

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND TRANSPORTATION

Call to Order: By **CHAIRMAN JOHN SINRUD**, on January 24, 2005 at
8:00 A.M., in Room 317-B Capitol.

ROLL CALL

Members Present:

Rep. John Sinrud, Chairman (R)
Sen. Lane L. Larson, Vice Chairman (D)
Rep. Rosalie (Rosie) Buzzas (D)
Sen. Mike Cooney (D)
Sen. Rick Laible (R)
Rep. Jon C. Sesso (D)
Sen. Corey Stapleton (R)
Rep. Janna Taylor (R)

Members Excused: None.

Members Absent: None.

Staff Present: Harry Freebourn, Legislative Branch
Jamie Mickelson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:
Executive Action:

CHAIRMAN SINRUD opened the meeting

The Committee began with **Harry Freebourn, LFD**, distributing three handouts of information on the Judicial Branch that should be helpful in getting through the budget process in general. There is a Biennium Budget Comparison of the Judiciary, Judiciary Major Issues Summary, and General Government and Transportation Information Summary on the Judiciary. These are to be used as tools to help the committee better analyze the current situations in the agencies they will be reviewing.

EXHIBIT(jgh18a01)

EXHIBIT(jgh18a02)

EXHIBIT(jgh18a03)

HEARING

CLERK OF COURT Page A-49

Ed Smith, Clerk of the Supreme Court, gave a brief overview of the Supreme Court clerk of court functions and what they hope to see in the next few years. He gave a brief statement on Full Time Equivalent (FTE) reductions in his small office. He also stated that there were 880 new cases in the past year, the second highest in court history, thus the need for a new Supreme Court IT System.

SEN. LARSON asked Ed Smith if the \$25 attorney filing fee is a one-time or a yearly fee. **Mr. Smith** stated that it is a yearly fee.

SEN. LARSON asked if the fee goes into the Judiciary budget, or the general fund. **Mr. Smith** stated that the fees go into the general fund. He continued to say that under the Constitution in the State of Montana all attorneys have to be a part of the Bar Association and, thus have to pay the attorney fees.

REP. TAYLOR asked how much the Supreme Court pays for storage. **Mr. Smith** stated that they're paying around \$65,000.

REP. LAIBLE said that there is not a Decision Package in the budget to raise the attorney fees to go back into the Department, he informed the Committee that this would be a good idea.

{Tape: 1; Side: A; Approx. Time Counter: 1 - 15.7}

HEARING

BOARDS AND COMMISSIONS Page A-36

Jim Oppedahl, Administrator of the Supreme Court, distributed two handouts. The first handout was Judicial Branch IT Funding Request Summary for FY 2006 and FY 2007. The second handout was a packet labeled, Montana Judicial Branch Information Technology Strategic Plan. **Jim Oppedahl** spoke on behalf of Boards and Commissions. He informed the committee that the Supreme Court is responsible for a number of issues involving rule-making and oversight of the administration of justice in the State of Montana.

[EXHIBIT\(jgh18a04\)](#)

[EXHIBIT\(jgh18a05\)](#)

Mr. Oppedahl discussed Page 5 of Exhibit 5, Montana Judicial Branch Information Technology Strategic Plan, with the Committee. He gave an overview of the profile of the Montana Judicial Branch. He stated that the judicial power of the state is vested in one supreme court, 56 district courts, 70 justice courts, 83 city courts, and such other courts as may be provided by law.

{Tape: 1; Side: A; Approx. Time Counter: 19.4 - 25.3}

Discussion:

REP. SINRUD asked Jim Oppedahl if the Montana Association of Counties (MACo) has always been on the Board of District Court Council. **Mr. Oppedahl** stated that they have been on the Board of District Court since 1973.

