



## LEGISLATIVE FINANCE COMMITTEE

### 61<sup>st</sup> Montana Legislature

Room 110 Capitol Building \* P.O. Box 201711 \* Helena, MT 59620-1711 \* (406) 444-2986 \* FAX (406) 444-3036

#### SENATE MEMBERS

KEITH BALES  
STEVE GALLUS  
DAVE LEWIS  
RICK RIPLEY  
DAVID WANZENRIED  
CAROL WILLIAMS

#### HOUSE MEMBERS

WILLIAM GLASER  
CYNTHIA HINER  
GALEN HOLLENBAUGH  
LLEW JONES  
JON SESSO  
JANNA TAYLOR

DIANE MCDUFFIE, Secretary  
AMY CARLSON, Director

# MINUTES

## PUBLIC HEALTH AND HUMAN SERVICES REFERENCE BOOK SUBCOMMITTEE

### August 2, 2010

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.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

#### **SUBCOMMITTEE MEMBERS PRESENT**

SEN. DAVE LEWIS  
SEN. RICK RIPLEY  
SEN. DAVID WANZENRIED, CHAIR  
REP. JON SESSO

#### **INVITED GUESTS FROM THE CHILD AND FAMILIES INTERIM COMMITTEE MEMBERS PRESENT**

SEN SCHMIDT  
SEN KAUFMANN  
REP MACLAREN  
REP CAFERRO

#### **STAFF PRESENT**

KRIS WILKINSON, FISCAL ANALYST II  
LOIS STEINBECK, SENIOR FISCAL ANALYST  
MARILYN DAUMILLER, FISCAL ANALYST II

JARET COLES, STAFF ATTORNEY  
SUSIE LINDSAY, SECRETARY

**Visitors**

Visitors list, Attachment #1.

**CALL TO ORDER AND ROLL CALL**

00:00:01 SEN WANZENRIED called the meeting to order. The secretary noted the roll.

00:00:30 SEN WANZENRIED opened with instructions for the committee.

00:00:51 AMY CARLSON, Legislative Fiscal Analyst, explained a chart produced by the Legislative Fiscal Division that depicts the total demands for the general fund. The blue line indicates adjusted base, which means that the money spent in 2010, with a couple minor adjustments, is then used as a starting point for session. That figure is \$3.6 billion. She further explained the individual colored boxes of the chart. The purple line shows where the Legislative Finance Committee (LFC) has voted to recommend that the legislature make the starting point for budget deliberations and is less 5 percent in the adjusted base. (EXHIBIT 1)

00:01:43 SEN KAUFMANN entered.

00:05:40 SEN SCHMIDT arrived.

00:06:59 DAVID EWER, State Budget Director, stated that the executive budget, when finished, will be balanced, sustainable with adequate fund balance, but it will be leaner. It will be based on a combination of budget bills of temporary nature, some proposals of permanent statutory type. He also commented that while this is a challenging time, the outlook is improving.

00:10:55 SEN SCHMIDT asked for more specifics from Mr. Ewer as to how it is improving.

00:11:52 DIR EWER stated that the accruals are better for fiscal 2010.

00:13:20 SEN RIPLEY stated that he wanted an adequate ending general fund balance. He wanted to know what the fund balance will be.

00:13:52 DIR EWER stated that his office has set a target around a base range of about \$100 million. He thinks the starting point that the Legislative Fiscal Division put forth is a good start.

00:14:31 SEN LEWIS asked which legislation will be used to balance the budget.

00:14:55 DIR EWER stated that the governor will not raise taxes. He stated that HB 5 is not a femoral. The executive will have an adequate fund balance for this year and the statutory

changes that have budget implications will be included.

- 00:17:01 SEN WANZENRIED stated that the meeting will have a working lunch. He explained that no votes will be taken, only a time for discussion of options.
- 00:21:06 MS WILKINSON, Fiscal Analyst II, explained that a public comment link is available on the Legislative Fiscal Division's web page. The comments will be taken until September 3 and then the information will be collated for the next meeting in September.
- 00:21:19 SEN WANZENRIED stated that Sept 15 is the date selected for a follow up meeting.
- 00:22:19 SEN KAUFMANN asked if the documents in the folder are the same as what was mailed to her.
- 00:22:59 MS WILKINSON stated that the documents are the same.
- 00:23:10 SEN SCHMIDT asked if after the sections are discussed if there will be suggestions for changes.
- 00:23:40 MS WILKINSON stated that staff will provide a short overview of each of the options. Any legislative feedback, additional information provided, or direction to the LFD staff could be given. At the end of each section there will be time for public comment.
- 00:24:15 SEN KAUFMANN stated that she is also on the Revenue and Transportation Interim Committee that is also meeting today and she thinks it is scheduled on the 15th as well.
- 00:24:54 MS WILKINSON explained the one-time-only items located in section one. Three fiscal analysts are assigned to this portion of the reference book. (EXHIBIT 2)
- 00:25:50 LOIS STEINBECK, Senior Fiscal Analyst, provided information on the first option in this section. The preliminary value of the 2 percent provider rate that is currently in effect. The rate increase is 2 percent per year since the 2009 session. However, when the Governor implemented the 17-7-140 spending reductions, the FY 2011 provider rate increase was suspended. If the legislature wanted to continue this, it would be a new proposal. (EXHIBIT 3)
- 00:26:36 REP SESSO arrived.
- 00:28:24 SEN KAUFMANN asked if this means people who work in home health or nursing homes will actually see a reduction in their salaries.
- 00:29:15 MS STEINBECK stated providers that manage rates will see a 2 percent reduction. How they allot the reductions that be up to them.
- 00:30:01 SEN KAUFMANN commented that a provider will more likely lose wages rather than an agency. Agencies have some decisions over where the reduction would occur.
- 00:31:14 SEN WANZENRIED asked how the impact on the suspension of the 2 percent has

affected providers, particularly in eastern Montana.

