

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN ROSALIE (ROSIE) BUZZAS**, on March 3, 2005 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Rosalie (Rosie) Buzzas, Chairman (D)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. John E. Witt, Vice Chairman (R)
Rep. Tim Callahan (D)
Rep. Eve Franklin (D)
Rep. Bill E. Glaser (R)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)
Rep. Verdell Jackson (R)
Rep. Ralph L. Lenhart (D)
Rep. Walter McNutt (R)
Rep. John L. Musgrove (D)
Rep. Rick Ripley (R)
Rep. Jon C. Sesso (D)
Rep. John Sinrud (R)
Rep. Janna Taylor (R)
Rep. Jack Wells (R)

Members Excused: Rep. Joey Jayne (D)
Rep. Christine Kaufmann (D)

Members Absent: Rep. Penny Morgan (R)

Staff Present: Marcy McLean, Committee Secretary
Jon Moe, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: HB 2, Day 1, 2/22/2005

HEARING ON HB 2**Opening Statement:**

CHAIRMAN BUZZAS opened the hearing on **HB 2**, the General Appropriations Act, and said Clayton Schenck, Legislative Fiscal Division, and his staff would begin with an overview on how to use the HB 2 narrative. They would be followed by Budget Director David Ewer from Governor Schweitzer's office. She discussed the use of amendments to HB 2. She said Staff will help them to prepare amendments and asked the Committee to limit their use of conceptual amendments.

Clayton Schenk, Legislative Fiscal Division (LFD), started by saying he would review the current status of HB 2 and how to use the HB 2 document. Terry Johnson, LFD, will follow with an explanation of HB 2 in conjunction with all other bills, and where they stand in regard to the General Fund.

EXHIBIT (aph47a01)

HB 2 includes all of the appropriations for State government except for statutory appropriations, transfers and "cat and dog" bills. It represents 85% of all of the General Fund appropriations, and when you add the State pay plan, it increases to 95%. On Page 7 of the narrative, the top chart shows a \$2.6 billion total for General Fund. The bottom chart shows that it is a \$308 million increase compared to the prior biennium, or 13.44%. Schenck said these two charts compare increases biennium-to-biennium, which is the statutory requirement, however, when they are doing budget development, they compare to the base year only. Of the \$308 million increase, over one-third of it is going to Human Services; when combined with Public Schools, that increases to 60%. The \$104 million increase in Human Services is primarily due to the change in the State matching rate for Medicaid plus caseload increases. The Corrections increase of \$31 million is primarily due to changes to address the growing secure care population. Higher Education's \$26 million increase is largely due to enrollment increases, additional student assistance and a higher General Fund percentage of various programs. Public Schools' \$84 million increase is primarily due to an increase in the base aid, the added option of the three-year averaging of student counts, special education, and Indian Education for All. The "All Other" category increased \$63 million, and includes such things as District Court expenses, development of a new property tax system, replacement of POINTS, and development of an emergency telecommunications infrastructure.

Charts on Page 9 show the total budget at \$7 billion, which is an increase of \$807 million over the last biennium, or 13%. Fifty-eight percent of that increase is in Human Services. When you compare Total Funds with General Fund, there is a significant shift for Education; its percentage of General Fund is 54%, but drops to 26% when compared in Total Funds. This is due to large funding for human services, highway construction and Fish, Wildlife and Parks (FWP) from non-General Fund sources. The significant increases in Total Funds reflects the additional State Special and Federal funding for human services, highway programs, K-12 education, and environmental functions.

Charts on Page 11 compare how HB 2 is funded: 46% Federal funds, 37% General Fund, 17% State special, and .4% Proprietary. The Federal funds increase over the last biennium is \$308 million, which represents 38% of the total increase in HB 2, and \$256 million of that is for human services. The State special increase of \$190 million is attributable to highway funds to match Federal funds, bonding revenue for the Highway 93 project, continuation of the bed tax and hospital utilization tax, and the use of the I-149 tobacco tax funds.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 8.4; Comments: Rep. Kaufmann entered hearing.}

The table on Page 13 provides a summary of General Fund action taken by the legislature through Joint Appropriation Subcommittee action. It is broken down by Subcommittee and then Agency, and compares the budget by the base year. Comparing by base year tends to overstate changes from the 2003 biennium, which is \$331 million. This increase includes \$187 million in present law adjustments and \$144 million in new proposals. The most significant General Fund increase over the base is from the \$128 million for the Medicaid matching rate, caseload increases and institutional facilities costs. The K-12 education increase is \$84 million for the three-year averaging option, special education and other specific functions. Corrections' increase is \$34 million for secure care, per diem rates and probation and parole officers.

The table on Page 15 shows a comparison of the Subcommittee recommendations to the Executive Budget. Schenck noted that the Executive Budget is as of January 5th, and does not include the three-year averaging for schools' Average Number Belonging (ANB). The table shows that HB 2 is \$29 million above the proposed Executive Budget and will be explained as this Committee goes through each agency's narrative.

Schenck explained how to use the remainder of the HB 2 document. Each department's budget information reflects actions of the Subcommittee with limited narrative. Each agency has a summary

that shows their budget, including a breakdown by present law and new proposals, and a comparison to the Executive Budget. There will also be a "Budget Highlights" section that gives the major highlights for this particular budget, followed by a funding summary for that budget.

REP. JUNEAU asked where Governor Schweitzer's new budget items, added since January 5th, could be found in this document.

Clayton Schenck answered that the document only includes the Governor's original budget. All Governors change their recommendations as circumstances change, so all LFD can do is go with the original budget.

CHAIRMAN BUZZAS asked if that meant the additional money the Governor added to Education to bring it up to \$80 million is not reflected in the table on Page 15. **Clayton Schenck** said that is correct and they are aware that this additional \$13.9 million is a significant item. The Governor's \$19 million added to his original budget also includes a change in Corrections.

REP. KAUFMANN asked if the \$29.5 million reflected as the difference between the Executive Budget and the Subcommittees Budget includes the Governor's \$19 million addition. **Clayton Schenck** answered that is approximately correct.

