1, September 2007 Special Session, and reviewed the statutory requirements of the bill (EXHIBIT #1). He said the bill's language makes it clear that the FSIC has a lot of leeway to investigate whatever it determines appropriate and that the Committee is not limited to five field meetings. He said the field hearings will provide ample opportunity for citizen involvement using a "bottom up" approach, thus allowing the Committee to listen to the citizens before focusing on solutions.

00:12:19 SEN. WILLIAMS said the bill did not address several components, such as the effects of climate change, urban interface, and rural firefighting. She said they were left out of the bill due to the time constraints of the special session. She asked that some of these issues be addressed during the interim study period.

- 00:13:45 SEN. LAIBLE said that in his research of the issue and in speaking to local firefighters and different agencies, he found there was little blame or criticism of others occurring. He said the Committee should use the same type of approach and not get trapped into finding fault. He said the public comment will be valuable and that the process must remain bipartisan if the Committee is to succeed in its work. He said that a strong message must be sent to Congress that the current situation of allowing western states to burn up is not acceptable.
- 00:19:03 REP. KEANE agreed with SEN. LAIBLE's comments and said it is important to facilitate integration of Forest Service and State firefighting efforts and to determine sound policy for management of state lands and resources. He said that local, county, state, and federal governments must all work together because this issue is not going to go away.
- 00:21:39 SEN. HANSEN said the Committee's primary role is to educate and agreed that involving the public as much as possible is important. He noted that he has served as a volunteer fireman for many years and has a good understanding of many of the issues facing FSIC.
- 00:22:56 SEN. LEWIS said the focus has to be on who is going to have to pay because federal aid is decreasing and will continue to decrease.
- 00:24:11 REP. BOLSTAD agreed that federal money for fighting fires will continue to decrease and said that Montana has the opportunity to lead the western states in implementing new and forward-looking policy. He said he is confident that much can be accomplished if Committee members are willing to work together.
- 00:25:25 Leanne Heisel, Research Analyst, LSD, Todd Everts, Staff Attorney, Legislative Environmental Policy Office (LEPO), Barbara Smith, Fiscal Analyst, Legislative Fiscal Division (LFD), and Dawn Field, Secretary, LSD. introduced themselves as Committee staff.

#### **BUDGET CONSIDERATIONS AND TRAVEL**

- 00:27:39 **Karen Berger Financial Services Manager, LSD**, reviewed the FSIC budget (EXHIBIT #2) and the reviewed policy regarding legislator reimbursement (EXHIBIT #3) for meeting expenses and per diem payments.
- 00:32:39 SEN. COBB said the budget will allow members and staff to attend pertinent meetings and discussed an upcoming DNRC meeting scheduled for November 27 and 28 in Helena. Ms. Berger said that meeting expenses for members to attend these types of meetings were included in the budget. SEN. COBB said the FSIC is different than other committees and he encouraged member attendance of outside meetings. SEN. COBB said he was considering creating subcommittees to work with specific issues, which would then present findings and conclusions to the full Committee for the final decisions. Ms. Berger said ongoing committee expenses will be tracked and that budget updates will be provided. SEN. COBB asked to have the budget updates posted on the FSIC web page in order for the public to track expenses.

00:38:15 SEN. WILLIAMS said other agencies budgets must be a consideration when planning out of town meetings because travel expenses may not be budgeted for agency staff to travel with the FSIC.

### **FIRE COSTS AND REIMBURSEMENTS**

00:38:57 **Barbara Smith, Fiscal Analyst, Legislative Fiscal Division (LFD)**, discussed how fire suppression funds are allocated, the process of cost negotiations between agencies, and six cost settlement options (EXHIBIT #4). Ms. Smith also discussed FY 2008 fire suppression costs as of October 4, 2007, and as of October 26, 2007, and the summary of changes (EXHIBIT #5). She reported that the amount of unfunded fire suppression costs totals \$6.4 million.

00:46:05 REP. RIPLEY asked Ms. Smith to discuss the effects of Federal Emergency Management Assistance (FEMA) restructured and reduced payment plan. Ms. Smith said there have been significant changes made in how FEMA payments will be made and explained that threshold numbers were changed from 50 to 100 structures. She said FEMA pays approximately 75% of the cost but only after the State has paid the full amount. She noted, using Hurricane Katrina as an example, that if other disasters occur along the way, payment can be delayed.

00:48:27 SEN. LAIBLE asked what type of cost share formula the federal government uses when a fire starts on federal land and moves onto state-owned land. He noted the difference in federal and state policy regarding initial attack of fires and the fact that the cost of a fire may have increased significantly by the time it burns from federal land onto state land. Ms. Smith said the fire described by SEN. LAIBLE is considered a multi jurisdictional fire and is one of the reasons why the funding formula is being examined for possible adjustments.

00:51:08 SEN. COBB asked how long these type of cost share programs have been around. Ms. Smith said it is her understanding that they are new this year and were developed as the fire season progressed and that the driving factor was to address the amount of effort put forth by each agency for each fire and to determine which entity incurred what costs. SEN. COBB asked if the push for the changes was coming from the federal or state level. Ms. Smith said it is her understanding that the push for change is coming from all three parties involved in the negotiations. SEN. COBB said if the federal government is going to pay less for structure protection, state costs will increase. Ms. Smith said that is correct and agreed that forest land fires are less expensive to fight than wildland urban interface (WUI) fires.

00:54:27 REP. KEANE said the conflict between state and federal burn policy could potentially drain the state budget and asked if there is any coordination with the federal government to prevent this from happening. **Bob Harrington, Forestry Division Manager, DNRC**, said there is no blanket federal "let it burn" policy and that federal response to a fire depends on several factors, such as location. He discussed an example of a back country roadless area fire, saying it may not be attacked as aggressively as a fire located elsewhere. He said the USFS will respond aggressively when necessary and that federal burn policy would be explained in detail later in the meeting. Mr. Harrington said cost apportionment

and cost sharing on fires is not a new strategy and has been ongoing for years. The new techniques referenced by Ms. Smith reflect budgetary pressure on the state and federal level and that is a factor for seeing if more fair and equitable cost sharing approaches can be found. New technology, such as GIS technology, makes it possible to more accurately map a fire which will help assess costs.

01:00:02 REP. KEANE asked about the "you order, you pay" option for apportioning fire costs and if there is the potential for shifting costs to other parties if that method is used. Mr. Harrington said no, and that the method would be used only where it would be in the state's interest to do so.

01:01:23 REP. KOOPMAN said he is trying to understand the rationale for the reduction in the federal cost share in the Chippy Creek fire and that the state's initial attack was more aggressive than that of the federal government, resulting in higher costs to the state. He asked if that creates an incentive for the state to be less aggressive in its initial attack efforts. Mr. Harrington said the new apportionment costs will not change the DNRC's initial attack approach, unless the agency is instructed to do so by the Legislature. He said the state will continue to attack fires with the intent of putting out every fire as quickly and safely as possible. He discussed a map of the Chippy Creek fire and pointed out the different areas of the fire that were fought by different entities. He said the fire was very aggressive and quickly burned onto federal land and that little could be done to change the direction of the fire. He discussed several of the measures taken to fight the Chippy Creek fire and how circumstances dictated fire management. He said if effort expended is considered and not acres burned, it gives a better feel for what happened.