- 00:31:49 MS STEINBECK stated that she does not know.
- 00:32:07 SEN SCHMIDT wanted the analysts to explain the numerical amounts at the top of the report.
- 00:33:05 MS STEINBECK and Ms Wilkinson explained.
- 00:33:21 SEN KAUFMAN asked if we would save \$9 million.
- 00:33:47 MS STEINBECK explained that the \$9 million is a one-time-only and will be excluded. It doesn't continue. If the legislature wants it to continue the legislature would have to extend it.
- 00:36:15 SEN KAUFMANN clarified that it would cost \$9 million, but bring in \$16 million in federal funds if the legislature chooses to put this back into the budget.
- 00:37:55 SEN WANZENRIED stated that the legislature knew that it was one-time-only money, however the surprise was that it was going to be suspended for the current fiscal year.
- 00:39:10 MS STEINBECK explained the one-time appropriation of \$22 million for Medicaid services that was to come out of the base budget. In addition, the legislature included language in HB 676, the companion bill, that directed DPHHS and the LFC to study Medicaid services and if they could be reduced by \$22 million over the biennium in general fund to meet this one-time-only reduction in the base budget. The work group included Sen Lewis and Sen Wanzenried. At this point, she doesn't know what the agency will propose to meet this one-time-only appropriation in base services.
- 00:41:00 SEN LEWIS made a comment that he thinks DPHHS is struggling with the reductions.
- 00:42:31 REP SESSO is disappointed that after 13 months the legislature does not know what the affects of this reduction would be, as well as no strategy to deal with it. The legislature knew that the federal aid would be cut. He stated that the legislature needs to start planning. He stated that in March he was willing to wait from department, but now three months later still no information. He made the point for the record that \$11 million/per year in a \$1.6 billion general fund budget was a reasonable request to make. He is troubled by the lack of information. He doesn't think much will change between now and the fall in the federal picture. He wants some sense of a menu of options from the department now.
- 00:44:25 SEN WANZENRIED stated that he met with department three times, but received nothing. He further stated that this meeting is not set up for that, however the committee could make a request to have that information at the September meeting. No information is available and he doesn't think any will be given until the budget is presented in November.
- 00:45:35 SEN KAUFMANN wanted to clarify the numbers. This reduction will be \$68 million

total of lost services, but a savings of \$22 million general fund.

- 00:46:02 MS STEINBECK stated that if all the reductions were made, than yes, that is correct. If there is an ability to reduce general fund without the federal loss, the federal loss would be lower. The option to take \$22 million out of administration costs is not doable, therefore services will be impacted.
- 00:46:59 SEN RIPLEY asked as a followup to Rep Sesso's question and the statement that the legislature will be asked to continue the funding, will the agency provide budget cuts or budget reduction recommendations. He stated that they requested that the department provide this last session.
- 00:47:51 SEN WANZENRIED stated that the budget was set by the subcommittee and retained by the House Appropriation committee and it worked its way through. There were not significant reductions other than the across the board cuts in Senate and Claims. However, when it went to the conference committee the structural balance issue came up. In order to have a structurally balanced budget, the reductions came up. In order for this money to be reinstated, a new proposal will have to be made. To put the money back in, the legislature would have to know where the department is going to make the reductions. He stated that they need a plan to know where the department is reducing in order to put the money back into the budget.
- 00:48:50 SEN SCHMIDT asked question about further work needed. Reductions can be made without federal penalties. She asked Ms Steinbeck to explain how federal financial penalties work.
- 00:49:46 MS STEINBECK stated that to fully explain one must first know a proposal. Until the LFD knows the proposals from the DPHHS she can't look at the federal financial penalties.
- 00:50:50 SEN SCHMIDT wanted to know what federal penalties mean.
- 00:51:07 MS STEINBECK explained that for example, the federal health reform bill has introduced maintenance of effort in eligibility for CHIP and Medicaid. If the state violates those efforts, Montana would be in jeopardy of losing federal Medicaid matching money.
- 00:51:43 SEN SCHMIDT asked if it is better to wait to make these cuts because of federal financial penalties.
- 00:52:24 MS STEINBECK stated that it is the hope that the legislature would be informed prior to the start of the session.
- 00:52:53 SEN WANZENRIED stated that the federal reform act will be discussed later to help the members better understand the implications.
- 00:53:16 MS STEINBECK explained the next option is the elimination of general fund support for organ transplants in low income adults. This had been a cut in 2002 or 2003. This is a

one-time-only and would be not be funded by Medicaid unless continued by the legislature.