REP. SINRUD said it appears they are using the original budget proposed by Governor Martz and then adding \$13 million. **Clayton Schenck** clarified that they are using Governor Schweitzer's budget, which incorporates the Martz budget, minor revisions made by Schweitzer and new initiatives proposed by Schweitzer.

REP. FRANKLIN asked for further clarification of the \$29.5 million change between the Executive Budget and the Subcommittee Budget. **Clayton Schenck** referred the Committee to Page 4 "Comparison to the Executive," which gives detailed information of what comprises the \$29.5 million difference. Pages 1-6 of the Overview give detailed information about the tables on Pages 7-13.

Clayton Schenck said that throughout the document where it States "the legislature approved," it actually refers to the work of the Subcommittees. HB 2 reflects Subcommittee action and does not follow the typical rules because it is not an "as introduced" bill. "As introduced" reflects the Executive Budget. It is a purple bill and usually is referred to as a study bill. The Committee's first motion will be to strike the substitute motion after the enacting clause and insert the Subcommittees' actions. The final motion will be to adopt the action of the

Appropriations Committee. Then when it moves forward to the House floor, it will be a clean bill.

The final pages of the HB 2 document are a glossary and index. The final two pages are a cross-walk, showing the narrative page numbers by section.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 28.9}

Terry Johnson, LFD, provided the Committee with "Pertinent Information from the General Fund Status dated 3/2/2005" and a LFD Status Sheet of the General Fund.

[EXHIBIT\(aph47a02\)](#)

[EXHIBIT\(aph47a03\)](#)

He said he would be providing the key points of the General Fund status as shown on the 3/2/2005 exhibit. He emphasized that the status sheet is a snapshot of the General Fund, based upon a point in time. It reflects all of the Subcommittees' actions plus bills that have been passed out of Committees. The three areas shown are: 1) General Fund balance, 2) structural balance (how are you doing in ongoing revenues compared to ongoing expenditures), and 3) expenditure limitation cap. The General Fund balance at the beginning of the sessions was \$507.5 million, based upon revenue projections adopted by the Revenue and Transportation Departments, but does not include any legislative action nor present law adjustments.

{Tape: 1; Side: A; Approx. Time Counter: 28.9 - 32.6; Comments: End of Side A, Tape 1}

From the balance, revenue adjustments of \$28 million have been subtracted. Those adjustments reflect not only the affects of taxation legislation (\$19 million), but also the adjustments made by the House Taxation Committee dealing with the General Fund revenue estimates (\$9 million). Then appropriations adjustments totaling \$392 million are subtracted from the balance, reflecting action from Subcommittees, pay plan proposal and long-range planning projects. Therefore, the General Fund balance after legislative action is \$87.3 million. In comparison, both Governors Martz and Schweitzer recommended an ending fund balance of \$80 million.

The structural balance shows anticipated revenues for the 2007 biennium to be \$2,879 million, which is the original revenue projections plus further adjustments made by the House Taxation Committee. The anticipated disbursements for the same period are \$2,982 million. One-time-only disbursements are projected to be \$88 million. This leaves the anticipated structural balance to be a negative \$14 million, which he said is not too bad of a

position to be in at this time. This balance will continue to change as various pieces of legislation are adopted.

The third category is the expenditure limitation. It is a contentious issue in terms of the calculations. Expenditure limitations refers to General Fund, State special and the cash portion of the Capitol Projects Fund. These three funds currently stand at \$4,520 million. The maximum allowable budget for the 2007 biennium is \$4,399 million, which means the budget is over the statutory limit by \$121 million. Both the 2005 and 2007 budget cap numbers will change as the legislature passes bills, such as supplementals. If HB 745 passes at \$52 million, the debt service portion would be excluded from these calculations.

REP. KAUFMANN repeated that Johnson said 'expenditure limitation' was a new category this session, and asked why. **Terry Johnson** said it's new in terms of the LFD tracking it through the session. The statute has been in place since 1981 and they have calculated the impact of the limit since that time; the reason they are following it closely this session is because it's the first time they are at the 'trigger point.' There is a pending legislative request to go back and look at the calculations for the 2001 biennium, primarily because of HB 124, the 'big bill.'

Terry Johnson again reviewed the General Fund balance as of 3/2/05. The \$87.3 million versus the Governors' recommended ending fund balance of \$80 million appears that the State is in good shape. However, he said the Committee needed to look at other pieces of legislation that are pending in Appropriations and Taxation. These bills are categorized as 'in status in HB 2' or 'not in status.' The two 'in status' bills have already been included in the General Fund calculations by the Subcommittees' actions. If all of the 'not in status' bills, which total \$86.8 million, are passed, then the projected \$87.3 million ending fund balance would be wiped out.

REP. SESSO said if the \$56 million in HB 745, the supplementals, goes to the 2005 budget, then why is it shown as affecting the 2007 budget. **Terry Johnson** answered that the projected ending balance of \$87.3 million is for the period 2005-2007, therefore, any supplemental bills will reduce the ending balance in 2005, 2006 and 2007.

REP. SINRUD said if all of the proposed bills 'not in status' that total \$86.8 million are passed, then it would increase the budget cap for 2006 and 2007. **Terry Johnson** said the more correct way of expressing that is that it would reduce the expenditure cap, or excess limitation. **REP. SINRUD** asked if they

have considered the passage of bills that would put the spending into FY 05. **Terry Johnson** said they have not yet calculated the effect of the State special, because that is a component of the expenditure limitation. Appropriations moved from the 2007 biennium back to 2005 will have an impact on the expenditure limitation. **REP. SINRUD** asked if the proposed one-time settlements are not paid before June 30th, then where will the money be calculated. **Terry Johnson** said it does not create problems if the money is not spent by that date. Unless there is specific language in the supplemental bill, an appropriation dies at the end of the biennium.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 25.4}

David Ewer, Governor's Budget Director, said they have submitted a balanced budget, but recognize that it is a work in progress. An ending fund balance of \$80 million is prudent; it allows for some unexpected contingencies, such as fire, cuts in Federal funds or a decrease in revenue projects.

