

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 25, 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)
Sen. Rick Laible (R)
Rep. Jon C. Sesso (D)
Sen. Corey Stapleton (R)
Rep. Janna Taylor (R)

Members Excused: Rep. Rosalie (Rosie) Buzzas (D)
Sen. Mike Cooney (D)

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: Judiciary
Executive Action:

Harry Freebourn, LFD, handed out, "General Government and Transportation Appropriations Subcommittee." This information was not referred to throughout the hearing, however was information that the committee members requested the previous day.

EXHIBIT(jgh19a01)

HEARING

CLERK OF COURT Page A-49

Ed Smith, Clerk of Court, stated that there were two issues that he wanted to discuss with the committee. The issues were: record storage for the Judiciary and a change in the base amount. Governor Schweitzer moved the base amount to 6,000 to reflect \$41,000 for operating expenses.

Harry Freebourn, LFD, further explained to the committee that Governor Schweitzer offered Present Law 222 for \$6,000 per year on Page A-49 thru A-50 to increase operating costs. He informed the committee that the Present Law Base for 2004 was \$6,000 short each fiscal year.

CHARIMAN SINRUD asked if the \$10,784 should actually be \$16,784.

Mr. Freebourn stated, "Yes," and said that the money comes from the general fund.

CHAIRMAN SINRUD stated that the executive action for Judiciary will be February 8, 2005.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 8.4}

HEARING

Present Law Adjustments

ELIMINATE THE SUPREME COURT OPERATIONS PROGRAM Page A-31

CHAIRMAN SINRUD stated that REP. LAMBERT is going to carry a bill to extend the time frame for court IT fee.

Jim Oppedahl, Administrator of the Supreme Court, informed the committee about the surcharge that funds the Information Technologe (IT) program and attorney fees that fund Boards and Commissions.

Mr. Freebourn informed the committee that the purpose of Decision

Package 4 is to eliminate their current IT program from the base, that would take \$1.4 million from the base each year. They have a DP later on to add the funding for IT into the base.

SEN. LAIBLE asked when the surcharge is being terminated. **Mr. Freebourn** responded that the surcharge will terminate on June 30, 2005.

Mr. Freebourn stated that there is \$1.4 million in the base for IT, and the Judiciary has a new decision package for IT. The funds for the new decision package come from the general fund.

Mr. Oppedahl stated that the base drops out the Judiciary every two years, and the department is required to make a new proposal for IT.

REP. SESSO asked what amount is being requested for the IT program. **Mr. Freebourn** informed him that Governor Schweitzer is recommending that the IT program be funded with \$1,935,000 for each fiscal year in general fund. The Judiciary is requesting \$4.8 million, which is \$935,000 more than the Governor has recommended for the Judiciary.

REP. SESSO asked Mr. Oppedahl if there is any expectation that the general revenues of \$1.4 million for the biennium are going to go up. **Mr. Oppedahl** stated, "No."

{Tape: 1; Side: A; Approx. Time Counter: 8.4 - 23}

HEARING

Present Law Adjustments

DP 5 - SUPREME COURT ASSESSMENT/CASA Page A-33

Mr. Oppedahl gave a brief presentation on DP 5. He stated that they are trying to decrease the amount of time that children are in foster care. He asked the committee to support the \$132,633 that the Judiciary is requesting from federal funds.

Mr. Oppedahl stated that DP 5 is a court assessment program and child abuse protection fund. This program is requesting federal funding in the base to make a 25% increase of \$18,000 for the biennium.

{Tape: 1; Side: A; Approx. Time Counter: 25.6 - 30}

HEARING

New Proposals

DP 2 - APPELLATE MEDIATOR Page A-34

Discussion:

SEN. LAIBLE asked Mr. Opphetal if there would be enough full-time employees (FTE). **Mr. Oppedahl** stated that they don't have enough FTE currently to be efficient.

SEN. LIABLE stated that the department is asking for \$218,000 and if this is simply a pilot, then it looks like it is a money loser. **Mr. Oppedahl** stated that the projection is that this program will pay for itself and it can't be seen in the first two years. There has been a 30% increase in case loads, and this DP will help the department deal with the overwhelming increase in case loads, and keep the delays down.

SEN. LAIBLE asked Mr. Opphedahl where the money for the 1.5 FTE was going to come from. **Mr. Oppedahl** stated that the cost of doing the amount of business that is before the court is overwhelming. If the court can take cases out and have private parties pay for themselves, this is where the savings will come from.

Mr. Freebourn explained to the committee that DP 2 is an addition to something that is already happening within the private sectors to hold down the rate of increase. He stated that if the committee does approve this package, there is language put with it to ask the Judiciary to report to an interim committee on the expense, revenue, and performance of this program.