- 00:56:53 SEN KAUFMANN asked that the result of no funding to this is those people die.
- 00:57:05 MS STEINBECK responded that she thought that would be the case.
- 00:57:16 REP SESSO asked if \$1.9 million for the biennium constitutes the entire amount or a portion of a larger amount that is used for this program. Rep Sesso asked if this was the first time the legislature appropriated money for this and also, was it a standard program that went to a one-time-only amount.
- 00:58:04 MS STEINBECK responded that this is the entire amount the department asked from the state and the federal matches the amount. This was a present law service that was funded by the legislature by one-time-only funding.
- 00:59:14 REP SESSO asked if prior to 2008 or 2007 Medicaid did not offer this service or if the state had not participated in this service in the past.
- 01:00:05 MS STEINBECK stated that sometimes Medicaid will not authorize experimental procedures. When transplants were no longer deemed experimental then Medicaid would have covered that service. She deferred to the department to find out when it began to be covered by Medicaid.
- 01:01:37 PAT SULLIVAN, Budget Analyst from the Office of Budget and Program Planning, stated that these services were available for adults for a short time back in 2003, or earlier. Since the department had requests, the administration decided to go forward with those requests as one-time-only. The department has had transplants this year, however, Mary Dalton could provide specific numbers.
- 01:05:09 SEN LEWIS remembered transplants as far back as 1985 or 1987.
- 01:05:40 SEN SCHMIDT stated that it is one-time-only funding, why does the option report list it as ongoing.
- 01:08:28 MS STEINBECK explained status means ongoing research from staff. She explained the next option of discontinuing HB 645 one-time-only direct care worker wage increase of \$1 per hour.
- 01:09:28 REP SESSO wanted clarification that there is no other amount in the budget anywhere that gives money for adult transplants and that the legislature gave additional \$2 million one-time-only money. However, he is now unclear if the adult money is separate from the children's funding and if the money was put in the children's program.
- 01:10:20 MS STEINBECK explained.
- 01:11:32 REP SESSO wanted general information on how much money is available for transplants and how much is general fund money and federal money, besides the \$2 million is in the

fund. He stated that if this option cuts additional funds in one-time-only, then how much is in base funding for the transplant program. He also wants to know who would be eliminated if the funding is eliminated.

- 01:11:57 MS STEINBECK stated that she will find out what the expenditures for adults and children in those categories. And she will find out how much was in the base budget last time vs how much the expenditures are this time.
- 01:12:23 REP MACLAREN asked if there are two separate accounts for children and adults.
- 01:13:06 MS STEINBECK responded that no, when the legislature appropriates money, the base funding is not differentiated between children and adults.
- 01:13:55 MS STEINBECK explained the next option to discontinue HB 645 one-time-only direct care worker wage increase of \$1 per hour. The rate increase was implemented in FY 2010. If the legislature continued the provider rate increase it would add to the general fund.
- 01:14:22 MS STEINBECK explained the next option that would continue the elimination of one time only assisted living rate increases.
- 01:14:29 MS DAUMILLER, Fiscal Analyst II, explained the next option to discontinue HB 645 one-time-only for IDEA Part C. The money went into computer services. Some money went to childrens' services, but not much, it mostly went to computer upgrades.
- 01:15:31 SEN RIPLEY asked for a general description about Part C money.
- 01:16:22 MS DAUMILLER explained that IDEA Part C is federal money that comes through education funding for children ages birth to two that are disabled. She explained that the money goes to all levels as soon as they are deemed disabled.
- 01:17:02 SEN SCHMIDT asked how much federal special money was used.
- 01:19:23 MS DAUMILLER explained. This service was paid by base funding prior to American Reinvestment and Recovery Act (ARRA) funds, but after ARRA ends then the general fund will need to be used. This is an entitlement program, so there are no waiting lists. If a child is identified needing the service, that child will get those services, they just may be slightly reduced services. For example a child may only get speech therapy three times a week instead of five times a week. But the service will be provided at some level to every child involved. No general fund has been used and won't be. The base funding for this program has not been cut. However, if ARRA funding is replaced than general fund money would have to be used in the next session.
- 01:20:45 SEN LEWIS stated that the purpose of ARRA money was one-time-only.
- 01:21:20 SEN WANZENRIED stated that some on going programs had to be switched to one-time-only because of the concern for structural balance.

01:21:52 REP SESSO stated that the legislature's decision to use \$2 million in ARRA money and give it to the department to enhance the data collection methods and to enhance technical systems. The department has had that benefit, however the base money still funds the program.

01:23:36 MS DAUMILLER stated that was correct.

01:23:48 SEN SCHMIDT clarified that it was one-time-only money for technical systems. Some of the money was used for services for speech therapy, but most of money was to be used for technical systems.

01:24:45 REP MACLAREN asked how much of the money is a direct service vs technical systems.

01:25:27 MS DAUMILLER stated that a category within the grant the department could add to a service. But most of the grant was supposed to be used for technical systems.

01:26:11 REP MACLAREN asked if the department provided a report on the data collection.

01:26:56 MS STEINBECK discussed the next option which continues the elimination of state funds for system of care/kids management authority. The state received a federal grant for five years and local or state money was required as a match. The legislature gave one-time-only money as a portion of the match. If the funding is continued, then \$667,000 would be required for the next biennium.

01:29:02 MS DAUMILLER stated that this option would eliminate the one-time-only funding for an autism group home located in Bozeman.

01:30:04 SEN KAUFMANN asked how many are served in the home.

01:30:19 MS DAUMILLER stated that either 4-6, but 4 are in the home now. One would hope that they could continue at a reduced rate. Currently \$143,000 expended of the \$400,000.

01:31:22 SEN LEWIS asked if four is correct for \$1,050,000 for the biennium.

01:31:55 MS SULLIVAN from OBPP stated that there are four children are in the home. About half of the money was for start up of the home, so not all of it is to run the program. If they made a request to continue the funding, it would be in around \$250,000.

01:32:37 MS DAUMILLER explained the next option to discontinue the vocational rehabilitation state grants funded by HB 645. The grant serves three levels: blind, independent centers and disabilities. If this money were not replaced by general fund, the services would be cut back.

01:36:26 SEN RIPLEY asked how much has been expended.

01:36:44 MS DAUMILLER stated that the total grant is \$2.3 million. So far the expended amount is \$459,000 on benefits and about \$100,000 on other items. The money will be expended

by the end of the grant.