CHAIRMAN SINRUD wanted to know if Jim Oppedahl was going to take action to remove MACo off of the board, since the counties are no longer involved with the funding process or operations of the district courts. **Mr. Oppedahl** stated that they don't have any legislative proposals to remove MACo at this time. He went on to explain the Judicial Standards Commission. He stated that the Commission was created in the Constitution of 1973. It is composed of two district court judges and one attorney.

CHAIRMAN SINRUD asked if the Judicial Standards Commission was the one created under Article 7, Section 11 of the Montana Constitution. **Mr. Oppedahl** stated that it was, and that the amendment was created in 1973.

CHAIRMAN SINRUD stated that the article gave the legislature the ability to create a Judicial Standards Commission. He asked Jim Opphetal if he was familiar with when the statute was created.

Mr. Opphetal explained that a Judicial Standards Commission is up to judges and justices.

CHAIRMAN SINRUD requested Jim Oppedahl to do some research on the Judicial Standards Commission.

{Tape: 1; Side: A; Approx. Time Counter: 25.3 - 30}

SEN. LAIBLE stated that there are about 20 Boards and Commissions and \$532,000 has been spent for the biennium. He asked Jim Opphetal what exactly the Boards and Commissions oversees.

Mr. Opphetal stated that the Boards and Commissions Program has many different boards, and some are more active than others. The Commission on Practices oversees complaints against attorneys and discipline for those attorneys.

SEN. LAIBLE asked Jim Oppedahl how many complaints against attorneys there are in a year. **Mr. Oppedahl** stated that there were 58 complaints in 2003, and there have been 100 or more every year since then.

REP. TAYLOR asked Jim Oppedahl if the judicial system could eliminate and consolidate Boards and Commissions to save money.

Mr. Opphetal stated that it is good to have the Boards and Commissions in place when issues arise within the Judiciary system. He also said another area that problems arise with attorneys is gender fairness.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 11.0}

SEN. STAPLETON asked Jim Oppedahl what some of the issues are with gender fairness. **Mr. Oppedahl** stated that law was a male-dominated profession, and more recently female lawyers have been in court. Some issues arise with the way female lawyers are perceived and treated in court.

{Tape: 1; Side: B; Approx. Time Counter: 11.5 - 13.3}

CHAIRMAN SINRUD stated that Article 7, Section 2 of the Montana Constitution states that rules of procedure shall be set and disapproved by the legislature in either of the two sessions following promulgation. He then asked Jim Oppedahl if he had created any rules in the last four years, and if so, has he submitted those rules to the legislature for disapproval.

Mr. Opphetal said that he is not familiar with any rules that have been created in the last four years, but he would check and get back to the chairman.

HEARING

DISTRICT COURTS Page A-41 thru A-45

Jim Oppedahl stated that 22 judicial districts were assumed by the state in FY 2003. This assumption included the salaries, travel, and training costs for the judges' law clerks, administrative personnel, and other support staff. He indicated that the district court assumption program also funds public defender services. He reported that the district courts in 2003 received 37,456 cases, and in 2004 there were 38,579 cases. He informed the Committee that this was a 14% increase in court cases in one year. He speculated that most of these cases were civil and a few were criminal. He finished his testimony with the need for an increase in funding due to the significant increases in court cases.

{Tape: 1; Side: B; Approx. Time Counter: 15 - 28}

Mr. Oppedahl insisted that the increase of case loads and the lack of funding has created a lack of uniformity within the district court system. He indicated that there are some district judges who have a full staff; and there are some district judges who have less staff or no staff at all. He informed the Committee that this is a problem, because it creates too much of a patchwork effect, and there is not enough uniformity or accountability within the district court system.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 6.8}

Mr. Oppedahl discussed youth court and stated that in 2003 there were 16,000 juvenile cases. There were 9,000 minors involved in cases, however there were only 1,300 minors that saw a district court judge. He claimed that there have been very large transitions made in youth court in the past few years to keep juveniles out of court. He stated that there was a uniform complaint form and resolution policy that exists in youth court that allows this court to be more efficient.