01:07:12 SEN. COBB said the Committee needs to have trend information for the next ten years at least, because that information would help the Committee make better decisions on how to approach this problem. He said he would like to have agencies report their projections to the Committee and to explain the basis of the projections. Mr. Harrington said the binders provided to Committee members by DNRC contains tables and graphs on that information and would be discussed later in the meeting.

01:09:23 Ms. Smith said she would provide copies of the cost negotiations meeting document to all Committee members.

#### **STAFF REPORTS**

01:09:54 Ms. Heisel discussed four previous fire policy studies conducted by Legislative Council and Legislative Services Division, dating back to 1976 (EXHIBIT #6):

- Revision of Montana Fire Laws - 1976;
- Timber Management and Forest Fire Protection Costs -1984;
- Sampling of Legislative Treatment of Wildfire Mitigation Costs in Wildland Urban Interface - March of 2006 (mailed to members); and
- HJR 10 - Study of Wildland Fire Policy and Statutes in October of 2006.

Ms. Heisel discussed HJR 10 in detail, which resulted in seven bills being passed in the 2007 Legislature.

- 01:16:48 REP. VINCENT asked about SB 404, regarding firefighter liability, and asked if it applies to initial attack liability only. Ms. Heisel said no, and read the bullet point on page 4 of EXHIBIT #6 regarding the intent of SB 404.
- 01:17:35 Regarding SB 51, SEN. COBB asked if work on the rules has begun yet. Ms. Heisel said not yet and that the Committee will be kept informed of the progress. She said the rules will define for local governments what best practices should be in WUI areas.
- 01:18:23 SEN. COBB asked about the State Fire Policy enacted by SB 145 and codified in 76-13-115, MCA, wondering if subsections 6-8 should be revisited. Ms. Heisel said as the Committee moves forward and develops legislation or recommendations, it should keep this policy in mind and find ways to implement it.
- 01:19:17 Ms. Smith reviewed the previous work of LFD and said that historically, LFD has prepared a number of documents relating to fire costs. In addition, LFD has provided options to the Legislative Finance Committee for dealing with costs that are not budgeted for but occur every cycle anyway. She said the documents were mailed out to members and included reports on creating a special fund for wildland firefighting, raising fees for WUI residents, and a DNRC study on who benefits from fire suppression efforts and how to make them pay.
- Ms. Smith said other issues previously studied by LFD included a situation in which the state had to pay unbudgeted fire fighting costs and did not have the ending balance to do so. She said one-time federal relief was found in that instance. She also discussed a situation in which DNRC funds were transferred forward from one fiscal year to another and resulted in a budget shortage because of large fire year costs and a request for an emergency supplemental appropriation. She said the mailing included examples of work done in the last several years. SEN. COBB noted that no legislation has been passed to date to rectify these situations. Ms. Smith said that is correct.
- 01:24:03 SEN. WILLIAMS reminded the members that the Senate Finance and Claims Committee placed the statutory appropriation for fire costs on a sunset and that it is important to look for other funding sources.
- 01:25:25 **Joe Murray, Legislative Auditor, Legislative Audit Division (LAD)**, discussed a December 2004 performance audit report on wildland fire administration (mailed to members). He said the audit was requested by legislators after the 2003 fire season, which was very similar to the 2007 fire season. Mr. Murray said fires are getting more expensive because of ongoing drought conditions, climate changes, years of fire suppression that have resulted in increasing fuel levels, and most significantly, the effect of wildland-urban interface.
- Mr. Murray discussed fire protection organizations in Montana and explained that historically, they have consisted of federal, state, and local agencies. The primary federal agencies are the USFS and the Bureau of Land Management (BLM), with the Bureau of Indian Affairs (BIA), the National Park Service, and the

United States Fish and Wildlife Service also involved. The DNRC is the primary state agency responsible for fire protection and local fire departments and private sector firefighters also play major roles in fire suppression efforts.

Mr. Murray said the two types of fire are initial attack fire and extended attack fire, and that extended attack fires generate the majority of fire suppression expenses. Mr. Murray noted that DNRC uses the initial attack approach for the majority of fires and has set a goal to keep 95% of its initial attack fires at 10 acres or less and has a good success rate over the last decade.

Mr. Murray discussed the 2004 audit's findings and conclusions. He said DNRC is coordinating initial attack activities well with federal and local partners and that DNRC is meeting its suppression goal. Mr. Murray said LAD made several recommendations to improve and enhance DNRC's initial attack capabilities:

- to create a two-tier system to pay for severity resources, which means paying a lower rate while waiting to respond to fires;
- to complete a fire program analysis to review location and distribution of initial attack resources;
- to seek additional funding from the Legislature to enhance existing initial attack capabilities; and
- to conduct a risk financing process for severity resource funding.

Mr. Murray said the DNRC is working to implement the recommendations and was successful in obtaining funding for additional aviation resources and estimated that savings was \$15 to \$20 million in the 2007 fire season

Regarding project fire administration, Mr. Murray said LAD reviewed business controls of managing fires. He said large fires are managed by a formal command structure and noted that the Northern Rockies region has fire management teams but does call in outside assistance, if needed. The LAD evaluated a number of business controls on large fires, including policies and procedures, fire cost records for 2003 and 2004, observation of fire suppression activities on the fire line, and interviews of DNRC staff, fire management teams, and others. Audit results indicate that overall, effective cost containment strategies need to focus on the areas where the majority of the costs are incurred. The top three cost drivers are equipment, personnel, and aviation. Steps have been taken to improve the ordering system for resources. The LAD also examined the work/rest ratio requirement and determined that the requirement can increase costs and also may cause negative and inaccurate perception of personnel work activities. Mr. Murray said WUI fires also significantly increase costs. Recommendations made by LAD include:

- assuring appropriate payment to local fire departments;
- increase emphasis on inspections on equipment used on fires,
- change contracts to better address damage claims;
- delegation of authority and cost share agreements be improved;
- improve use of incident business advisors (IBAs) to increase accuracy of cost information; and
- improve performance evaluation process for personnel used on fires.

Mr. Murray discussed post-fire activities and said that expenses continue to accrue after a fire is out. He discussed LAD recommendations for post-fire activities:

- clarify policy for payment for accidental fires;
- tighten controls for loss of equipment;
- continue to solicit competitive bids for contract resources - "best value contracting";
- recommended consideration of the cost of acquiring equipment versus rental;
- bolster fire cost studies and reviews to learn what went well and identify areas in need of improvement.

Mr. Murray said LAD's final recommendations were to establish formal agreements with local fire departments and to present a proposal to the legislature to fund additional Type III teams (introduced in 2005 session but did not pass), and to update the fire statutes (HJR 10 and new laws enacted in the 2007 session).

Mr. Murray said that 27 recommendations were made and that most have been implemented or are in progress. He commended the DNRC on its effort to comply with the audit recommendations.

Mr Murray said that LAD recently released several other reports (copies were provided to members in mailing):

- *Promoting Proper Forest Practices* -- LAD made one recommendation to bolster the process but determined that overall, DNRC's current methods are working well;
- *Prioritizing Forest Fuels Reduction Projects* -- this issue is directly tied to WUI issues and is a federal project but LAD recommended that DNRC prioritize where the funds should be used.