- 01:37:23 MS DAUMILLER continued on to the next option of eliminating increases for child care caseload and 150 percent of the federal poverty index. If this option is removed, there will be a waiting list for services.
- 01:39:06 SEN RIPLEY asked if there had ever been a waiting list and the impact of a waiting list.
- 01:39:37 MS DAUMILLER stated that there has never been a waiting list. The department is looking at what might happen if there is a list.
- 01:40:08 MS DAUMILLER stated that this option was a HB2 appropriation designated as a one-time-only. This option would eliminate funding for transitions coordination for individuals in vocational rehabilitation. The money has been used to develop web sites, helped research an annual youth transitions conference, state seminars and training to assist families. The contract is set to discontinue in July 2011. Any comments that the public e-mails and faxes to the office will be included on the next report.
- 01:42:25 REP MACLAREN asked about FTE impact.
- 01:42:39 MS DAUMILLER stated that Great Falls Independent Living Services will end when the contract ends in July 2011.
- 01:43:43 PUBLIC COMMENT  
(EXHIBIT 4, 5, 6, 7, 8)
- 01:44:27 TRAVIS HOFFMAN, represents all Montana Independent Living Centers, commented that the position at Great Falls Independent Center is one-time-only and they knew that, so it is not a surprise. He clarified that the money is not used for the youth transitions conference, but rather the My Transitions Conference. He stated that the money included in one-time-only was some general fund money taken out of the departments and then backfilled with one-time-only money. Now programs that are not new are going to have to come back as a new proposal.
- 01:47:32 ROSE HUGHES, Executive Director of Montana Healthcare Association, represents nursing homes, assisted living facilities and some home care agencies around Montana. She will address the 2 percent provider rate increase, the direct care wage and the assisted living rate increase. She stated that if the cut in the 2 percent provider rate goes into affect the providers will have to live with 2009 rates until 2013. Medicaid rates were already too low in 2009 and fixed costs have gone up, so the choices will be to cut costs or increase revenues. In the end, staff will be cut and services will be cut.

The direct care wage increase is used to pay staff in nursing homes and community based waver programs. This amounts to \$16 million directly out of worker's wages. They will receive an actual cut.

The assisted living amounts reduction is a relatively small service, but it is for the people on the home and community based waver. The reason for the rate increase last time was

because there was an access problem. Community centers were not accepting people on Medicaid as the rate was too low. So the rate increase was to get these facilities to accept more Medicaid clients. Usually it is elderly that are on the waiting list to use this. Mostly these are largely privately paid by individuals, however there is a small amount through Medicaid. If the rate is lowered, the facilities will simply not accept Medicaid patients.

- 01:55:54 Erin McGowen-Finchem, with Association on Area Aging Services, stated that the elimination of support for community aging services for meals on wheels, senior transportation, congregate meals and home care giver chore services. Although this is one-time-only it really has become a part of base operations. The impact of not having this money would be to rural areas and all other services will be cut except the meals.
- 01:59:12 LORNA PALEN, Summit Independent Living Center in Missoula, stated that the provider rate increase covered the increase in worker compensation rates. Please keep the provider rate increase.
- 02:00:21 MARIANNE TITUS, home care attendant out of Missoula, asked that the provider rate increases not be cut. If the rate is cut, services will be cut or people would be moved into a nursing home prematurely.
- 02:03:03 CLAUDIA CLIFFORD, Advocacy Director for AARP, stated that she understands the tight budget. She stated that there are other options for generating revenue. She hopes the other revenue sources would be looked at instead of just cutting budgets. These services go directly into the community and have direct impact on the economy in Montana.
- 02:05:56 SEN SCHMIDT asked Claudia Clifford what broader options she had in mind.
- 02:06:36 MS CLIFFORD stated that there are too many options and would take too long to discuss.
- 02:07:07 SEN SCHMIDT stated that she wanted to hear at least one.
- 02:07:34 MS CLIFFORD stated that the Montana Budget and Policy Center has revenue options listed on their web site and she stated that Tara Veazey, the Executive Director of the Montana Budget and Policy Center, could offer suggestions that could help.
- 02:07:55 SEN WANZENRIED asked Ms Hughes what adjustments the facilities made when the 2 percent provider rates increase was suspended for this year. That would give a good indication of what will happen if those cuts are permanent.
- 02:08:28 MS HUGHES stated that it is not the easiest information to gather. However, hours have been cut and the facilities have cut staff. One facility closed a wing of their nursing home and converted it to a hospital facility that is revenue generating.
- 02:11:09 BREAK

02:35:53 MS STEINBECK gave a brief overview of section 2. (EXHIBIT 9)

02:38:48 SEN LEWIS talked about limiting eligibility. He wanted to know if it was possible to cap eligibility.

02:39:22 MS STEINBECK responded. She stated that capping eligibility might be possible for CHIP, but not Medicaid.

02:40:59 MS STEINBECK began the next option on page 29. She stated this option might be a long term option to implement evidence-based treatment protocols. The department has implemented some of these protocols. There are no cost estimates currently.

02:45:07 REP SESSO asked if there was a way to fill the \$22 million hole with this option.

02:47:14 SEN SCHMIDT asked what other states have done.

02:47:39 MS STEINBECK responded.

02:49:10 MS WILKINSON stated that the Department of Labor implemented workers' compensation programs. The Department of Labor is in the process of developing an agreement with those physicians and facilities.

02:50:25 SEN WANZENRIED asked what process could be used to examine all the things that are being done within the department.

02:51:08 MS STEINBECK stated that the legislature could ask the department to come forward with options.

02:51:56 SEN WANZENRIED asked what could be done to set it in motion.