Mr. Oppedahl discussed drug and family courts and gave a brief overview of district court assumption on Page A-14 of the LFD, Budget Analysis.

{Tape: 2; Side: A; Approx. Time Counter: 6.8 - 17}

Mr. Opphetal informed the Committee that the supplemental request that the district court is asking for is \$5.8 million. He stated that \$5.8 million is their best guess of where the department will be at the end of the FY 2005. He then notified the Committee that last session the Judiciary's budget request was higher than the Committee approved and that their variable costs were significantly under-estimated. He commented that credibility is important to his department and that there are a number of things that control costs in the court system, however he has given them the best estimate of their annual costs. He finished by saying that they do a number of things to control costs. One of the actions that they have taken to keep costs down is to not allow the attorneys to charge more than \$60.00 an hour.

{Tape: 2; Side: A; Approx. Time Counter: 17 - 23}

Discussion:

CHAIRMAN SINRUD inquired how \$60 an hour for attorney fees was determined. **Mr. Oppedahl** indicated that this is a standard policy, except for capital cases where a lawyer may charge up to \$130 an hour.

CHAIRMAN SINRUD asked if Mr. Oppedahl had checked the highs and lows of attorney fees around the state. **Mr. Opphetal** stated that he had, and that \$60 an hour is the maximum fee that a lawyer can charge anywhere in the state.

SEN. LAIBLE requested that Mr. Oppedahl and Mr. Freebourn provide him with the information on the expectations of the Committee regarding District Court Assumption from two years ago. He asked if the district court included courts of limited jurisdiction.

Mr. Oppedahl stated that it does not.

{Tape: 2; Side: A; Approx. Time Counter: 22.5 - 26}

Jim Oppedahl gave a brief overview to the Committee on the history of the decision packages on Page A-44 of the LFD, Budget Analysis. The decision packages that were discussed are:

Annualize Motor Pool Lease Costs-DC Judges, Authority for County Paid Annual & Sick Leave, Restore Variable Cost Funding that was OTO, Misc. Federal Grants, Youth Courts-Community Programs/Video Conferencing, and Statewide FTE Reduction.

HEARING

IT DISCUSSION Page A-33

Mr. Oppedahl gave a brief explanation and description of Exhibit 4 labeled Judicial Branch IT Funding Request Summary for FY 2006 and FY 2007. He stated that there are three major areas of IT that his office is requesting: Minimum Standards and Maintenance, for \$4.8 million dollars, Case Management Acquisition, and Improvement Projects in the Supreme Court.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 6.9}

Mr. Oppedahl informed the Committee that the Judiciary has a strategic plan of implementation of the IT program as stated in Exhibit 5 labeled Montana Judicial Branch Information Technology Strategic Plan. Some of the main points that he highlighted were:

- Specific Web Address
- Previous IT Accomplishments
- State Law Library Internet Project
- Current IT Environment
- Obsolescence Issues
- IT Goals and Objectives
- Budget Request for the IT Plan

Mr. Oppedahl informed the Committee that his department is asking for money from the general fund rather than the surcharge.

{Tape: 2; Side: B; Approx. Time Counter: 6.9 - 22.5}

Discussion:

SEN. LAIBLE asked **Mr. Oppedahl** if his department is requesting the purchase of two management systems of the Full Court IT Program; i.e., one for the district courts and one for the Supreme Court. **Mr. Oppedahl** stated that he is putting the Full Court IT Program into the courts of limited jurisdiction and the Supreme Court, thus he needs two sources of funding.

SEN. LIABLE followed up as to how the Judiciary intends to fund these various court programs will be funded. **Mr. Oppedahl** stated that the Judiciary intends on paying for the computer systems with Bond Bills.

SEN. LIABLE asked how the bond bills are funded. **Mr. Oppedahl** stated that there would be a \$1.50 fee on driver's licenses. He informed the Committee that this is similar to HB 261 which was labeled Title Registration Improvement.

SEN. LAIBLE questioned the relationship between licensing and registration for vehicles, and paying for court IT systems.