01:46:10 REP. KOOPMAN recalled a previous conversation that related to LAD staff frustration in tracking the 27 recommendations made to DNRC and that in fact, language in HB 1 mandates that DNRC report to the Legislature on its efforts. He said Mr. Murray's report indicates that DNRC has made excellent progress, which differs from what he had heard previously. Mr. Murray agreed that there had been some degree of frustration because some of the recommendations were complicated to implement due to the mix of federal and private resources. He said that several areas remain in need of attention, but that DNRC has provided a lot of new information, and after meeting with DNRC several times recently, he is confident that excellent progress has been made.

01:49:01 REP. KOOPMAN said the "best value" concept appears to be good but is problematic in reality. He asked if the performance audit or other new information can point out how to improve this process. Mr. Murray said at the time of the 2004 audit, best value contracting was not yet in place. He said LAD is of the opinion that best value contracting is the best approach to ensuring consistency of quality and cost of equipment. REP. KOOPMAN said there are concerns that equipment is costing more than it should, such as bringing

equipment in from out-of-state versus using in-state or privately-owned equipment. Mr. Murray said the audit didn't specifically address that issue but did address the resource ordering system and that problems are in the process of being worked out. The audit recommended that an evaluation be done of these resources and that they should have to meet certain standards in order to be put in the system.

01:54:08 SEN. COBB said that FSIC may request additional information from LAD regarding the cost-effectiveness of contractors. Regarding the level of coordination of efforts of initial attack of fires as of 2004, SEN. COBB asked if there is updated information on if the same level of cooperation and coordination of initial attack is occurring or if the issues regarding initial attack have changed. Mr. Murray said the closest available resource is still dispatched first, which may be federal, state, or local agencies. The number one goal is to get the fire extinguished as quickly as possible.

### **AGENCY REPORTS**

01:58:04 **Bob Harrington, Forestry Division Administrator, DNRC**, said he appreciated the committee's willingness to work on the trials and tribulations of wildland fires. He said, in his opinion, the impetus for audit came from a negative Helena Independent Record headline on May 23, 2004. He said LAD and DNRC did good work and contrary to what was heard in the 2007 special session, DNRC took the recommendations very seriously. He reported that 22 of the 27 recommendations have been implemented and the other five are either ongoing or no longer applicable (*Montana DNRC Fire Program: 2004 Program Audit Recommendations* --EXHIBIT #7).

2:02:22 Mr. Harrington discussed the performance goals of DNRC and reviewed the table of contents of the binder of materials provided by DNRC to FSIC members (EXHIBIT #8). Regarding Tab 3 - Montana Cost Accounting Reporting System (MTCARS) Estimated Fire Costs, Mr. Harrington said that Ms. Smith alerted him that she had been working off different cost estimates and that fiscal staff from DNRC is reviewing the numbers and will correct the situation. He distributed copies of the cost estimates being used by Ms. Smith and noted that the bottom line differs by approximately \$3 million (EXHIBIT #9).

02:05:54 Mr. Harrington reviewed the 2007 fire season and said the highest priority of no loss of human life was met but that injuries did occur. He said several themes have emerged, such as extreme fire danger due to a combination of fuels, weather and topography, and tremendous growth in wildland-urban interface, but overall, DNRC was successful in meeting its goal of a 95% success rate for initial attack fires. He cautioned that DNRC will not be able to maintain its record if the current trends continue. One reason for the success is the cooperation between local, federal, and state agencies, as well as private landowners, law enforcement agencies and others.

02:02:08 Mr. Harrington said he is concerned about the increasing complexity of fire seasons. He reviewed the many responsibilities of DNRC throughout a fire

season, saying that the primary responsibility is initial attack but that the agency also has responsibility for large fires affecting state and private lands, conducting orderly evacuations, observing cost containment measures, providing safe and effective structure protection, recovering costs eligible for FEMA reimbursement, and responding to legislative inquiries.

02:09:42 Mr. Harrington reported that in 2007, nine fires accounted for 75% of the total costs and said DNRC believes that the best cost containment measures are fire prevention activities and a strong initial attack policy. He said he has prepared review topics and questions for the Committee (EXHIBIT #10 - inside pocket of binder cover) and asked that the Committee study the topics. He said there is no single solution to this problem and that it becomes more complex with every fire season. It must be clearly understood that it is not just wildland-urban interface issues and that the problems and costs associated with large fire growth are not going to go away. He said there are many proactive landowners who are working to manage their lands and create defensible space. Mr. Harrington discussed his suggested review topics:

- wildland-urban interface;
- federal forest / wildland fire / budget management;
- resources for state and local government wildfire response;
- the role of private contractors in wildland fire suppression; and
- funding for state/local government wildland fire preparedness and suppression.

02:26:13 SEN. LAIBLE complimented Mr. Harrington and DNRC staff on their hard work throughout the 2007 fire season and extended his thanks to local governments and to the Forest Service. He asked if the BLM has its own fire crews or if it uses Forest Service contractors. Mr. Harrington said the BLM has a well-developed fire protection program which is centered in Billings, and has other offices located through out the state. He added that there is a host of federal agencies besides the USFS who are key partners in fire suppression efforts which include the BLM, FWP, National Park Service, and BIA; and all are part of the Northern Rockies Coordinating Group. SEN. LAIBLE asked how BLM lands differ from USFS lands. Mr. Harrington explained that BLM lands are different form USFS because they are mostly agricultural in nature but that they have parallel and similar missions. He discussed a wall map of Montana illustrating the different types of state lands and explained the different areas of responsibility for the different agencies. SEN. LAIBLE asked to have staff review how the different entities overlap, interact, and how each addresses fires.

02:30:21 SEN. LAIBLE asked how DNRC handles the longer fire seasons and what the impact is on staff. Mr. Harrington said the agency is structured to handle the fire load of the 1970s and 80s and that an extended fire season is extremely stressful, stretching staff to their limit. He discussed additional points:

- his concern that very soon, the work load will surpass the ability of staff to keep up with it;
- reductions in FEMA payments to assist with fire costs;
- that local governments are being similarly affected;
- the growth in the need for severity resources over the last ten years; and

- other factors, such as the LAD audit and efforts to implement LAD recommendations have contributed to the increase in work load.

Mr. Harrington said additional staff is needed. He said one possibility would be to use employees from other state agencies but that the need for additional staff will have to be established before any could be added.