02:52:23 MS STEINBECK responded that three options: legislation for an interim study, legislation for contracted services to support legislative efforts, legislation directing the department to use contracted services could be used.

02:52:44 MS STEINBECK continued with the next option. This option would continue to use the State Maximum Allowable Cost (SMAC) program to pay the lowest cost for a drug manufactured by three or more suppliers. This cost savings would lower general fund costs by \$2.6 million per year.

02:53:52 MS STEINBECK continued with the next option. This would eliminate optional Medicaid services not mandated by statute, the constitution or the federal government. The projected 2010 costs for these will be available soon.

02:58:30 SEN LEWIS asked if there was a lawsuit brought against the state in the past.

02:58:49 MS STEINBECK stated that yes, and the state lost. She believed the reason the state lost was because of the equal protection. Low income Medicaid adults in the community were denied services, but Medicaid eligible seniors in nursing homes were not.

Sometimes when states reduce Medicaid services, there is a risk of lawsuits.

- 02:59:39 SEN SCHMIDT asked about lowering general fund spending, but wanted that clarified.
- 02:59:57 MS STEINBECK stated Medicaid options can be cut for adults, but not children.
- 03:00:46 MS STEINBECK stated that this next option reduces Medicaid provider rates, selective services, and rates. The risk is lower access to services and lawsuits in other states have occurred.
- 03:03:09 SEN RIPLEY asked what level we are at in relationship to the services provided.
- 03:03:41 MS STEINBECK stated that she has heard that some better dental care, but mostly service capacity is diminished.
- 03:04:14 SEN WANZENRIED asked if fixed costs, inflation and provider rate increases are in a chart.
- 03:04:49 MS STEINBECK stated that it was tried before by the provider rates commission, but the services become so selective that it complicates the chart. However, she would try to put together something.
- 03:06:07 SEN WANZENRIED would like a summary of the complexity.
- 03:06:57 MS STEINBECK discussed the next option. She explained tax levies on nursing homes at \$8.30/day and the hospital utilization rate currently at \$50/day. If the state uses this option it has to be broad based. The amount levied can be no more than 5.5 percent of gross proceeds.
- 03:08:46 REP SESSO stated that if there is no room in the budget why would the legislature bother.
- 03:09:09 MS STEINBECK stated that the nursing home tax is close, but there are lots of other providers that could be taxed.
- 03:10:03 REP SESSO asked if hospitals get to include the tax in their reimbursement allowances.
- 03:11:00 JOHN FLINK, Montana Hospital Association, stated that there are non-allowable costs and allowable tax. For critical access hospitals, bed tax is an allowable cost until October 1, 2010, unless the hospital nets more money then they pay in tax.
- 03:10:51 REP SESSO asked if Mr. Flink could clarify if after October 1, 2010 it will remain an allowable cost unless the provider gets more money from the distribution system then they are paying in on the tax.
- 03:11:40 SEN SCHMIDT asked for clarification that it is an allowable cost for a critical care hospital.

03:12:00 MR FLINK responded that it is an allowable cost for all hospitals now, and after October 1 it will be for critical access hospitals if the tax is higher than the net. Or in other words, if tax exceeds costs, then it will remain an allowable cost.

03:12:23 SEN SCHMIDT clarified.

03:12:36 REP SESSO commented on the hospitalization fee. He asked if the tax mechanism helps with the provider rate reductions. He wondered if other providers would be open to another mechanism.

03:16:10 SEN LEWIS commented that perhaps providers could look at it as a free will offering as long as they got money back with the Medicaid match.

03:17:19 REP SESSO followed up that the legislature would like to engage the community of providers with each and every idea that they have. If some of these mechanisms would work, please let the legislature know, so the legislative staff could work on these.

03:19:29 MS STEINBECK asked the subcommittee if it would like provider representatives to come to the September 15 meeting to further discuss this option.

03:19:52 REP SESSO stated that providers could volunteer their views at anytime.

03:21:34 SEN SCHMIDT wondered how many providers are here today.

03:21:56 SEN RIPLEY asked if this would be perceived as a change in eligibility by the federal government and if an issuance of a waiver would be necessary.

03:22:26 MS STEINBECK stated that the federal government would be interested in a levy, but if provider rates went up they would not have an issue with that.

03:23:08 MS STEINBECK explained the option to freeze medically needy income level for Medicaid. These are people that have spent all their money on medical bills than they become eligible. The legislature reversed this in the 2007 session. Now, the medically needy income level changes with inflation, but with a freeze the income would not change.

03:24:44 MS STEINBECK stated that then next option reduces the Medicaid personal needs allowance to Medicaid persons in nursing homes. Currently persons are allowed \$50. If reduced, it may cause lawsuits on Medicaid eligibility issues.

03:26:36 SEN SCHMIDT asked if this option would apply to individuals in assisted living. She thought they are allowed \$100.

03:26:52 MS STEINBECK stated that the option would probably affect assisted living.

03:27:21 Ms Hughes stated that \$50 is allowed for nursing homes residents, but she thought assisted living residents get \$100.

03:28:08 MS STEINBECK explained the next option is to lower the Big Sky RX premium program. This program assists low income medicare eligible persons to pay premiums for Medicare Part D. The legislature could opt to limit enrollment or lower the subsidy.

03:29:11 REP MACLAREN asked why no dollar amounts are included on the options.

03:29:31 MS STEINBECK stated that the amounts would vary from option to option.

03:29:42 MS DAUMILLER stated that the option on page 14 is a proposal put forward by the agency in the 17-17-140 reductions. This moves eligible developmentally disabled general fund clients to a Medicaid waiver.