Governor Martz's budget had proposed an increase to Corrections to expand the private prison in Shelby. That would be the cheapest option in the short run, but prevention is more effective over the long run. He said they are over budget in Corrections and are working with Corrections to make some reductions. They had to address the issue of public defenders or be at risk of a lawsuit that would result in a court order requiring the State to provide a constitutionally-adequate public defenders system. The appropriation for this was not in the Schweitzer budget. The supplemental bill is up to \$55 million and includes the \$8 million settlement with the Montana Highway Patrol (MHP), which was just reached in November. He asked the Committee to work with them towards a structural balance and an adequate ending fund balance.

{Tape: 1; Side: B; Approx. Time Counter: 25.4 - 32.6; Comments: End of Tape 1}

He said they have prepared several amendments for the Governor's Budget. He emphasized that one-time money should not be used for on-going expenses. The State does not know what the Medicaid caseload will be, nor the growth in Corrections.

REP. JACKSON asked about the use of one-time money. **David Ewer** said he doesn't know the amount of the one-time money. He said they made very little change to Governor Martz's proposed use of one-time money, because it improved the cash flow.

REP. RIPLEY said the actions of the Subcommittees have gone over the Governor's original budget by \$10 million, plus the Governor's proposed amendments add another \$19 million. He asked

if the Budget Office will try to bring those numbers back down to the original budget. **David Ewer** said it is a fluid document. Revenue estimates have increased so they felt they could increase the K-12 appropriation from \$57 million to \$80 million.

REP. SINRUD, in referring to the expenditures being over the budget cap by \$121 million, asked if the Governor's Office has any ideas of what to cut from the budget in order to get below the cap. **David Ewer** said the \$121 million figure is a 'snapshot.' He said even though he spent eight years in the legislature, he has never heard of the expenditure cap. Since November they have seen four different snapshots. He said it is an arcane statute and the legislature should consider repealing it; a lot has changed since 1981 and it no longer serves its original purpose. An example is the I-149 tobacco tax passed by the voters that raises \$70 million in tax revenue; he asked if that should be in the cap. The cap should not get in the way of a constitutional obligation for funding K-12.

REP. JACKSON asked how the \$8 million MHP settlement became a supplemental. **David Ewer** said they just learned about the settlement in early December and decided to pay for it with one-time money. They anticipate that it will be paid prior to June 30, 2005.

REP. JUNEAU said she agreed with the Governor's emphasis on prevention rather than incarceration for criminal offenders. **David Ewer** said it's less expensive to lock people up than it is to put them through prevention programs. However, the prevention programs are much more effective in the long term.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 20.7; Comments: Reps. Jayne and Morgan entered hearing.}

Motion: **REP. CALLAHAN** moved TO STRIKE EVERYTHING AFTER THE ENACTING CLAUSE IN HB 2, AS INTRODUCED, AND INSERT THE RECOMMENDATIONS OF THE JOINT SUBCOMMITTEES OF THE HOUSE APPROPRIATIONS AND SENATE FINANCE COMMITTEES AS COMMITTEE STUDY BILL.

Discussion:

Jon Moe, LFD, explained that the amendment would set up HB 2 as established by the Joint Subcommittees. Inserting the recommendations of the Subcommittees is reflected in the lavender-colored copy found in the HB 2 document and described as the 'study bill.'

Vote: Motion carried unanimously by roll call vote.

Jon Moe used Page B-11 of the study bill as an example when explaining the next amendment. Throughout the study bill there are references to item numbers, such as "Item 10a." When a line is deleted, they have to make sure that all of these references are correct. LFD is asking for permission from this Committee to convert these references from line items to the item name.

Motion/Vote: REP. CALLAHAN moved TO CONVERT REFERENCES ON LINE ITEMS IN HB 2 LANGUAGE FROM AN ITEM NUMBER TO THE ITEM NAME.

Motion carried unanimously by roll call vote.

TECHNICAL AMENDMENTS

Clayton Schenck pointed out to the Committee that technical amendments were located in the front of their folders. These amendments are needed in order to change HB 2 to reflect the Subcommittees' actions. Much of it deals with minor corrections found by the Agencies or Subcommittees. As far as dollar impact, there are some shifts in funding between agencies that total \$10,953.

Motion/Vote: REP. FRANKLIN moved AMENDMENTS HB000201.agd and HB000209.als BE ADOPTED. Motion carried unanimously by voice vote.

[EXHIBIT](#)(aph47a04)

[EXHIBIT](#)(aph47a05)

HB 2 SUB-SECTIONS

CHAIRMAN BUZZAS said this is the one and only time that HB 2 will be an appropriations bill. When it is passed out of the Appropriations Committee, it belongs to the House and then to the Senate, and then eventually to a Conference Committee. Members of the Committee have spent a tremendous amount of time working on HB 2 over the past two months, which will be presented by each Subcommittee chairman. She said she would like to see the members work together to craft a responsible bill that they all take ownership of. She thanked everyone for all the hours they have spent working on HB 2 and said she hoped they will be proud of HB 2 when it is moved on to the House.

{Tape: 2; Side: A; Approx. Time Counter: 20.7 - 32.6; Comments: End of Side A, Tape 2}

Each Subcommittee chairman will give an overview, along with the staff, on the Subcommittee actions. Each Agency director will then be given an opportunity to speak. At the end of the section, there will be public comment, followed by Executive Action on the amendments. After amendments are done by section, it is customary to close that section and proceed to the next.

Section A
General Government and Transportation

REP. SINRUD, Chair of the Subcommittee, introduced and thanked LFD staff, Marilyn Daumiller, Harry Freebourn and Greg Dewitt, who have worked with this Subcommittee. He also thanked the Agencies for being concise in their descriptions, and REPS. SESSO, BUZZAS and TAYLOR for moving quickly.

He began the report on Page A-1, an overview of the **Legislative Branch**, through to Page A-8.

Department Response:

Lois Menzies, Legislative Services Division, and **Clayton Schenck, Legislative Fiscal Division**, said they were available to answer questions.

REP. FRANKLIN said that in the past, overtime and comp time have been an on-going management issue, and asked where that is at this time. **REP. SINRUD** said those are considered an unfunded liability for the State, and currently are at \$120 million. The Legislative Divisions' unfunded liability is at \$1.2 million and will rise to \$1.3 million to \$1.5 million at the end of this session. These departments work a tremendous amount of hours during the session.