- 02:34:38 SEN. LAIBLE asked, if the Committee drafts legislation to increase DNRC resources and staff, what would be the goals and objectives of the agency, what assurance would there be that the necessary training and improved management techniques will be in place, and how initial attack efforts would be improved. He also asked how the Native American workforce can be more involved.
- 02:37:42 Mr. Harrington responded that a fire season is not a four-month proposition anymore, which greatly increases the pressure. Regarding training, there is a very well developed and extensive training structure in place but seasonal employee turnover presents problems. Problems in state and local government staff retention are also an issue. There is a tremendous need for upper level training courses as well as training for county commissioners.
- 02:40:16 REP. RIPLEY asked how the post-fire activity payment works and who is responsible for the costs. Mr. Harrington explained that post-fire activity is mainly fire rehabilitation and recovery. The DNRC is responsible for rehabilitation, such as seeding grass and landowners are responsible for recovery expenses, such as replacing fences or culverts. Some type of cost-share assistance is usually available to landowners, either through the Forest Service or through the Farm Bill. Mr. Harrington pointed out that the Governor made available \$200,000 from the contingency account to landowners that weren't eligible for assistance through DNRC.
- 02:44:18 SEN. WILLIAMS asked that the Committee be given a status report on the five recommendations that were not implemented. Mr. Harrington referred her to EXHIBIT # 7 and said the status of each recommendation is listed there.
- 02:45:09 REP. KOOPMAN agreed that the blame game is a waste of time but said that at times, blame or responsibility for a problem is due to an agency decision. He asked Mr. Harrington how a DNRC employee could testify before the FSIC without appearing to be assigning blame. He also asked if process for providing anonymity would be helpful. Mr. Harrington said DNRC staff is not restricted from speaking freely in any way and if a forum to address the Committee is provided, they would do so. He offered several suggestions on how to generate needed information such as simply riding around with DNRC staff on fire lines, spending extra time with local fire fighters, county commissioners, and citizens affected by fire during the field hearing phase of the study, formation of subcommittees whose focus would be on specific topics, and attending a DNRC "Fire 101 Class". Mr. Harrington encouraged the Committee to get information from as many sources as possible.

- 02:50:49 REP. VINCENT said he attended the recent cost-share meeting studying the six different approaches for cost-sharing, and said it is a very complicated and interwoven issue. He asked Mr. Harrington for his opinion on how it would best be done. Mr. Harrington said that the process is in its very early stages at this point and that during the spring training, it will be a major focus point. Because this is new and because of federal involvement, the work will have to be done as a team, Regardless of which method is chosen, it will be critical that costs be tracked and documented carefully from the moment a fire management team takes command of a fire, in order to ensure that financial data will be readily available. Mr. Harrington said the DNRC will negotiate cost-share agreements on behalf of the people of Montana and will choose the most fair agreement.
- 02:55:01 SEN. COBB thanked Mr. Harrington for his recommendations and said they would be very helpful to the Committee.
- 02:56:13 **Debbie Austin, Lolo National Forest, USFS, Missoula**, said she has been involved in fire suppression for 29 years and has been a line officer in the USFS for the last 17 years. Ms. Austin discussed fire management from her perspective and agreed it was a very difficult fire season. She stressed that the relationships between agencies and the tribes are a critical element for a successful fire season. She said Montana agencies and tribes have to work well together because of the checkerboard landownership patterns.
- 02:25:13 Ms. Austin discussed fire season data specific to Lolo National Forest and reported that of over 200 fires in 2007, approximately 98% were suppressed in initial attack. She expressed her concern that this level of initial attack success will not be able to be maintained due to changes in fuel conditions and extreme fire behavior. Other discussion points included:
- a lot has been learned since the fire season of 2000 and at the time, it was thought that it was an anomaly, but most now believe that it is the status quo;
  - fires are getting bigger and lasting longer, and teams are now told to not base expectations on past experience;
  - in the past, resources were available to surround a fire and put it out but that is no longer the case;
  - decisions are based on safety first, then probability of success of actions is considered;
  - actions must be very deliberate and based on good decisions that lead to success and cost savings;
  - a proactive approach is being taken regarding fuels management and USFS developed an integrated restoration and protection strategy that prioritizes the areas with the most urgent need for fuels reductions; and
  - the USFS is working with DNRC and interested stakeholders to develop 13 principals for restoring national forests in western Montana.
- 03:01:55 Ms. Austin said the USFS recommendations were included in the binder (Tab 6) prepared for FSIC members (Tab 6 - EXHIBIT #8). She read each recommendation. She said that after listening to the day's discussion, she would like to add another item for consideration to the list. She said all fires are very

different in terms of fuel type, land ownership, values at risk, suppression method needed, appropriate cost-share method, and type of rehabilitation needed, making this a very complicated and complex issue.

- 03:03:38 Ms. Austin said she is looking forward to working with FSIC and is hopeful that solutions will be found. She extended an invitation to the Committee to visit Lolo National Forest. SEN. COBB asked Ms. Austin to provide her contact information.
- 03:04:15 SEN. LAIBLE said vacancies in the Forest Service seem to be a national trend. He asked Ms. Austin to discuss the trends for funding from Congress for the Forest Service and what she would like to see from the congressional level to assist the Forest Service to better complete its mandates of managing forests and fire suppression. Ms. Austin said the reduction in Forest Service staff has presented difficulties and that budgets have not kept up with inflation or the cost of fire suppression. She said she didn't know what will happen but predicted that changes will be made. SEN. LAIBLE asked what a proactive approach would be and how the severity of fires could be lessened. Ms. Austin said the hazardous fuels reduction programs have been increased in the last five years and is a proactive use of funding.
- 03:07:45 SEN. LAIBLE said funding levels have not been increased but that fire suppression spending has increased. He asked where the money is coming from. Ms. Austin said vacancy savings is the main source and that there are many empty offices.
- 03:08:30 REP. VINCENT asked what was the single biggest road block in getting resources to the ground. Ms. Austin said the biggest problems are that there is no national consensus on best use for national forests and the opponents to active management in national forests. Ms. Austin said that work is being done on these issues through the Restoration Committee but that they continue to impact the Forest Service. The ability to provide funds for hazardous fuels is good but more is needed to make a significant impact. REP. VINCENT asked what the main tool used by litigants is for blocking forest service resources from getting to the ground. Ms. Austin said the National Environment Policy Act process is used frequently by litigants to block Forest Service work.
- 03:10:05 REP. RIPLEY asked Ms. Austin to email the Forest Service mission to the Committee. Ms. Austin said she would do so.
- 03:10:41 SEN. COBB asked if local communities are consulted when making decisions on what fires to suppress or not. Ms. Austin said that communities are frequently consulted. SEN. COBB said the Committee needs to know what the actual fire season costs are and that there is concern that the Committee's work may inadvertently break up working relationships, resulting in agencies not talking to the Committee. He said the Committee wants to know what is working well and what isn't, in order to make decisions and improvements. Ms. Austin said, in her opinion, the working relationships are strong enough to be open and honest and

that the agencies have agreed to disagree on occasion. SEN. COBB said the Committee needs to know why the agencies have disagreed on certain fires.

03:13:05 SEN. LEWIS said he would like information on the number of Forest Service permanent FTEs over the last 30 years. He asked Ms. Austin if she could provide that information. Ms. Austin said she would provide the information.

03:13:48 **George Weldon, Director of Fire and Aviation, Northern Rockies, Region 1, Forest Service, Missoula**, said that climate change has definitely influenced fire behavior and length of season, and that other factors such as increased level of fuels and the spread of and increase in population. These factors affect initial attack effort this impact initial attack and fire duration. In the past, a typical fire lasted between 7 and 14 days, now a fire may burn for 60-plus days. This has created new challenges and the need for a new model.