CHAIRMAN SINRUD requested that Mr. Opphedahl get a spreadsheet on the amount of cases from 1972-2005.

Mr. Oppedahl noted that the court does not have the right to refuse appeals, so there are quite a few court cases.

CHAIRMAN SINRUD asked if the Supreme Court has to hear every appeal. **Mr. Oppedahl** replied that if it is an appeals come from, then the Supreme Court is obligated to hear it.

REP. TAYLOR stated that she thought it would be smarter to put this program before the district court instead of the Supreme Court. **Mr. Oppedahl** informed her that the appeals come from, the district courts to the Supreme Court.

Jim Oppedahl stated that the Supreme Court is very busy, and that it hears an average of 880 court cases a year. He urged the committee to support DP 2.

SEN. STAPLETON asked how far behind the Supreme Court is. **Mr. Oppedahl** stated there is at least one year's worth of delay.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 30}

Christopher Mavis, Director of the Montana Bar Association, said that the constitution stated that the Supreme Court has to hear every appeal brought to it. He gave a brief explanation of appellate mediation, and stated that a study was done 15 years ago and the program was very successful.

SEN. LARSON stated that the backlog of the important cases, such as child-protection cases, need to be time sensitive. We need to ask ourselves if we are providing the constituents with the justice that they need. This program may pay for itself.
{Tape: 2; Side: A; Approx. Time Counter: 0 -5}

HEARING

New Proposals

DP 4 WORKLOAD ASSESSMENT STUDY OTO Page A-34

Mr. Oppedahl stated that the \$75,000 in general funds needed to be provided to the Judiciary in FY 2006 to perform a workload assessment study of district court judges and staff. The request is one time only, restricted, and biennial. The study is expected to produce information that will be used to assess a workload as it currently exists in the system, and possible avenues for improvement.

Mr. Freebourn asked Mr. Opphetal if DP 4 is restricted. **Mr. Oppedahl** stated that DP4 is restricted.
{Tape: 2; Side: A; Approx. Time Counter: 5 - 7.8}

HEARING

New Proposals

DP 5 PURCHASE SOFTWARE LICENSE OTO Page A-34

Mr. Oppedahl stated that DP 5 is the purchase of software for the case management system for the district court and courts of limited jurisdiction.

Mr. Freebourn stated that this relates to the IT case management system under which the Supreme Court operates. He asked the committee to turn to Page A-25, and reviewed Figure 9.

SEN. LIABLE requested a spreadsheet of expenditures for the court systems.

{Tape: 2; Side: A; Approx. Time Counter: 7.8 - 10}

Discussion:

Mr. Freebourn asked the committee to turn to Page A-35 and reviewed the language recommended. He stated that \$1 million is appropriated out of the general fund for the biennium from the Department of Corrections. He also gave a brief description of how the money goes back into the youth courts if it is not used.

CHAIRMAN SINRUD asked if a district can ask the Department of Corrections for the money if they overspend. **Mr. Opphedahl** stated that the chairman is correct. There is a contingency fund to cover emergencies.

REP. TAYLOR stated that she has a good friend who is a juvenile probation officer and she needed to use \$140,000 out of the Department of Corrections. There was no money to keep the kids out of the court system, because the money got used for adult corrections. She stated that she would fully support the program, so that the youth courts can keep their money.

SEN. LIABLE stated that the money should go to Juvenile Delinquency Intervention Program, to keep the minors out of the court system.

Mr. Freebourn stated that the budget is in the Department of Corrections, and that the funds are currently not restricted.

Jim Oppedahl informed the committee that there will be no language amendment needed for House Bill 214. He also stated that

all of the money is in another department that handles juvenile probation. He stated that House Bill 214 allows money allocated to Judicial expenditures.

{Tape: 2; Side: A; Approx. Time Counter: 10 - 24.8}

HEARING

New Proposals

NP 111 SUPPORT INFORMATION TECHNOLOGY FOR JUDICIAL BRANCH

Mr. Freebourn stated that NP 111 was handed out on the previous day. The decision package was from Governor Schweitzer to reinstate the IT program for \$1,935,000 for the following year out of the general fund.

Mr. Oppedahl urged the committee to support this new proposal and stated that the total budget is \$4.8 million. He stated that the Judiciary is asking for \$2.2 million the first year and \$2.6 million the second year.

{Tape: 2; Side: A; Approx. Time Counter: 24.8 - 30}

Mr. Freebourn asked the committee to turn to Page A-21 and stated that under information technology the Judiciary is requesting \$937,268 from the general fund. They are requesting \$299,259 in FY 2006 and \$637,999 in FY 2007, in addition to the IT funds requested by the executive.