03:31:59 MS STEINBECK explained the next option is to add slots to senior and disabled persons home based waivers. This should have been in the one-time-only category. If you eliminate the extra slots then they might shift to nursing home or hospitals, which costs more money.

03:34:21 SEN WANZENRIED asked if the maintenance of effort could be discussed now. He asked Mr Coles to explain.

03:34:53 JARET COLES, Legislative Services Division Staff Attorney, discussed maintenance of effort. On March 23, 2010, the federal government signed into law the Patient Protection and Affordable Care Act. No federal regulations for this act have been issued to date. The Arizona legislature voted to eliminate the CHIP program by June 2010. The federal government threatened to cut off all Medicaid funding to Arizona as a result. Arizona left the CHIP program frozen. So far the federal government has not challenged that decision. The Montana CHIP program was not frozen, so the situation is not the same. Mr Coles stated that he will study what happens in Arizona.

03:38:26 SEN LEWIS asked for clarification of the wording either frozen or capped.

03:38:41 MR COLES responded that in the decision it was referred to as frozen, not capped, but essentially the same thing.

03:39:09 SEN WANZENRIED asked about other states.

03:39:19 MR COLES stated that he would monitor other states.

03:39:39 MS STEINBECK stated the next option is for a review of the Montana Veterans' homes procedures to determine residents' ability to pay for services. The Montana Veterans' receive cigarette tax revenue, federal per diem funds, private insurance co-pays, Medicaid and medicare. Any remaining ending fund balance in the cigarette tax state special revenue account over \$2 million transfers to the general fund.

03:41:23 SEN SCHMIDT asked about long term care insurance.

03:41:47 MS STEINBECK stated that yes, long term care insurance is taken into consideration.

03:42:09 MS STEINBECK stated the next option also deals with veterans' homes. Statute allocates 8.3 percent of cigarette tax to the operation of veterans' homes and requires that balances in excess of \$2 million be transferred to the general fund at fiscal year end. The legislature could establish a lower minimum balance and transfer the excess to the general fund.

03:42:35 MS STEINBECK discussed the next option to use the Older Montanans' Trust Fund money. Currently, \$8.8 million is in the fund. Statute would need to be amended to use any of this money.

03:43:55 MS STEINBECK stated that the next option calls for budgeting state institutions at the cost of comparable private facilities. This would require research to compare services at state institutions with their private counterparts and see if costs are lower.

03:45:06 MS STEINBECK continued with another option to reduce funding for mental health services program for individuals over the age of 21 that are at 150 percent of poverty and not eligible for Medicaid.

03:46:39 REP SESSO asked how many individuals are served in the program presently.

03:47:06 MS STEINBECK thinks thousands, but will find out.

03:47:18 MS STEINBECK explained the next option would be to review the Healthy Montana Kids Program for any possible excess of funds.

03:50:20 SEN LEWIS asked Mr Coles if any federal regulation addresses states in a deficit situation.

03:50:52 MR COLES did find one case, but it didn't really affect the appropriations. There are regulations under ARRA for methodology. However, no federal regulations out there yet for maintenance of effort.

03:51:49 SEN LEWIS stated that the legislature will have tough choices. He wondered if there are other options to review new programs the legislature added in last few years.

03:55:03 SEN WANZENRIED asked if the legislature changed nothing, then how many are served under CHIP.

03:55:21 MS WILKINSON responded that CHIP enrollments as of June 2010 are 76,558 in Medicaid and CHIP, of those 16,000 are in CHIP, the remainder in Medicaid, and Medicaid Plus.

03:56:26 SEN WANZENRIED asked how long the revenue sources can sustain those numbers.

03:56:43 MS STEINBECK stated that staff would return with those numbers.

03:56:55 SEN SCHMIDT asked if there is excess state revenues in that fund.

- 03:57:12 MS STEINBECK stated that yes there is excess, since the program just started. She explained the next option to implement higher co-payments for higher income families in Healthy Kids Montana.
- 04:01:04 PUBLIC COMMENT
- 04:04:54 TRAVIS HOFFMAN, stated that seven years ago cuts were proposed. He stated that the page 21 option talked about optional Medicaid services like personal assistant services. The proposal is to cut all optional Medicaid services. All individuals using personal assistant services would then need to be moved to a nursing home. The option on page 23 deals with the medically needy spend down, however, the legislature still has that frozen from 2003. In 2007 the legislature adopted a \$100 income exclusion using the administrative rule using the 1902 R2 regulations. Therefore people that have the spend down only have to spend down to \$645. The medically needy spend down threshold is still set at \$525. Often times medically needy may have social security from having worked, so if the threshold for the spend down is lowered, it really imposes a penalty on people who have worked. So those individuals have to spend down further than those on permanent disability and have never worked. This is a hot button issue for people with disabilities.
- 04:07:19 TED DICK, Political Director for Service Employees International Union 775 Northwest Local, represents senior long term care givers. He offered an idea to bring federal dollars into the state through the balanced incentive payment program.
- 04:09:18 JOHN FLINK, MHA, commented on the provider tax. Their goal is preserving the tax system. They may be willing to talk about another tax, but would like to see how that goes.
- 04:15:27 MIKE FOSTER, Catholic Hospitals, seconded Mr. Flink's comments. He suggested a provider pay scale. The elimination of optional care means costs will be shifted to general insurance payers.
- 04:20:52 KATHY MCGOWAN, representing the Center for Mental Health Illness, stated that cuts in provider rates and mental health services plan would be devastating. The Mental Health Services Program served 5,000 individuals.
- 04:27:07 CLAUDIA CLIFFORD, with ARRP, stated her concern for cutting the Big Sky RX Program. This assistance gives \$37 month to help with prescription drugs. She opposes the option to cut community based services, particularly since that program expanded last session. In addition, she opposed the proposal for using Older Montanans' Trust Fund, and wants to build on the fund, not use it. If the legislature needs to use the trust fund than use it for community based programs.
- 04:32:04 MATT KUNTZ, Executive Director for National Alliance for Mental Illness, addressed the option for evidence based practices found on pages 29 and 36. He stated that these costs are fixed and the mental health services in communities is just one more way that mental health clients can stay home. The option to budget state institutions sounds good, but he stated that the level care between private and public facilities is just too different.