03:15:54 Mr. Weldon discussed appropriate management response:

- 1995 federal fire policy established policy of doing what makes sense and having right resource in the right place at the right time, so having a highly mobile workforce is critical.
- The Wildland Fire Use Program is used to manage fires for resource benefits on approximately 5 million acres of federal land in Montana, northern Idaho, and North Dakota. If a fire on those lands meets the criteria for resource benefits burning, it is allowed to do so. This is a critical part of forest management and allows resources to be allocated more effectively for fire suppression and protection efforts in high priority areas.
- Fires that do not meet criteria for resource benefits burning are aggressively attacked and the initial attack success rate is approximately 98% of fires.
- There is not a federal "let it burn" policy and every fire is managed with resources available. At times, efforts have been too aggressive and there have been instances of entrapment and injuries, as well as one crashed helicopter. There have been no fatalities. Risks and the effect on firefighters must be calculated to ensure that people are not being put in harm's way.
- The Fuels Reduction Program has been used on 200,000 acres in 2007 and on over 700,000 in the last 10 years. This may sound like a lot but USFS manages over 25 million acres nationally, so it is not nearly enough. The regional forester agrees that a better job of managing fuels needs to be done, specifically in high priority areas.
- Wildland-urban interface areas present the biggest challenges.
- Contracting issues also need work. Conceptually, best value contracting seems to be the best option, and has been recommended by Forest Service auditors as the best approach.
- The Forest Service is very interested in the options for cost-shares, and agrees that a fair and equitable process is best for everyone.

Mr. Weldon said the Regional Forester wants to be of assistance to the Committee and emphasized that the strength of the Northern Rockies region is

the interagency cooperation. Mr. Weldon said the Forest Service is eager to work with the Committee on all issues, particularly the fuels program and on WUI issues, and will provide any information the Committee requests.

- 03:24:30 SEN. HANSEN asked what factors caused the 2% of fires to escape initial attack efforts. Mr. Weldon said the main reasons were aggressive fire behavior and safety considerations. He said fire crews were working in unprecedented conditions due to many years of fuel buildup and to climate conditions.
- 03:26:43 REP. RIPLEY asked for a more specific explanation of the initial attack success rate and if the 98% success rate is based on the 75% of fires attacked, and that the remaining 25% were allowed to burn for resource management. Mr. Weldon explained said the 25% figure are fires that are managed for resource benefits located in the 25% geographic area designated for resource benefits management. He said the Forest Service does put out fires in these areas if they are considered high risk.
- 03:27:59 REP. KOOPMAN said there are some who would argue with the practice of resource benefits management and asked if the Forest Service philosophy of using this as a management tool differs from state and local agencies and if there have been discussions between the agencies regarding this practice. Mr. Weldon reported that in the Northern Rockies region, resource benefits fires were allowed on 90,000 acres, as compared to 640,000 acres of Forest Service lands that burned due to wildfires. He said there is a philosophical difference between the Forest Service and state and local agencies on the policies, goals, and practices regarding fire management.
- 03:30:31 SEN. LAIBLE said that historically, the Forest Service has allowed grazing, which does reduce fuels. He asked if Forest Service policy is to increase or decrease grazing, and if grazing could be used as an alternative to mechanical reduction. Mr. Weldon said grazing has been reduced out of consideration for land conditions and riparian management and that the Forest Service has not considered the use of grazing as a fuel reduction tool. Mr. Weldon noted that most of the large fires in 2007 occurred in heavily timbered areas at high elevations, which is rare. He said the fuels issues were not about grass in 2007, but about the extreme dry conditions due to rapid snow melt and high temperatures. SEN. LAIBLE asked if the decrease in the amount of grass lands is attributable to the increase of timber growth on federal lands. Mr. Weldon said that is one factor but another consideration in reducing grazing allotments is management of riparian areas.
- 03:34:46 SEN. COBB asked Mr. Weldon and Forest Service employees to prepare specific recommendations on what the State and Forest Service could do on the issues discussed.
- 03:35:36 **Phil Gill, Fire Management Officer, BLM**, said BLM experienced a moderate fire season in eastern Montana and did not experience much activity until mid-July. The extreme heat wave caused the remainder of the summer to be a very active fire period, with about 200 fires reported and an initial attack success rate

of 97%. The trend since 2000 has been 3 or 4 record seasons, which is primarily due to very hot weather. Eastern Montana is a hodge-podge of land ownership and BLM relies heavily on DNRC and local fire departments for fire response. Fires are coordinated through dispatch centers and all agencies work well together, but there is always room for improvement.

- 03:37:10 Mr. Gill discussed appropriate fire management response:
- BLM response is similar to that of the Department of Agriculture and that the options range from full suppression to let it burn.
  - BLM lands vary from timbered areas to open rangeland and because there is more flat rangeland, fires tend to grow and move very quickly. Response is typically very aggressive because access is a problem.
  - Interior agencies are proud of the assistance programs offered and that counties have been funded for fuels treatment throughout the State.
  - BLM has a rural fire department assistance program to help departments obtain needed equipment. Montana's program is a model for distribution of funding because it pools funds and uses a single application process through DNRC.
  - Interior agencies have a ready reserve program to assist with more in-depth training for rural and volunteer fire department training, in coordination with DNRC training programs. The level of training provides increased expertise and stronger working relationships.
  - BLM agrees that WUI is a large issue and it supports solutions that will better prepare landowners for fires. Structure protection is a huge drain on fire resources and the better prepared houses are, the easier it is to catch a fire before it gets out of control.
- 03:42:42 REP. WILSON asked if there are requirements for preparing homes against fire danger in WUI areas. Mr. Gill said there are no standard requirements and that this issue is one in need of attention. He said homeowner education is the key.
- 03:44:39 REP. KOOPMAN asked how better preparation of homes in an WUI area would free up resources and if that means that BLM will not offer protection to a homeowner who has taken steps to mitigate fire danger. Mr. Gill said that a well-prepared home takes less manpower to protect because many of the important steps will have already been taken, such as thinning and clearing of brush and trees. He said that protection will be provided regardless but that structure protection is much easier and safer if there is a clear area around the house.
- 03:46:20 SEN. COBB asked that BLM also submit specific recommendations and suggestions to FSIC, such as the need for education. He said that areas of conflict or differences in policy decisions would also be helpful to the Committee. Mr. Gill said from his point of view, there is no conflict with DNRC. SEN. COBB said the Committee needs to know about disagreements and conflicts, as well as areas of consensus and agreement.
- 03:48:16 SEN. COBB said the Committee will break for lunch until 1:30 p.m.

During the break, Ms. Smith passed out copies of Northern Rockies Cost Share Methodologies Options (EXHIBIT #11) and memorandum costs negotiations (EXHIBIT #12).

04:35:35 SEN. COBB reconvened the Committee at 1:35 p.m.

**PUBLIC COMMENT PERIOD TO CONSIDER THE QUESTIONS REGARDING WILDLAND SUPPRESSION POLICIES, STRATEGIES, AND COOPERATION AMONG AGENCIES**

Comment taken from individuals representing various jurisdictions on three questions pertaining to wildland fire suppression issues:

1. What works?
2. What are the problems?
3. How should FSIC address problems?

04:35:51 **Scott Waldron, Frenchtown District Fire Chief and representing Montana Fire Chiefs Association**, discussed his perspective of what works well and listed the following: a high level of cooperation, mutual aid programs, highly trained and experienced fire departments and staff, fuel mitigation programs, and funding and reimbursement for increasing fire suppression costs. Mr. Waldron said fire suppression in WUI areas is the biggest problem facing fire departments and that the key term is "survivability" and what has to be done to get a house to the point of being able to survive a fire, including changing building codes to make homes less flammable. Mr. Waldron said he would be available for questions and offered his assistance, in needed.