Mr. Oppedahl explained that there is rationale behind this proposal. His department needed to find a funding source for the IT program, and the motor vehicle departments have a large impact on the district court's case load.

SEN. LAIBLE questioned why the court IT system needs continual funding. **Mr. Oppedahl** stated that the IT system needs continual funding, because these systems are in a continual process of maintenance upgrades to more efficient technology.

{Tape: 2; Side: B; Approx. Time Counter: 22.5 - 30}

REP. TAYLOR questioned if he was discussing 158 courts of limited jurisdiction, plus 56 district courts, meaning that 214 courts that are getting full court and 100 are computed. "I think that there are 345 users in this system and for one user it costs \$3,000," she said.

CHAIRMAN SINRUD asked what the life expectancy of full court would be. **Mr. Oppedahl** stated that it is a modern oracle-based program, and an industrial strength company that meets state standards and gives the court system direction. There are ongoing costs for maintenance and upgrade of this IT system. The cost for ongoing maintenance per user is \$540 a year. He remarked that this sounds like it will cost more than Microsoft Word, but this application is fairly standard.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 7}

SEN. STAPLETON stated that he is very comfortable with what the Judiciary is asking for. He stated that he has been very involved in the IT discussions, and thinks that it is a good idea to make improvements.

SEN. LAIBLE stated that the majority of the money that the Judiciary will need in the biennium will take care of the purchase of the software and the set-up costs. He questioned if the money that the agency needs on a continual basis will be for maintenance and upgrade of the computer systems. **Mr. Oppedahl** stated that the ongoing request for funding is for the ongoing costs.

CHAIRMAN SINRUD asked where the \$600,000 out of motor carriers comes from. **Mr. Oppedahl** stated that he does not know, because it is all federal money.

CHAIRMAN SINRUD asked how many users of the Full Court IT Program there are. **Mr. Oppedahl** stated that there were 345 systems and 927 users. **CHAIRMAN SINRUD** asked how many users are hooked up to service with Department of Administration. **Mr. Oppedahl** stated that there are 270 users currently hooked up to the system in the district court.

{Tape: 3; Side: A; Approx. Time Counter: 7 - 20}

Mr. Oppedahl stated that his department will be adding applications that change overtime, and that his department needs to keep the programs modern and up to date.

CHAIRMAN SINRUD stated that there are 544 computers and asked if they will all be online in the first year. **Mr. Oppedahl** stated that the plan of the department is to have all of the computers online by July 1, 2005.

{Tape: 3; Side: A; Approx. Time Counter: 20 - 25}

Mr. Freebourn asked Mr. Oppedahl if the database will be in each computer or in a central location. Mr. Oppedahl stated that the database will be in a central location.

Mr. Freebourn asked where the central depository will be reflected the budget, and when the centralized part of the system will be up and running. **Mr. Oppedahl** stated that the current federal grant for \$800,000 is where the central depository is, and that the central database will be up and running as soon as possible.

REP. SINRUD requested the number of actual computers online currently operating with Full Court.

{Tape: 3; Side: A; Approx. Time Counter: 25 - 30}

SEN LIABLE requested that the IT program be all laid out on one page, instead of several different pages. He asked Mr. Oppedahl to make a page with all of the IT budget requests.

SEN. LIABLE asked if there was another way to fund the IT program than vehicle registration. **Mr. Oppedahl** stated that he looked at ten different options, and this was the most effective way to fund this program and the two programs are closely related.

REP. SINRUD closed the meeting and announced that they would meet at 8:00 the following day to continue the hearing on the Judiciary.

JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND
TRANSPORTATION

January 24, 2005

PAGE 10 of 10

ADJOURNMENT

Adjournment: 11:37 A.M.

REP. JOHN SINRUD, Chairman

JAMIE MICKELSON, Secretary

JS/jm

Additional Exhibits:

EXHIBIT ([jgh18aad0.PDF](#))