HEARING

Present Law Adjustments

BOARDS AND COMMISSIONS

DP 2 JUDICIAL STANDARDS RESTRICTED/BIENNIAL. APPROPRIATION

Page A-37

Mr. Oppedahl explained that Boards and Commissions is separate from the Supreme Court Operations Program. He stated that the Governor's Office recommends \$25,000 in general fund that would be both a restricted and a biennial appropriation for the constitutionally-mandated Judicial Standards Commission.

CHAIRMAN SINRUD asked who was on the Judicial Standards Commission.

Chris Mavis, Director of the Montana State Bar Association, stated that there is one person who was appointed by the Supreme

Court, two individuals who are elected by the district court, and two individuals who are elected by the Governor. He also gave a brief overview of a handout from "Montana Code Annotated 2003."

EXHIBIT(jgh19a02)

{Tape: 2; Side: B; Approx. Time Counter: 0 - 10.5}

HEARING

Present Law Adjustments

DISTRICT COURT

DP 6 COURT RECORDS EQUIPMENT AND SOFTWARE Page A-43

Mr. Oppedahl stated that DP 6 is a request for \$34,495 for court recording equipment.

SEN LIABLE asked if Mr. Oppedahl has funding in his budget for this kind of equipment. **Mr. Oppedahl** stated that he does not, and his department asks for this kind of equipment only when they need it.

Brent Doig, OBPP, stated that this figure is ongoing and that it would stay in the base, so there would be no OTO.

REP. SESSO asked if the equipment needs to be updated every year. **Mr. Oppedahl** answered in the affirmative and said that the department needs the money to stay in the base.

{Tape: 2; Side: B; Approx. Time Counter: 10.5 - 17.3}

HEARING

Present Law Adjustment

DP 4302 ANNUALIZE MOTOR POOL LEASE COSTS - JPOs Page A-43

Mr. Oppedahl stated that the executive requests \$8,414 in general fund each fiscal year, because juvenile probation officers did not have a leased vehicle the entire year.

DP 4303 ANNUALIZE MOTOR POOL LEASE COSTS DC JUDGES Page A-44

Mr. Oppedahl stated that the Governor's Office is requesting \$10,543 in general fund in each fiscal year for motor pool leases for district court judges. This proposal provides funding for eight vehicles.

SEN. LIABLE asked if it is a policy of the State to provide all judges with a vehicle.

Mr. Oppedahl stated that it has always been cheaper for the State to give judges an automobile rather than reimburse them for using their private vehicles.

{Tape: 2; Side: B; Approx. Time Counter: 18.4 - 30}

DP 4510 AUTHORITY FOR COUNTY PAID ANNUAL & SICK LEAVE Page A-44

Mr. Oppedahl stated that the Governor's Office requests \$642,548 in a biennial appropriation of state special revenue for annual leave and sick leave payouts for former county employees that become State employees with District Court Assumption that leave the Judicial branch. These payouts are funded by county payments to the State.

SEN. LAIBLE asked what the account balance is.

Mr. Oppedahl stated that is an account that sits there until we need to pay out of it. The cash balance of that account is \$541,000.

REP. SESSO asked if this balance is an appropriation, or if **Mr. Oppedahl** is asking for the authority to spend the money. **Mr. Oppedahl** stated that his department is asking for the authority to spend the money.

REP. SINRUD gave a brief explanation to the committee of DP 4510. There was discussion among the committee about sick leave, vacation time, and comp time.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 6.4}

DP 4511 RESTORE VARIABLE COST FUNDING THAT WAS OTO Page A-44

Mr. Oppedahl gave a brief explanation of Decision Package 4511. He stated that the Governor's Office is requesting \$838,958 of general funds in FY 2006, and \$1,282,392 of general funds in FY 2007, for variable costs in the district court assumption program.

Mr. Freebourn informed the committee that they did spend the funds out of the base. He stated that part of the \$5.8 million is supplemental. He informed the committee that the one thing the Judiciary did not budget for is an increase in funds due to the increase of case loads. He stated that they may be short by \$1.3 million for the biennium. He asked the committee to turn to Page A-41, the analysis of the Public Defender Program. He stated that if SB 146 passes, approximately \$8.2 million of the variable funds would move to the Department of Administration.

{Tape: 3; Side: A; Approx. Time Counter: 6.4 - 16}

DP 4512 MISCELLANEOUS FEDERAL GRANTS Page A-44

Mr. Oppedahl explained to the committee that the Governor's Office requests authority to spend \$500,000 of federal appropriation authority per year for various federal grants.

SEN. LAIBLE asked if he needed matching funds in this base. **Mr. Oppedahl** stated that he did not need matching funds.