04:40:16 SEN. LEWIS said he has been told of problems with the Forest Service's initial attack efforts on the Black Cat fire near Frenchtown. He asked Mr. Waldron to comment. Mr. Waldron explained the Black Cat fire started in an inaccessible area on state land and that helicopters were ordered immediately, as well as aircraft and retardant. However, weather conditions were extreme - high temperature, strong winds, and low humidity - and the fire quickly escalated. Mr. Waldron said that everything that could be done for initial attack was done.

04:41:52 REP. BOLSTAD asked for a more detailed explanation of the fuel mitigation program. Mr. Waldron said the program has been funded through a grant from DNRC for the last five years and is administered by the Frenchtown Fire Department as a cost-share program with homeowners. Homeowners are taught how to mitigate fire conditions around their homes and assistance is provided in tasks such as clearing brush and removing trees.

04:42:56 REP. BOLSTAD asked if it is a voluntary program for land owners. Mr. Waldron said it is a voluntary and that there are many applicants in a bad fire season.

04:43:30 SEN. COBB asked Mr. Waldron to provide specific suggestions for what measures could be taken by the State to prepare for the 2008 fire season. He also asked for his specific concerns regarding local government issues.

04:45:02 **Duane Grey Spethman, Potomac Montana**, said he loves Montana and that the face of Montana will change drastically if action is not taken. He said if the

Committee fails to act, it could be responsible for a local economic recession. He said he believes that the DNRC and the State of Montana will expend more effort to fight fires than will federal agencies. Mr. Spethman discussed the 2007 Sawmill/Rock Creek fire near Missoula and his dissatisfaction with Forest Service efforts in fighting the fire. He said he attended a meeting for homeowners held by the Forest Service and questioned decisions made. Mr. Spethman distributed copies of a map (EXHIBIT #13) of the fire pointed out that the back burn to establish a fire line was 6 miles from the fire and that over 10,000 acres of roadless land would have been allowed to burn, had the fire continued northward. Mr. Spethman said he was incredulous at this approach and publically disagreed with that strategy. He reported that the following week, he attended another homeowner meeting and was told he was not welcome to attend because he was not a property owner affected by the fire. Mr. Spethman said it was his understanding that it was a public meeting. Missoula Forest Service Ranger Maggie Pipman said it was not a public meeting and asked him to leave. Mr. Spethman asked the Committee to request an Attorney General's opinion on the legality of closing fire meetings held by the USFS.

Mr. Spethman said, with regard to the Forest Service decision to save private property and homes and letting forests burn, that he has examined the Forest Service Mission Statement and could not find any language to support that strategy.

- 04:53:50 SEN. COBB asked Mr. Spethman to submit his comments in writing and said they will be shared with Committee members. Mr. Spethman said he has a list prepared. SEN. COBB asked him to give it to committee staff. *(Staff did not receive a copy of a prepared list.)*
- 04:54:29 **Brett Waters, Fire Chief, Belgrade Fire Department and Central Valley Fire Department, Gallatin County Fire Warden, Montana County Fire Warden's Association President, Type 2 Incident Commander, Board of Directors for Northern Rockies Coordinating Group, and past member of HJR 10** Committee. Mr. Waters said local governments provide fire suppression around the clock, every day of the year and that the majority of the people providing that service are volunteers and do most of initial attack fire suppression. There is a great level of cooperation within the state and a strong mutual aid system and agencies help each other out on a regular basis all throughout the year for various reasons. All of the agencies work closely and is the reason for the success achieved in fire suppression efforts. There are problems to work out and disagreements to work around but everyone comes to the table to openly discuss the issue in order to be able to co-exist and work together. Mr. Waters offered his assistance and expertise to the Committee.
- 04:58:56 SEN. COBB asked all of the presenters to give their email addresses and contact information to Ms. Heisel in case Committee members need to contact them.
- 04:59:16 **Pat McKelvey, Project Manager for Fuels Reduction in Lewis and Clark, Jefferson, and Broadwater Counties, and President of FireSafe Montana,** said the most difficult and complex issue at hand is the WUI issue. Mitigation is

the cornerstone for everything and the goal is not just to make a structure defensible, but to make it survivable. Mr. McKelvey said he did not want to give the impression that a "defensible" structure can ride a fire out however. He said he spends a lot of time explaining how fire moves, how it can burn a house down, and that evacuation does not mean waiting until flames are licking the bumper of the car as fire fighting resources are trying to move in.

05:00:39 Mr. McKelvey said there has been a great deal of discussion of WUI and how that is the problem. He said WUI is only part of the problem and that solutions must also include forest restoration and management. Both are needed in order to create the most effective mitigation. Mitigation works; it takes money, but money up front for mitigation will cost much less than fire suppression efforts later.

05:02:10 Mr. McKelvey said he supports the formation of subcommittees to address specific topics and offered his assistance to the Committee, as well as several suggestions for consideration:

- Strengthen the "I" in interagency by integrating as much as possible and at every opportunity. Make sure DNRC is integrating at every level.
- Look at requirements for fire participation in other agencies and allow those who have had training and are willing, to work on the fires.
- Work with the insurance and lending industry to encourage homeowners to create survivable space and to create insurance incentives for doing mitigation work on homes.
- Work with local governments on identifying WUI requirements. They must be defined and identified, and include homes within the city limits. Growth policies, zoning issues, subdivision regulations, and building codes must also be considered in creating the requirements.
- Find mechanisms for private landowner incentives for fuel reduction.
- Don't allow tax advantages for conservation easements unless a forest management plan is included.

05:07:14 REP. VINCENT said Gallatin County is working through zoning issues in WUI areas using the RS2477 tool. Mr. McKelvey said he was not familiar with that tool or with mitigation programs in Gallatin County.

05:08:12 SEN. LEWIS said that spending tax dollars to protect a house from fire is most beneficial to the insurance company and asked if there is a way to determine who is benefiting the most and to assess part of the cost to them. Mr. McKelvey said he did not know of a way to do that. He agreed that tax dollars are being spent to protect private property but pointed out that suppression costs are paid by tax dollars also. He said in his opinion, the right course of action is action up front for mitigation and education efforts.

05:10:04 SEN. COBB said that approach may send mixed signals to homeowners and landowners. Mr. McKelvey said the people whom he has helped are very appreciative, that he uses his training and expertise to help and serve, and that he makes it clear that it is the homeowner's risk but that he will be there to help, if needed.

05:11:03 REP. WILSON asked for clarification of "defensible" as opposed to "survivable". Mr. McKelvey said the use of safer types of building materials and careful consideration of the location of a structure are what determines survivability of a structure.

05:12:08 **Harold Blattie, Executive Director, Montana Association of Counties (MACo)**, expressed his thanks to the Committee and to DNRC for their efforts to provide training to local agencies and for the county cooperative program for equipment. Mr. Blattie said DNRC has worked to make sure that initial attack efforts are available in many communities and is the reason why so many fires are caught while still small and suppressible.