- 04:35:56 STEVE NELSEN, Executive Director of Montana Children Initiative, stated that he will provide to legislative staff a report on the 10 year review of numbers in the children's mental health program. This report should answer Sen Wanzenried's question. He stated that there was a major hit to children's mental health rates in 2003.
- 04:38:34 JAN CAHILL, Executive Director of the Montana Association of Community Disability Services, is not in favor of a reduction in provider rates. He represents 34 providers that treat mental disabilities. Nine of those providers indicated that their budgets are running in the red.
- 04:44:29 ANITA ROESSMANN, Disability Rights Montana, stated that all the options involve spending money. She favored the utilization fee as one option to explore. She thinks a comparison between state funded institutions and private institutions will show an underfunding for the state hospital. She favors spending more money on kids now then saving money on adults later.
- 04:47:36 ROSE HUGHES, Executive Director of the Montana Healthcare Association, reiterated that the option to reduce provider rates is not a good one.
- 05:01:31 TARA VEAZEY, Montana Budget and Policy Center, asked the committee to address the revenue shortfall with a balanced approach. She wants a revenue subcommittee of the Legislative Finance Committee be established to target raising revenues. The Department of Revenue has suggested that there is a \$300 million revenue gap every year. She suggests reducing tax breaks that affect a small amount of taxpayers.
- 05:06:51 SEN SCHMIDT asked MS STEINBECK to look into the balanced incentive program and HIFA. In addition, she wants the LFC to look at revenue enhancements and have a revenue subcommittee. She asked Ms Hughes to clarify the Medicaid personal needs allowance how that works with the nursing homes vs assisted living. She wondered if transitions out of nursing homes is done regularly.
- 05:08:15 MS HUGHES responded.
- 05:11:54 SEN SCHMIDT asked if assisted living programs are not as regulated and if some states regulate assisted living fees.
- 05:12:40 MS HUGHES stated that she is not aware of other states that regulate the fees.
- 05:13:11 SEN KAUFMANN asked about the potential of having a LFC-Revenue subcommittee.
- 05:13:39 SEN WANZENRIED responded that members of the LFC are attending the Revenue and Transportation Interim Committee (RTIC).
- 05:15:00 SEN LEWIS stated that the governor will not allow tax increases.
- 05:15:29 SEN KAUFMANN stated that the governor does not make decisions for the legislature.
- 05:16:13 SEN WANZENRIED stated that the LFC does not meet until October 8, 2010.

05:17:07 MS WILKINSON stated that Rep. Jones, Rep. Glaser and Rep. Sesso will go in front of the RTIC with the options that were considered revenue enhancements.

05:18:00 SEN SCHMIDT wants to look at a balanced approach. She wants to look at revenue issues. She stated that she hopes the LFC members would look at this.

05:19:25 SEN WANZENRIED agreed and wanted to make a recommendation.

05:19:39 SEN RIPLEY can not support the recommendation. He stated that with a new session new members would be appointed to those committees. He also stated that one agency will not submit any budget cutting suggestions. He stated that Director Ewer promised that they would submit a balanced budget with an adequate fund balance.

05:21:41 SEN KAUFMANN stated that she wants to hear public feedback on these issues.

05:22:25 MS WILKINSON stated that Section III deals with public health and safety. The first option would reduce or eliminate general fund for food and consumer safety program. (EXHIBIT 10)

05:24:39 MS WILKINSON stated that the option on page 12 would eliminate contraceptive costs. Now this is part of the base and it is a new program, so a lot of information is not available.

05:25:40 MS WILKINSON stated that the option in Section III, on Page 10 provides for \$660,000 general fund support for the environmental public health labs. Prior to this the support came from state special revenue fund. This is in the base funding. The legislature could increase the state special revenue fund through fees while removing the general fund support.

05:26:48 MS WILKINSON stated that on page 11 the option relates to general fund support for cancer control. The tobacco tax settlement money increased in the previous biennium, but the general fund remained. Currently the general fund money is used for administration costs.

05:27:48 PUBLIC COMMENT

05:27:56 ERIN MCGOWAN-FINCHAM, representing public health officials, stated that HB 331 was passed to deal with health assessments on licensed establishments and the costs to city and county health departments to conduct those assessments. The reimbursement is modest to those cities and counties. Currently, a legislative audit is ongoing on this status.

05:30:59 REP MACLAREN asked Ms Fincham if local health departments inspect some facilities and wants to know which facilities have health assessments conducted.

05:31:30 MS MCGOWAN-FINCHAM stated that it would depend on the set up of the counties and cities, not all conduct health assessments. She would get that information to the committee.

05:32:20 SEN KAUFMANN asked Ms Fincham if an increased fee would likely to be vetoed by the Governor.

05:33:03 MS MCGOWAN-FINCHAM thought that it could be a compromise.

05:33:46 MS DAUMILLER stated that Section IV covers Human Services Security. The first option is to eliminate general funding for child support enforcement. The general fund support pays a 5 percent collection fee to the collections agency so that the parent actually receives the full amount of the child support. (EXHIBIT 11)

05:35:35 REP CAFERRO asked why the 5 percent couldn't be charged to the parent that owes the child support.