Clayton Schenck said the State does not set aside money for leave, vacation and sick time. The legislative branch has a much more significant unfunded liability for comp time than State government as an average. Since they have a much more cyclical nature of work, they understaff intentionally for the times when the legislature is not in session. He said they now have the use of comp time under control.

REP. JUNEAU asked if the disaster recovery plan includes legislative records. **REP. SINRUD** said there is no current legislative recovery system, which they need.

REP. JUNEAU asked what the \$44,000 appropriated for membership in the Pacific Northwest Economic Region does for Montana. **REP. SINRUD** said it is an economic region that deals with issues specific to that region, such as water issues, etc.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 13.2}

The **Consumer Counsel** deals with the utility systems and is funded by fees assessed to these utilities. Their budget is found on Pages A-9 to 10.

Department Response:

Bob Nelson, Consumer Counsel, was introduced.

The **Judiciary's** budget for the 2007 biennium appears on Pages A-11 through 22.

REP. MORGAN asked if the budget included money to cover the costs of the State assuming responsibility for District Courts. **REP. SINRUD** said there is a variable cost fund in the budget, because the State does not know exactly what the expenses are going to be.

REP. MORGAN asked who uses the Law Library. **REP. SINRUD** said it is open to everyone in the State, but is primarily used by people who are representing themselves. Attorneys across the State also use the library. **Judy Meadows, State Law Librarian**, said that by statute, the Law Library serves the Montana courts, including the Supreme Court, District Courts and Courts of Limited Jurisdiction. In addition, they serve all of State government, practicing attorneys and 50% of their users are self-represented litigants.

REP. JAYNE asked about the one-time funding of \$1.3 million for software licenses. She asked what the impact would be if this is not funded. **REP. SINRUD** said it's part of the software system to integrate and coordinate all of the courts. It is a one-time expenditure to purchase JSI-Full Court Case Management System software. **Harry Freebourne** responded that if the court software is not funded, then they will be forced to continue using their older technology, which is becoming obsolete.

{Tape: 2; Side: B; Approx. Time Counter: 13.2 - 32.6; Comments: End of Tape 2}

REP. JAYNE questioned the additional FTEs to support various District Court operations. She asked how the counties were chosen that will receive the additional staffing. **Harry Freebourne** said the criteria was to bring these particular District Courts up to a minimum standard of operation. **Jim Oppedahl, Supreme Court Administrator**, said all 22 districts were asked to assess their needs and report to the Supreme Court. They received \$3.5 million in proposals and the Court approved about \$1 million of them, which included the request for an additional 4.95 FTE.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 5.9}

REP. JUNEAU said the \$1 million per year for Unfit to Proceed costs says "there is no net impact to the General Fund," and she

asked why. **REP. SINRUD** answered that DPHHS will pay for it, but it needs to be shown as a line item in the budget so there is authority to spend the money. **Harry Freebourn** said the Judiciary is paying DPHHS for this activity, since DPHHS has already paid for it out of their funding; therefore, it is a net zero transaction for Judiciary.

{Tape: 3; Side: A; Approx. Time Counter: 5.9 - 17.1}

Jim Oppedahl, Supreme Court Administrator, said that there have been huge changes in Judiciary over the past several years. The FY00 base budget was \$9.7 million with 102 FTE. With District Court assumption, the FY04 base budget was \$33.5 million with 375 FTE. The benefits of this assumption include uniform policies for compensation, uniform risk assessment for youth and other positive outcomes. He said they have drafted amendment for pay equity across the State, which would cost \$155,000 in FY06 and \$300,000 in FY07. Another amendment requests \$75,000 to do a workload assessment of District Courts in order to determine judicial and staff needs. A third amendment would separate the budget into fixed costs, such as salaries, and variable costs, such as indigent defense.

REP. MCNUTT said that he will be introducing an amendment to allocate funds for the Water Court because of HB 22.

REP. KAUFMANN asked about the changes in FTEs. **Harry Freebourn** explained the Judiciary had requested that 14 FTE with \$1.4 million in funding for information technology be replaced with 17 FTE and \$1.9 in funding, which the Subcommittee did not approve. The changes in overall FTEs resulted in a net five FTEs.

REP. MORGAN asked if the funding for video conferencing for juveniles is the same as **REP. MATTHEWS'** bill requesting money for video conferencing at Pine Hills. **REP. SINRUD** explained that Youth Court collects fees for video conferencing and this budget authorizes \$75,000 per year for that activity. **REP. MATTHEWS** was requesting additional money for Pine Hills so they can participate in this program.

The **Department of Transportation's** budget appears on Pages A-50 to 76.

{Tape: 3; Side: A; Approx. Time Counter: 17.1 - 32.6; Comments: End of Side A, Tape 3}

Greg Dewitt, LFD, explained the working capital analysis of the Highways State Special Revenue Account (HSSRA). This revenue is derived from gas taxes, gross vehicle weight (GVS) fees, diesel

taxes, etc., and is used by DOT to match Federal funds. After legislative action, the revised analysis of the HSSRA projects that the working capital balance of the account would be depleted by the end of FY07. Imbalances where expenditures exceed revenues would continue to adversely impact the account in subsequent years. These estimates, as shown in Figure 1 on Page A-52, are based on the budget as approved by the legislature, and assume revenue estimates adopted in HJ 2 for GVW fees, gasoline taxes and diesel taxes for FY05 and the 2007 biennium. The estimate for revenues, expenditures and working capital shows a significant imbalance of more than \$20 million each fiscal year. The projected imbalances would deplete the available working capital to the account and could force future legislatures into making policy decisions on highway funding, which could include among others: expenditure reductions, revenue enhancements, and/or turning back a portion of the Federal funding.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 5.6}

He said it is much more difficult to estimate Federal funding because they do not know what Congress is going to appropriate. Federal funding is done in 6-year increments, and the current funding has been expired for one and a half years. It is not expected that there will be a new bill until after the end of this legislative session. Therefore, the DOT's construction plans are based upon a guesstimate of Federal funding. If Montana's allotment of Federal Aid Highway Construction Funds grows as it has in the past, then Montana will have to match the greater Federal funds with more State funds.