05:13:01 Mr. Blattie said additional investments at the local level would translate into significant savings over time. He said that if the 95% initial attack success rate could be moved up to 96%, that investment could translate into a significant savings to federal, state, and local governments over time. Mr. Blattie said the County Cooperative program is a huge success and is very valuable to counties and important in the entire scheme of things. Mr. Blattie agreed with Mr. Waldron's statements concerning the value of the mutual aid agreements and noted that he is familiar with similar agreements in other areas of the state. Local agencies helping other local agencies have great capability to fight fires.

Regarding Gallatin Valley's use of RS2477, Mr. Blattie said it relates to a revised statute enacted by the federal government in the late 1800s that dealt with roads. There have been a number of RS2477 road claims made but each claim to the right-of-way must be proven and is not an easy process. It is an evolving area of law and is not a tool that can be used in as blanket tool for access.

Mr. Blattie said the HJR 10 work group put forth a number of bills that were approved but that the issue of wildland-urban interface was not adequately addressed, mostly due to the lack of interaction between the Subdivision and Platting Act, zoning, and building codes. When a county gives final approval to a subdivision, it loses some control over things such as providing for defensible space. Mr. Blattie explained how certain tools, such as zoning and building codes, could be used to establish WUI requirements and how specific areas, such as floodplains and airport hazard areas, can be models. He said something similar could be designed for WUI areas that would allow counties to address WUI areas and to impose reasonable restrictions.

05:22:01 **Butch Weedon, Director, Fire Training School**, said the school is a state agency and shares responsibility with local governments for the competence of local fire and rescue services. He said his staff supports the work of the Committee and is eager to assist. He reiterated previous invitation to attend the Montana Mitigation Association meeting. He said he also serves as a local volunteer fire chief in his community and said the help provided by DNRC is priceless. SEN. COBB asked if an agenda for the meeting could be provided. Mr. Weedon said he would do that.

05:24:26 **Bob Decker, Executive Director, Policy Institute, Helena,** asked the Committee to fully examine the financial side of paying for fire fighting and suppression costs, particularly from general fund monies. He said it is justifiable to spend general fund monies to protect public lands and public structures but suggested that the personal responsibility of home and property owners in WUI areas must be considered because fire fighting has changed to more and more of a structure protection effort. Mr. Decker said an estimated 65% of state residents reside in municipalities and that most of them pay for their own fire protection through local levies and fees. When the general fund is used to pay for fire protection of private structures, those same people are paying for someone else's fire protection.

Mr. Decker said the costs per acre information from the Chippy Creek and Jocko Lakes fires is interesting. He said the difference in the number of structures protected in the Jocko Lakes fire was significantly higher than in Chippy Creek and that the cost of the Jocko fire was also significantly higher. He suggested the Committee get more precise numbers on how much is being paid by the general fund to protect private structures and that the Committee use the existing DNRC information on WUI areas to make projections on what kind of costs can be anticipated over the next 10 - 20 years.

05:30:37 **David Russell, President, Bush Fire, Bozeman,** said his company is a private contractor that provides wildland engines, water tenders, dozers, excavators and crews for wildland fire fighting, and that he is the past president of the Northern Rockies Wildfire Contractors Association and is representing both. He asked to discuss severity contracts and said that like initial attack, private contractors are a very useful tool in fire suppression. He reported that very few private resources were utilized in the 2007 fire season.

Mr. Russell discussed issues affecting private contractors and said contractors are eager to work. Private contractors have the training, equipment, and skills to do the needed work, such as fuels reduction. Contractors pay many taxes and invest in Montana and when out-of-state resources are called into Montana, they leave with Montana money.

Mr. Russell said it is a better value for Montana if local resources are used and that local businesses are available around the clock. Other issues of concern discussed by Mr. Russell included allowing private contractors to attend state and federal training, and restrictions on private Type II fire teams. He said the focus should be on putting the fire out and that private contractors want to be a part of the cooperative effort. Contractors work in local communities, would like to work with the local fire departments, and recognize the command structure.

05:36:52 **Vickie Huckle,** spoke to the impact of fire on the Montana tourism industry. Ms. Huckle said the tourism industry brought over \$2.9 billion to Montana in 2006 and is vitally important to Montana's economy. Ms. Huckle offered three suggestions for consideration on how to offset the negative effects of fires on the tourism industry:

1. Keep funding at adequate levels for successful response, suppression, and recovery activities;
  2. Encourage all governmental agencies to include the tourism organizations when developing fire communication plans in order to avoid needless loss to the industry;
  3. Consider use of a single declaration of emergency that would be statewide and season long because multiple declarations are detrimental.
- Ms. Hucke thanked the Committee for its consideration of the tourism industry in its deliberations.

In response to a question from SEN. COBB, Ms. Hucke said that after the 2003 fire season, the industry and other stakeholders created a fire crisis communication plan. SEN. COBB asked her to provide that plan to the Committee. He asked her to provide specific information on what other agencies could do that would be of assistance. Ms. Hucke said being included in communication regarding fire activity in the State and what areas may be closed due to fire would be most helpful.

05:41:00 **Janice Grosfield, DS Jr. Trucking Inc.**, addressed the Committee as a private contractor on concerns and difficulties experienced during the 2007 fire season, particularly how private contractors were hired by the State. Ms. Grosfield said that the company owned by she and her husband has been providing contract equipment for fire suppression for over 15 years and discussed a comparison of the 2007 fire season to previous seasons. Ms. Grosfield said it was a struggle to get through the summer for many private contractors and objected to the use of out-of-state resources when so many local contractors were willing to work. Ms. Grosfield submitted written comments (EXHIBIT #14).

05:48:38 **Jason Todhunter, Montana Logging Association**, said his association of 600 members plays a very important role in the State through fuels reduction and in fighting fires. He discussed several current fuel reduction projects. He said his association trains 700 - 1,000 people every spring on the standards for survival. The Association did a member survey regarding the 2007 wildfire season to find out what worked and what didn't. Mr. Todhunter read several comments received from the survey, which indicated that there was dissatisfaction with the use of out-of-state people who didn't know the areas. Mr. Todhunter offered his assistance to the Committee and said it is important to remember that if the timber industry infrastructure is maintained, many fuel reduction projects can get done at no cost.

05:51:42 SEN. LAIBLE asked if state and federal lands fuel reduction projects were done by his association, if the cost would be minimal. Mr. Todhunter said yes, in most cases the cost would be minimal and perhaps even completed at a profit. SEN. LAIBLE asked if riparian areas would be protected. Mr. Todhunter said yes.

05:52:56 **Ellen Engstedt-Simpson, Montana Wood Products Association**, said wildfires heavily impact the members of the Association and explained how close the Jocko Lakes fire was to Pyramid Lumber in Seeley Lake and the measures taken by the owners to protect their business. She said the economic impact

was horrific because the business had to shut down for several weeks. There was a loss of private forest land, as well as state and federal forest lands. Plum Creek Timber lost 40,000 acres, mainly in the Chippy Creek fire. Ms. Engstedt-Simpson said the 16 member-companies of the Association are willing to help with the study and believe in active forest management.

05:56:15 **Chris Schiefelbein, Windswept Wildfire, NRWCA**, said as a private contractor, one of his concerns is training. He said he serves in a volunteer fire department and that private contractors and fire departments work as teams, so it makes sense to him that private contractors should be able to attend state and federal training programs. He said it would be advantageous for everyone fighting fires to have the same level and quality of training.