05:36:33 MS DAUMILLER responded. Whenever a fee is collected from a person, federal regulations must be followed. Currently, federal regulation makes it cumbersome to collect fees in this regard.

05:37:46 REP CAFERRO stated that even if the process is cumbersome, she instructed Ms Daumiller to look into the idea.

05:38:31 SEN KAUFMANN commented that the option is a tax on kids and the governor will veto.

05:38:55 MS DAUMILLER stated the option on page 7 reduces general fund spending beyond maintenance of effort in some Health Care Services Division (HCSD) programs.

05:41:21 MS DAUMILLER explained the option to transfer the interest on the \$1 million or use the principal from the Children's Trust Fund for the general fund, however in order to do this statute would need to be changed.

05:42:48 MS DAUMILLER stated page nine option would eliminate general fund support for six Big Brother and Big Sisters organizations in Montana.

05:43:47 REP SESSO asked why some organizations get \$11,000 and others get \$20,000, who gets the rest.

05:44:46 MS DAUMILLER explained that these are based on contracts and the cost is biennial.

05:44:58 SEN KAUFMANN wants to know if any comparable non-profits get state general funding. Ms Daumiller is unaware of any that gets funding from the general fund.

05:45:31 REP MACLAREN asked what the Children's Trust Fund was supposed to be used for when it was established.

05:46:06 MS DAUMILLER stated that a Governor's appointed Children's Trust Council determines how the earned interest may be spent. Most times the interest is spent on support of Children and Family Services. However, to date no interest has been spent.

05:46:51 SEN SCHMIDT wanted to know how much interest is in the account.

05:47:04 MS DAUMILLER stated that it would probably be about \$50,000 for 2010. The principal of the trust is \$1,204,000 million. Probably around \$150,000 to \$200,000.

05:48:00 SEN SCHMIDT asked if any money could be transferred to any other Children and Family Services Department. She also wanted to know who appoints the council.

05:48:18 MS DAUMILLER stated that the Children's Trust Council would decide where the money could be transferred. The council is appointed by the Governor.

05:48:48 SEN LEWIS thought that this is Rep Caferro's bill.

05:49:27 REP CAFERRO stated that it is not her bill.

05:49:29 MR COLES indicated that if any cuts came from a gift, a grant, or donation from the Children's Trust Fund, the legislature should think twice before doing so from a legal standpoint.

05:49:50 PUBLIC COMMENT

05:49:59 KATHY MCGOWAN spoke on Big Brothers and Big Sisters.

05:53:18 REP SESSO asked about information on technology projects at the Department of Public Health and Human Services. He particularly would like to know the status of the TANF/SNAP computer system and the Medicaid Management Information System (MMIS) computer program.

05:54:32 LAURIE LAMSON, Chief of Operations of the Director's Office at the Department of Public Health and Human Services, stated that the department is still in contract refinement with the contractor to implement these programs. There are issues that the department is working through to get these contracts started.

05:57:00 REP SESSO asked if the department will still go forward with those contracts.

05:57:20 MS LAMSON responded that when the contracts get worked out and after approval from the Governor's Office, the department will move forward.

05:58:53 REP SESSO asked if the reason the programs are not approved is due to budget costs and if that is the case he thinks cutting technology funding is not the way to keep things efficient.

05:59:04 MS LAMSON stated that the MACWIC was a proposed cut through the 17-7-140 reductions. In order to remove the funding on a system that has been approved through the long range information technology bill, the legislature would have to take action. However, no final approval from Governor's office yet for the TANF/SNAP computers. The MMIS program is in a different situation. The office had to rebid the project after the lowest bidder wasn't able to fulfill the contract.

06:00:20 REP MACLAREN asked if TANF/SNAP can move forward.

06:00:39 MS LAMSON stated that some refinement is needed and it also needs the Governor's approval.

06:01:14 SEN KAUFMANN asked about the 2014 Health Insurance Exchanges eligibility data systems from DPHHS will involve an amendment to contracts or a whole new system.

06:01:47 MS LAMSON stated that generally the new health care reform bills will affect some of the data systems, but no substantial research has been done yet.

06:04:07 BREAK

06:16:31 SEN WANZENRIED stated the need for a second meeting. Discussion followed.

06:17:20 REP CAFERRO directed Ms Daumiller to do research for the next meeting on TANF/MOE funding as a way to free up general fund.

06:18:34 SEN WANZENRIED directed staff to put together a list of providers that could be eligible for a provider tax.

06:21:11 SEN WANZENRIED put forth a tentative date for another meeting on September 15. He explained that voting members are only LFC members. In addition, three LFC members would meet with RTIC and then could report back at the next meeting.

06:23:45 SEN SCHMIDT stated that she wanted a balanced discussion.

06:24:36 SEN KAUFMANN stated that the people who are impacted should have an opportunity for public comment so the legislature can obtain their ideas about revenue enhancements.

06:25:48 SEN WANZENRIED asked if the staff needed further direction.

06:26:02 MS STEINBECK stated that if the committee could prioritize their requests it would be better.

06:26:31 SEN WANZENRIED asked for a consolidated list.

06:26:44 SEN KAUFMANN asked if the human cost could be added to options.

06:27:05 MS STEINBECK stated that she would add the broad impacts to the options for next time.

06:27:26 SEN WANZENRIED updated the members on the work of the interim Performance Measures Subcommittee of the Finance Committee.

06:27:57 MS WILKINSON added comments about the Performance Measures subcommittee.

06:28:35 SEN WANZENRIED adjourned the meeting at 4:00.