He further explained that the construction budget is comprised of Federal aid, which is matched by State dollars, and the State-funded construction program. In order to get a good match on the State dollars, the State has to spend approximately \$10 million per year in 'maintenance of effort.' The State also has to maximize their recovery of indirect costs; this has resulted in the State being allowed to use more Federal funds instead of State money. But the cost of that is that those Federal funds are being taken away from construction projects. Therefore, the DOT is using the Federal funds derived from reimbursement of indirect costs on State construction projects.

{Tape: 3; Side: B; Approx. Time Counter: 5.6 - 18.5}

REP. SINRUD continued on with the DOT's budget through to Page A-74.

{Tape: 3; Side: B; Approx. Time Counter: 23 - 32.6; Comments: End of Tape 3}

REP. SINRUD completed the DOT review with the **Transportation Planning Division.**

{Tape: 4; Side: A; Approx. Time Counter: 0 - 2.3}

Department Response:

Jim Curry, DOT Director, said DOT is very satisfied with this budget.

REP. WELLS asked what the new A36 aircraft would be used for.

Greg DeWitt said DOT uses it to get around to State-owned airports and navigational beacons. The money appropriated is to replace the engine on this plane. They also plan to replace the search and rescue aircraft.

REP. WELLS asked if the State Motor Pool General Fund appropriation found on Page A-64 relates to the General Fund transfer found on Pg A-52, figure 1. **Greg DeWitt** said these are two separate issues. The motor pool and the equipment program are proprietary-funded programs. The numbers on Page A-64 are an estimate of the proprietary funds. The General Fund transfer found on Figure 1 came from the 'big bill,' HB 124 in the 2003 session, which shifted who is responsible for collecting the revenues. DOT lost State special revenue money, new car sales tax revenue, because of HB 124. To compensate them, they receive a General Fund transfer.

REP. WELLS, in referring to DP 205 on Page A-59, asked why there is a reduction of FTE in FY06 and then an increase in FY07. **REP. SINRUD** said the purpose is to keep pace with the construction schedule; there are more projects for FY07 than FY06.

{Tape: 4; Side: A; Approx. Time Counter: 2.3 - 8.1}

REP. RIPLEY, in referring to Page A-54, asked what a "disadvantaged business" is. **Jim Curry** explained that the Federal government requires the State to have a Disadvantaged Business Program (DBP), which is businesses owned by minorities or females. Each year the DOT has a goal they have to achieve of using DBPs on construction projects. DOT has an outreach program to help these companies get started and actively bid on projects. They are generally sub-contractors who are working through the contractor, and the DBP process helps to increase competition.

REP. HAWK, in referring to Page A-70, asked about the credit card fees of \$50,000 and asked why the agency could not add the fee on to the transaction. **REP. SINRUD** answered that is for the transaction fee credit card companies charge for processing the transactions. **Jim Curry** said permits are issued to trucking companies via the Internet and they can pay for them with a

credit card. The State used to add the credit card fee onto the transaction, but were told by the credit card companies that they could not do that.

{Tape: 4; Side: A; Approx. Time Counter: 8.1 - 12.8}

REP. MORGAN asked about rest areas and why their structures are not consistent. **John Blacker, DOT**, said the location of a rest area is based on the Rest Area Program, with an 80-100 mile distance between them. The newest rest area, located in Bozeman, cost about \$1.5 million with the biggest expense being developing the roads. In comparison, Idaho spends on average \$5.5 million per new rest area. Decisions regarding new rest areas are made by the Transportation Commission.

{Tape: 4; Side: A; Approx. Time Counter: 12.8 - 19.7}

REP. WELLS, in referring to Page A-63, asked about the city rest areas and asked about the State's responsibility. **REP. SINRUD** said the State helped to initially fund the city park rest areas with the city eventually assuming full responsibility. Subsequently, some of the rest areas have been closed and the money appropriated is to get them re-opened.

REP. JACKSON, in referring to Page A-59, said there appeared to be a contradiction regarding Highway 93. It States increased spending has been approved, yet references the Federal money being used because the highway runs through the Flathead Indian Reservation. **REP. SINRUD** said this construction project is being funded with bonds, which the Federal government will reimburse the State for over several years.

{Tape: 4; Side: A; Approx. Time Counter: 19.7 - 23.6}

NOTE: Committee recessed at 12:10 p.m.

At 3:55 P.M. the Committee reconvened, with **REP. SINRUD** resuming the presentation of Section A, beginning on Page A-24, **Governors Office**.

{Tape: 4; Side: A; Approx. Time Counter: 23.6 - 30}

Department Response:

Bruce Nelson, Governor's Chief of Staff, said he was aware there would be some amendments offered, which he would be commenting on.

REP. RIPLEY, in referring to Page A-29, asked why the budget includes funding for a .5 FTE pilot. **REP. SINRUD** said there is an increase in the amount of hours the Governor wants to use the

State plane. Federal regulations dictate that an additional pilot will need to be added.

{Tape: 4; Side: A; Approx. Time Counter: 30 - 32.6; Comments: End of Side A, Tape 4}

REP. RIPLEY asked about the salary increase for the Indian Affairs Coordinator. **REP. SINRUD** said it is to bring the salary to a Cabinet level position. The additional salary and benefits will be \$25,000 per year.

REP. KAUFMANN, in referring to Page A-27, asked about the new proposal for Montana Marketing and Business Recruitment. **REP. SINRUD** said this is a new program, which includes two international and six national trips, to market the State.
{Tape: 4; Side: B; Approx. Time Counter: 0 - 2.3}

REP. SINRUD continued on Page A-38 with the **Secretary of State's Office**.

Department Response:

Mark Simonich, Chief of Staff, Secretary of State's Office, explained that Help America Vote is the continuation of a Federal program to inform the public about the requirements for elections. Next year, Montana will be implementing a State-wide voter registration system.
{Tape: 4; Side: B; Approx. Time Counter: 2.3 - 5.8}

REP. SINRUD continued on Page A-41 with **Commissioner of Political Practices**.