Mr. Schiefelbein said that on a large fire, 60-70% of fire crews are private contractors and that there are disparities in how private contractors are treated. Mr. Schiefelbein suggested that having a single contractors' association may alleviate some of the issues facing private contractors. He said that the option for purchasing of helicopters would be beneficial for private contractors. He asked the Committee consider his comments as ways to improve the situation for contractors.

#### **COMMITTEE WORK SESSION**

06:22:07 Ms. Heisel reviewed the main discussion themes: contracting, funding, WUI, local government issues, state and federal policies, and other. Ms. Heisel discussed staffing limitations regarding formation of several subcommittees and the statutory requirements of subcommittees. Ms. Heisel suggested combining WUI and local government in one subcommittee because of the overlapping issues and addressing state-federal policy through the full Committee. SEN. COBB suggested the private contractor concerns be kept separate and handled through a work group.

06:27:08 SEN. LEWIS said there are several hundred private wildfire contractors in the State and he thought they deserved to have someone working with them.

06:27:49 REP. KOOPMAN thought the working groups approach is preferable at this point to a formal subcommittee. He said time constraints must be considered and said it is premature at this time to form subcommittees. SEN. COBB said that care must be taken to meet legal requirements regarding working groups and subcommittees. He asked Todd Everts to comment. **Todd Everts, Staff Attorney**, said if there is a meeting that involves a legislator and members of the public for a specific purpose, including making recommendations to the full Committee, it is a public meeting that has to be noticed and supported by staff. Mr. Everts said he would further analyze the issue.

06:31:39 SEN. COBB said it is important that the Committee have a list of options to share with the public when conducting the public hearings. The public will have the opportunity to comment on the options or suggest new options, if they don't like what is presented to them. REP. KOOPMAN said the Committee must take care not to appear to be orchestrating the process. He said at this point, some public

testimony has been heard and is valuable, but that the Committee should hold one or two field hearings before formulating solutions.

- 06:33:53 SEN. LAIBLE suggested three subcommittees:
- contracting and funding;
  - WUI and local and government;
  - and federal and state polices and other.
- He said the subcommittees could determine where they wanted to meet or could hold 1/2 day meetings in advance of the full Committee. He suggested the best approach would be for all of the members to take the time to research the issues by talking to all of the people and agencies.
- 06:35:45 SEN. LAIBLE said there are two important items that have not yet been discussed and that he would like information on the effect fires have on air quality and what effect the fuels in the forests are having on the aquifers.
- 06:38:10 REP. BOLSTAD asked that the tribes be included with the federal and state policies subcommittees.
- 06:38:27 In response to a question about the meeting schedule from REP. VINCENT, SEN. COBB said the full Committee has to meet in the five communities listed in the bill but that the subcommittees will work to identify the options and formulate recommendations to present to the full Committee and to the public. He said it is important to get started now because it will take a lot of time to work through the issues and that the Committee should not wait until the last minute to begin to discuss solutions.
- 06:40:25 REP. RIPLEY said the public participation at the meeting was mainly from government agencies and not much public. He encouraged the subcommittees to begin their work as soon as possible in order to allow greater public involvement.
- 06:41:55 SEN. COBB said staff will break down the charts into more detail and that the work of the subcommittees would be finalized by November. SEN. LEWIS asked SEN. COBB to appoint members to subcommittees.
- 06:42:35 SEN. WILLIAMS asked if three subcommittees will be doable in terms of staff workload. Ms. Heisel said she thinks think that policy is part of the education that is necessary for the whole Committee. She said policy among the agencies will be the main agenda topic at the November meeting and that she does not think policy should be confined to a subcommittee. She said two subcommittees would be more manageable for staff. SEN. WILLIAMS said that the meetings should be set up to allow a half-day for subcommittees and a full day for the full committee.
- 06:43:15 SEN. COBB said there will be a subcommittee on the federal wildland fire budget management issue and that Mr. Harrington's memo outlines issues that need to be worked out, in order to more fully understand how fires will be fought in the future. He said there will also be a subcommittee for the WUI and local

government issues, and one for funding and contracting. He said the Committee will next meet in November with agencies for its "Fire 101 Class" and that plans for subcommittees will be finalized at that time. He asked members to let him know which subcommittees they want to serve on.

- 06:47:22 REP. KOOPMAN said he did not agree with that approach and that the process is being manipulated. The whole concept of forming FSIC was to involve the public and to let them speak to the Committee. When the Committee breaks up for individual meetings, the people will not be heard by the full Committee. REP. KOOPMAN agreed that the next Committee meeting with the agencies is needed in order for the Committee to learn more but he said is very concerned that the Committee is heading down the wrong course. He said the full Committee needs to hear all of the issues before breaking up into subcommittees to begin formulating solutions. SEN. COBB said REP. KOOPMAN makes a good point but said he feels strongly that the Committee must present options for the public to consider at the hearings. He said there will not be time for the public to comment and have input if the Committee waits to put forth options after the hearings have been held. SEN. COBB said he is setting up a process that will ensure that agencies will have to respond to legislators and to the public.
- 06:50:27 SEN. WILLIAMS supported formation of subcommittees and said she likes the idea of outside visits to areas affected by wildfire. She cited her own district as one heavily impacted by fires in 2007 and noted that she did not think all of the areas listed for visits were necessarily the most appropriate ones.
- 06:51:43 REP. KEANE responded to REP. KOOPMAN's comments about manipulating the process. He said the process is not being manipulated and that the Committee needs to have something to offer to the public at hearings so they are not just be a wide open forum with nothing for the public to respond to. He said there are issues that need to be addressed before going to public meetings, such as the private contractor issue, and that by doing that, the Committee will be able to present options to the public and ask for input. He said he strongly disagrees with REP. KOOPMAN's statement, that the public is being served, and that Committee is doing the right thing by offering the public options to which they can make suggestions or changes.
- 06:55:24 SEN.. LAIBLE **moved** to create three subcommittees as outlined by SEN. COBB and that SEN. COBB appoint the members. The **motion** passed on a 11-1 voice vote, REP. KOOPMAN voted no.
- 06:56:57 REP. KOOPMAN asked if there would be a mechanism in place to allow anonymous testimony. Ms. Heisel said that the Committee website has a public comment form that does not require identifying information. REP. KOOPMAN said protected testimony is what he is concerned with and that there may situations in which privacy is warranted.

#### **NEXT MEETING LOCATION AND AGENDA, INSTRUCTIONS TO STAFF**

- 07:00:02 Ms. Heisel distributed copies of the interim committee meeting schedule. After discussion, it was agreed that the next FSIC meeting would be held on

November 26, 2007, in Helena. SEN. COBB asked for Mr. Harrington to work with Ms. Heisel and to allow an hour of Committee time to finalize its work plan and make other decisions. SEN. COBB said proxy voting would be allowed. Ms. Heisel said she has the agenda for Montana Mutual Aid Association meeting if members are interested in attending.

**ADJOURNMENT**

With no further business before the Committee, SEN. COBB adjourned the meeting at 4:10 p.m. The Fire Suppression Interim Committee will meet next on November 26, 2007, Helena.

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