{Tape: 3; Side: A; Approx. Time Counter: 16 - 18}

**DP 4516 YOUTH COURTS COMMUNITY PROGRAMS/VIDEO CONFERENCING
Page A-44**

Mr. Oppedahl explained that the proposal provides \$153,562 per year of state special revenue authority for fees collected in youth courts and for video conferencing services.

CHAIRMAN SINRUD asked if video conferencing is part of the district court program. **Mr. Oppedahl** stated that the video conferencing program is in all district courts across the state.

{Tape: 3; Side: A; Approx. Time Counter: 18 - 21}

DP 9904 STATEWIDE FTE REDUCTION Page A-44

Mr. Oppedahl stated that this package is to implement a FTE reduction equivalent to the reductions taken in the 2003 legislative session.

CHAIRMAN SINRUD asked if the Judiciary has a vacancy savings program. **Mr. Oppedahl** stated that the Judiciary does not have a vacancy savings program.

{Tape: 3; Side: A; Approx. Time Counter: 21 - 25}

DP 1 MINIMAL STANDARDS JUDICIAL SUPPORT STAFF Page A-45

Mr. Oppedahl explained that the Governor's Office requests \$378,234 in general fund for the biennium to hire 4.95 FTE to be distributed among the judicial districts.

CHAIRMAN SINRUD asked if Judge Misner has asked for an FTE. **Mr. Oppedahl** replied, "Yes, because he has an increasing case load."

SEN. LAIBLE asked Mr. Freebourn to clarify the LFD comment.

Mr. Freebourn referred to pages A-22 and A-41. He explained how many FTEs the Judiciary are requesting.

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

CHAIRMAN SINRUD requested a staff report on each county from Mr. Opphetal.

Mr. Freebourn asked the committee to turn to Page A-24 and look at the structure of the Judiciary. He asked the committee to consider whether the judges can share staff based on workload.

CHAIRMAN SINRUD asked Mr. Oppedahl for the amount of cases handled by each judge on a yearly basis.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 4.6}

DP 10 JUDICIAL EDUCATION REQUEST FOR THE BIENNIUM Page A-45

Mr. Oppedahl informed the committee that the executive is requesting \$100,000 during the biennium for Judicial education.

Mr. Freebourn asked the committee to turn to Pages A-41 and A-22. He stated that the Judiciary is asking for more money because they are short. The two requests that they are making is for the Probate Clerk and the Pay Equalization, which are not in decision packages.

SEN. LAIBLE asked if there is anything within the current budget that can handle the expenses. **Mr Oppedahl** stated that there is another budget; however, there is not enough to handle the expenses.

Mr. Freebourn redirected the committee back to Page A-21, and discussed two items that are elected official requests into the Judiciary.

CHAIRMAN SINRUD suggested putting all of the decision packages together.

{Tape: 3; Side: B; Approx. Time Counter: 4.6 - 18.3}

Mr. Doig explained the fixed costs of the budget to the committee.

CHAIRMAN SINRUD called for public comment.

Mr. Mavis informed the committee that in, "The Lawyer's Deskbook Directory," there is a map of judicial districts and lists of law clerks. He stated that there is also the number of complaints of disciplinary council. He also gave an explanation of several handouts, including:

- *Membership Information Report
- *State Bar of Montana Pamphlet
- *Montana Supreme Court Gender Fairness Task Force
- *State Bar of Montana Statement Annual Dues and License Tax for Scott, Robert H.
- *State Bar of Montana Statement Annual Dues and License Tax for Acker, David B.

[EXHIBIT\(jgh19a03\)](#)

[EXHIBIT\(jgh19a04\)](#)

[EXHIBIT\(jgh19a05\)](#)

[EXHIBIT\(jgh19a06\)](#)

[EXHIBIT\(jgh19a07\)](#)

[EXHIBIT\(jgh19a08\)](#)

{Tape: 3; Side: B; Approx. Time Counter: 18.3 - 30}

HEARING

LEGISLATIVE AUDIT DIVISION

Mr. Freebourn handed out, "Legislative Audit Division Financial-Compliance Audit." He stated that the LAD has suggestions in four areas:

- 1) Juvenile Delinquency Intervention Program
- 2) Unrecorded Activity
- 3) Inadequate Controls Over Cash Collection
- 4) Compliance with State Laws

[EXHIBIT\(jgh19a09\)](#)

CHAIRMAN SINRUD closed the meeting at 11:50 A.M.

{Tape: 4; Side: A; Approx. Time Counter: 0 - 15.4}

ADJOURNMENT

Adjournment: 11:50 A.M.

REP. JOHN SINRUD, Chairman

JAMIE MICKELSON, Secretary

JS/jm

Additional Exhibits:

EXHIBIT ([jgh19aad0.PDF](#))