Department Response:

Gordie Higgins, Commissioner of Political Practices, said he is available to answer questions.

REP. SINRUD continued on Page A-44 with the **State Auditor's Office**.

Department Response:

John Huth, State Auditor's Office, said he was available to answer questions.

REP. SINRUD presented the **Department of Revenue (DOR)**, which appears on Pages A-77 through 91.

Department Response:

Dan Bucks, Department of Revenue Director, said there were two issues of concern: 1) the DPHHS transfer of "non-compliance of tax abuse evasion" to DOR; and 2) the one-time funding the valuation process of agriculture land.

EXHIBIT (aph47a06)

{Tape: 4; Side: B; Approx. Time Counter: 5.8 - 16.6}

REP. SESSO asked about the \$2.8 million appropriated for the agriculture land valuation process. He said he understood it was a one-time expense and the Farm Services Agency would help, but asked what the State would gain. **Dan Bucks** said it would upgrade agriculture classifications and it would bring the productivity values up with current yields. They know that 8-10% of the land is currently mis-classified; an example being farm land that is classified as grazing land and taxed at one-fourth of its value. Correcting these mis-classifications will yield additional revenue. In regard to the general increase in productivity values, the 2007 legislature can look at the results and decide if they want to change the classifications. He said they estimate the impact on the State and local level of the re-classification to be \$5 million to \$9 million.

{Tape: 4; Side: B; Approx. Time Counter: 16.6 - 21.9}

REP. JAYNE, in referring to Page A-4, asked about the one-time expense of \$1.275 million for a property tax computer system.

Dan Bucks said the funding for a new computer system is necessary to complete a re-appraisal of the property tax system. DOR has six different computer systems that do not interface, with one of the systems becoming obsolete. They need to replace these six systems with one operating system.

REP. JUNEAU, in referring to Page A-80, asked about the 're-appropriation' of money to the POINTS computer system. **REP. SINRUD** said the \$1.4 million has not yet been spent. The POINTS data has been corrupted and this money will be used to clean up the data so it can be transferred to the new IRIS computer system. It is hoped that these measures will finally bring the POINTS system to an end.

REP. JUNEAU questioned the numerous programs that have been moved out of DOR, yet the Department is still requesting funds for them.

***{Tape: 4; Side: B; Approx. Time Counter: 21.9 - 32.6; Comments:
End of Tape 4}***

REP. SINRUD said this also is a problem caused by POINTS. Even though employees have been removed, there are still employees left that are part of the DOR's support staff and need to be paid.

REP. TAYLOR asked several questions about the agricultural land reappraisal process. **Dan Bucks** said the re-classification is required in statute to be done every six years, but DOR has not had enough funds to do that job.

REP. LENHART asked if the Federal Conservation Reserve Program (CRP) has caused agricultural lands to be classified incorrectly. **Dan Bucks** if land has been moved from CRP to grazing, then it should be properly classified as grazing land. However, many of the acres are mis-classified.

{Tape: 5; Side: A; Approx. Time Counter: 0 - 9.8}

REP. SINRUD continued with the **Department of Administration**, found on Pages A-93 to 121.

{Tape: 5; Side: A; Approx. Time Counter: 9.8 - 17.3}

Department Response:

Janet Kelly, Director of Department of Administration, said they are satisfied with their budget.

REP. KAUFMANN, in referring to Page A-107, asked about the \$4.1 million General Fund appropriation for an emergency telecommunications infrastructure. **REP. SINRUD** answered that a portion of this comes from Homeland Security and is intended to interconnect the northern counties and the Indian reservations. In addition to the \$4.1 million from the State, there is \$5.7 million in Federal funds, \$1.4 million from the Board of Crime Control, and \$2.2 million from the Montana National Guard.

{Tape: 5; Side: A; Approx. Time Counter: 17.3 - 20.7}

REP. SINRUD presented the **Appellate Defender** budget, beginning on Page A-122.

Department Response:

Chad Wright, Chief Appellate Defender, said he was available to answer questions.

{Tape: 5; Side: A; Approx. Time Counter: 20.7 - 23.6}

REP. SINRUD continued with the **Montana Consensus Council**, found on Pages A 125 through 127.

Department Response:

Judy Edwards, Executive Director, Montana Consensus Council, said she was available to answer questions.

{Tape: 5; Side: A; Approx. Time Counter: 23.6 - 25}

Public Comment on Section A: None

EXECUTIVE ACTION ON HB 2, SECTION A

Motion: REP. MCNUTT moved that HB 2 BE AMENDED.

EXHIBIT(aph47a07)

Discussion:

REP. MCNUTT explained that this amendment is contingent upon passage of HB 22. Originally HB 22 was a statutory appropriation, but was amended to take out the money. In the meantime, the DNRC's decision package did not include funding for this water adjudication process.

Vote: Motion carried 18-2 by roll call vote with REP. FRANKLIN and REP. JAYNE voting no. REP. JACKSON voted by proxy.

Motion/Vote: REP. SINRUD moved that HB 2 BE AMENDED. Motion carried unanimously. REP. JACKSON voted by proxy.

EXHIBIT(aph47a08)

{Tape: 5; Side: A; Approx. Time Counter: 25 - 32.6; Comments: End of Side A, Tape 5}

Motion: REP. JUNEAU moved that HB 2 BE AMENDED.

EXHIBIT(aph47a09)

Discussion:

REP. JUNEAU, in referring to Page A-3 line 11, said this amendment would remove the position from the Commissioner of Higher Education's Office and lower the General Fund expenditures by \$200,000.

Bruce Nelson explained that Governor Martz's budgeted provided for a Commissioner of Education for the Board of Education. The

\$100,000 per year is to provide coordination and follow-through on policies between the Board of Education and the Board of Regents. Both Governors Martz and Schweitzer have had to use funds from the Lieutenant Governor's budget to fund an Education Policy Advisor position.

REP. SINRUD said they reviewed this appropriation in the Subcommittee and thought it was appropriate.

Vote: Motion failed 8-12 by roll call vote with **REP. BUZZAS**, **REP. CALLAHAN**, **REP. FRANKLIN**, **REP. HINER**, **REP. JAYNE**, **REP. JUNEAU**, **REP. KAUFMANN**, and **REP. SESSO** voting aye. **REP. JACKSON** voted by proxy.

Motion: **REP. JUNEAU** moved that HB 2 BE AMENDED.
[**EXHIBIT**](#)(aph47a10)

Discussion:

REP. JUNEAU said the purpose of the amendment is to decrease funding for the proposed new Office of Substance Abuse, Prevention and Treatment from three FTEs to two.

REP. SINRUD said he would vote no because he didn't know what will happen with HB 31. If it passes, the removal of \$100,000 could destroy the program.

Anna Whiting Sorrell, Governor's Office, said if created, this new Cabinet level office will have huge responsibilities. She said that three FTEs, an administrator, researcher and administrative assistant, is the bare minimum they would need to fulfill these responsibilities.

Vote: Motion failed 3-17 by roll call vote with **REP. CALLAHAN**, **REP. JUNEAU**, and **REP. SESSO** voting aye. **REP. JACKSON** voted by proxy.

{Tape: 5; Side: B; Approx. Time Counter: 0 - 18.4}

Motion: **REP. JUNEAU** moved that HB 2 BE AMENDED.
[**EXHIBIT**](#)(aph47a11)

Discussion:

REP. JUNEAU said the amendment would reduce funding for the Governor's mansion maintenance program by the additional \$25,000 per year.

REP. SINRUD said he would vote no because enough reductions have already been made to this program.

REP. TAYLOR said the Governor feels the mansion is the "people's home" and would like to have this additional money to try and make it the people's home rather than just the Governor's mansion.

Bruce Nelson said they want to give Montanans the opportunity to visit the "people's house." In comparison, Wyoming's Governor's mansion maintenance budget is \$497,000 per year.

Vote: Motion failed 10-10 by roll call vote with **REP. BUZZAS**, **REP. CALLAHAN**, **REP. FRANKLIN**, **REP. HINER**, **REP. JAYNE**, **REP. JUNEAU**, **REP. KAUFMANN**, **REP. LENHART**, **REP. MUSGROVE**, and **REP. SESSO** voting aye. **REP. JACKSON** voted by proxy.

Motion: **REP. JUNEAU** moved that HB 2 BE AMENDED.
[EXHIBIT](#)(aph47a12)

Discussion:

REP. JUNEAU said this amendment reduces funding for the DOR's Customer Service Center by \$100,000 per year.

REP. SINRUD said these amendments are capricious and arbitrary. The Subcommittee reviewed the DOR's budget and found this funding to be necessary.

Dan Bucks said this division does much more than just customer service functions; they open mail, process checks, issue liquor licenses, operate the call center, etc. All of these functions are at the core of collecting taxes. This funding would add three FTEs for tax collectors, which would lower the department's expenses rather than continuing to outsource the function to an accounts receivable firm in Texas.

{Tape: 5; Side: B; Approx. Time Counter: 18.4 - 32.6; Comments: End of Tape 5}

CHAIRMAN BUZZAS said **REP. JUNEAU** had put a lot of work into her amendments and it was not appropriate to call them "capricious and arbitrary." She asked the Committee to refrain from such comments.

Vote: Motion failed 2-18 by roll call vote with **REP. JAYNE** and **REP. JUNEAU** voting aye. **REP. JACKSON** voted by proxy.

Motion: REP. JUNEAU moved that HB 2 BE AMENDED.

EXHIBIT(aph47a13)

Discussion:

REP. JUNEAU said this amendment would reduce funding for the emergency telecommunications infrastructure by \$200,000.

REP. SINRUD said he will vote no.

Jeff Brandt, Department of Administration, said they think they can adjust their budget if this amendment passes. However, they are concerned that the cut in the budget will shift more of the costs to the local agencies and it could discourage their ability to get future Federal grants.

Substitute Motion: REP. JAYNE made a substitute motion that HB 2 BE AMENDED.

Discussion:

REP. JAYNE said her motion is to strike the entire \$4.1 million funding because there are different sources of funding that they can access.

REP. SESSO said the State is using the \$4.1 million to leverage other funding sources.

Jeff Brandt said that without the State's \$4.1 million, the \$13.5 million project will not be done because the grants are based upon the entire project.

Vote: Motion failed 3-17 by roll call vote with REP. JAYNE, REP. JUNEAU, and REP. KAUFMANN voting aye. REP. JACKSON voted by proxy.

Vote: Motion failed 9-11 by roll call vote with REP. BUZZAS, REP. CALLAHAN, REP. FRANKLIN, REP. HINER, REP. JAYNE, REP. JUNEAU, REP. KAUFMANN, REP. MUSGROVE, and REP. SESSO voting aye. REP. JACKSON voted by proxy.

{Tape: 6; Side: A; Approx. Time Counter: 0 - 20.4}

Motion: REP. FRANKLIN moved that HB 2 BE AMENDED.

EXHIBIT(aph47a14)

Discussion:

REP. FRANKLIN said the amendment is at the request of the Governor's Budget Office and removes about \$19,000 in General Fund appropriation for the biennium. It is for the Supreme Court operations budget and is used for the 25% match for the Court Assessment program.

Amy Sassano, Governor's Budget Office, said they think the Supreme Court can find additional money in their budget to make up for this cut.

REP. MORGAN said if the \$18,000 was cut, then there would be a loss of a 75% match in Federal funds.

Vote: Motion failed 8-12 by roll call vote with **REP. BUZZAS**, **REP. FRANKLIN**, **REP. HINER**, **REP. JUNEAU**, **REP. KAUFMANN**, **REP. MUSGROVE**, **REP. RIPLEY**, and **REP. SESSO** voting aye.

{Tape: 6; Side: A; Approx. Time Counter: 20.4 - 27.8}

Motion: **REP. FRANKLIN** moved that HB 2 BE AMENDED.
EXHIBIT(aph47a15)

Discussion:

REP. FRANKLIN explained that this amendment reduces the General Fund by \$510,000 from District Court operations to implement the Governor's Statewide FTE reduction.

Vote: Motion failed 5-15 by roll call vote with **REP. FRANKLIN**, **REP. JAYNE**, **REP. JUNEAU**, **REP. MUSGROVE**, and **REP. TAYLOR** voting aye. **REP. JUNEAU** voted by proxy.

*{Tape: 6; Side: A; Approx. Time Counter: 27.8 - 32.6; Comments:
End of Side A, Tape 6}*

Motion: **REP. CALLAHAN** moved that HB 2 BE AMENDED.
EXHIBIT(aph47a16)

Discussion:

REP. CALLAHAN said the amendment would restore State special revenue funding for the Montana Consensus Council that was switched to General Fund during Subcommittee action.

Judy Edwards said that if the funding is through State special revenue, they risk losing their Hewlett Foundation grant and their office is at risk of closing.

Vote: Motion failed 4-16 by roll call vote with REP. CALLAHAN, REP. FRANKLIN, REP. JAYNE, and REP. JUNEAU voting aye. REP. JUNEAU voted by proxy.

Motion: REP. SESSO moved that HB 2 BE AMENDED.
[EXHIBIT](#)(aph47a17)

Discussion:

REP. SESSO explained that the amendment would add \$450,000 to the budget to fund the pay equalization program for District Court employees.

REP. WELLS said that prior to the State assuming responsibility for District Courts, these employees were paid under the various county pay plans.

REP. SINRUD said he opposes this amendment because in some counties these employees don't need to be on this equalization pay plan due to different requirements of the job.

Vote: Motion failed 8-12 by roll call vote with REP. BUZZAS, REP. CALLAHAN, REP. HINER, REP. KAUFMANN, REP. LENHART, REP. MORGAN, REP. MUSGROVE, and REP. SESSO voting aye. REP. JUNEAU voted by proxy.

Motion: REP. SINRUD moved that HB 2 BE ADOPTED AS AMENDED.
[EXHIBIT](#)(aph47a18)

Discussion:

REP. SINRUD said this amendment is in response to HB 392, the appellate defender bill. If HB 392 passes, this amendment would add 1.5 FTEs to their budget.

Vote: Motion carried 12-8 by roll call vote with REP. BUZZAS, REP. CALLAHAN, REP. FRANKLIN, REP. HINER, REP. KAUFMANN, REP. LENHART, REP. MUSGROVE, and REP. SESSO voting no. REP. JUNEAU voted by proxy.

Motion: REP. SINRUD moved that HB 2 BE AMENDED.
[EXHIBIT](#)(aph47a19)

Discussion:

REP. SINRUD explained that this amendment would require the names of businesses who have been successfully recruited as a result of the Marketing Montana and Business Recruitment Program, as well as the number of jobs created.

Vote: Motion carried 19-1 by voice vote with **REP. MUSGROVE** voting no. **REP. JUNEAU** voted by proxy.

{Tape: 6; Side: B; Approx. Time Counter: 0 - 16.8}

Motion: **REP. SESSO** moved that HB 2 BE AMENDED.

[EXHIBIT](#)(aph47a20)

[EXHIBIT](#)(aph47a21)

[EXHIBIT](#)(aph47a22)

Discussion:

REP. SESSO said this amendment would add the personnel necessary to complete the task of reviewing agriculture land classifications.

Vote: Motion failed 7-13 by roll call vote with **REP. BUZZAS**, **REP. CALLAHAN**, **REP. FRANKLIN**, **REP. KAUFMANN**, **REP. LENHART**, **REP. MUSGROVE**, and **REP. SESSO** voting aye. **REPS. JUNEAU** and **WITT** voted by proxy.

Motion: **CHAIRMAN BUZZAS** moved that HB 2 BE AMENDED.

[EXHIBIT](#)(aph47a23)

Discussion:

CHAIRMAN BUZZAS said the amendment would add \$24,000 to create a \$1,000 per month award for a State employee submitting the best idea for efficiency and cost savings.

Vote: Motion failed 7-13 by roll call vote with **REP. BUZZAS**, **REP. FRANKLIN**, **REP. HINER**, **REP. JACKSON**, **REP. LENHART**, **REP. MUSGROVE**, and **REP. SESSO** voting aye. **REPS. JUNEAU** and **WITT** voted by proxy.

{Tape: 6; Side: B; Approx. Time Counter: 16.8 - 28.1}

Motion: **REP. TAYLOR** moved that HB 2 BE AMENDED.

[EXHIBIT](#)(aph47a24)

Discussion:

REP. TAYLOR said this amendment reinstates money for membership in the Council of State Governments.

REPS. KAUFMANN and MORGAN said the Health and Human Services Subcommittee used this money in their budget.

{Tape: 6; Side: B; Approx. Time Counter: 28.1 - 32.6; Comments: End of Tape 6}

Vote: Motion failed 9-11 by roll call vote with **REP. GLASER, REP. JACKSON, REP. LENHART, REP. MCNUTT, REP. MUSGROVE, REP. RIPLEY, REP. SINRUD, REP. TAYLOR, and REP. WITT** voting aye. **REPS. JUNEAU and WITT** voted by proxy.

Motion: **REP. FRANKLIN** moved that SECTION A of HB 2 be closed.

Discussion:

REP. RIPLEY said he would oppose the motion because he needed time to digest all of today's information on Section A.

CHAIRMAN BUZZAS reminded the Committee that it is okay to come back later and re-open a section.

Clayton Schenck explained that by closing sections as you go, the staff can quickly finish their work.

Vote: Motion failed 10-10 by roll call vote with **REP. BUZZAS, REP. CALLAHAN, REP. FRANKLIN, REP. HINER, REP. JAYNE, REP. JUNEAU, REP. KAUFMANN, REP. LENHART, REP. MUSGROVE, and REP. SESSO** voting aye. **REPS. JUNEAU and WITT** voted by proxy.

Terry Johnson, LFD, reported that the passage today of three amendments to Section A added \$141,210 to the General Fund and added \$832,580 to Other Funds.

ADJOURNMENT

Adjournment: 7:05 P.M.

REP. ROSALIE (ROSIE) BUZZAS, Chairman

MARCY MCLEAN, Secretary

RB/mm

Additional Exhibits:

EXHIBIT ([aph47aad0.PDF](#))