



## LEGISLATIVE FINANCE COMMITTEE

### 62nd 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

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WILLIAM GLASER  
CYNTHIA HINER  
GALEN HOLLENBAUGH  
JON SESSO  
JANNA TAYLOR

DIANE MCDUFFIE, Secretary  
AMY CARLSON, Director

# MINUTES

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### REFERENCE BOOK SUBCOMMITTEE

### SEPTEMBER 15, 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.

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#### **SUBCOMMITTEE MEMBERS PRESENT**

SEN. DAVE LEWIS  
SEN. RICK RIPLEY  
SEN. DAVID WANZENRIED, Chair

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

SEN KAUFMANN  
SEN SCHMIDT  
REP CAFERRO  
REP MACLAREN

#### **STAFF PRESENT**

AMY CARLSON, Director of the Legislative Fiscal Division

KRIS WILKINSON, Fiscal Analyst II  
LOIS STEINBECK, Senior Fiscal Analyst  
MARILYN DAUMILLER, Fiscal Analyst II  
SUSIE LINDSAY, Secretary

### Visitors

Visitors list, Attachment #1.

00:00:01 SEN WANZENRIED began the meeting at 8:35 a.m. He reviewed the agenda with the members. The secretary noted the roll.

00:03:40 ANNA WHITING SORRELL, Director of the Department of Public Health and Human Services (DPHHS), began her discussion. Dir Whiting Sorrell provided four exhibits for the committee. (EXHIBIT 1, 2, 3 & 4) She provided a brief overview of the statute requiring her department to submit a plan to reduce 2013 biennium expenditures. The report describes the work plan. A set of principals was developed by the department. She stated that the department would like the committee to consider the statutory requirement for authorized services of Medicaid and funding principals. The department identified the necessary changes that the committee may make to reduce the 2013 biennium expenditures. The department began by spelling out what the agency calls the trigger expenditures (17-7-140). On January 4, 2010 the Governor asked DPHHS to reduce the budget as a result of the declining ending general fund balance. The department was required to put forth a 5 percent reduction plan. As a department they looked at a set of principals and not an across the board cut. She stated that she views it as ironic when at a time when the services DPHHS provides are needed, that reduction plans to the budget are required. For example, food stamps are at the highest level ever with currently, 105,000 Montanans receiving food stamps. The department looked at reductions to the base budget that did not impact the service of the people of Montana. She stated that the department is not overstaffed. The reductions by 17-7-140 are \$3.9 million general fund. The Governor's Office required a 4 percent cut to personnel services. That 4 percent cut is based on FTEs, however some of the FTEs were exempt in 24 hour facilities. The overall cut is \$2.3 million general fund. Those will be cuts to the base. The total between 17-7-140 and the 4 percent FTE reduction is \$6.2 million for each fiscal year. The remaining amount of the department's reductions are found on page five of the report.

The second report is a spreadsheet of Medicaid optional services. She stated that children's services are mandatory and can not be reduced. The other area that DPHHS is looking at as a result of the national health care reform act is the affordable care act that states that the department can not reduce Medicaid or CHIP. She stated that there needs to be a balance between cutting services and cutting budgets. The department believes that if optional services were eliminated the end cost saving would only be about \$10.1 million general fund.

Finally, the 5 percent reduction plan is included in the report. It lists services that could be cut to reduce the 2013 biennium expenditures.

00:16:12 SEN RIPLEY asked if the \$10 million optional cuts Dir Whiting Sorrell referred to is

found on page five of the department's report.

- 00:16:48 DIR WHITING SORRELL stated that the amount is found on page 5 number 2.
- 00:16:57 REP CAFERRO asked for more details from the department. She asked about the \$9.7 million in reductions.
- 00:17:20 DIR WHITING SORRELL stated that no more details will be provided. The \$9.7 reductions come from the information above.
- 00:19:10 REP CAFERRO stated that the report is too general and particularly the \$9.7 million reduction is not given enough detail. She asked Dir Whiting Sorrell if her staff would be providing more information.
- 00:19:50 DIR WHITING SORRELL explained the strategy of the report. She further explained Chart 2 in the department's report on page four. Under that chart there is a statement that discusses the reductions that were presented as a result of the Office of Budget and Program Planning (OBPP) direction. The changes that may be taken are options the department put forward that the legislature could consider. The department will participate with OBPP as they prepare for the budget submission on November 15. She reiterated the three areas the department will look at when the budget is submitted in November.
- 00:22:44 SEN WANZENRIED asked about page 5 and the \$9.7 million component parts to that figure.
- 00:23:50 DIR WHITING SORRELL reiterated that the Governor has until November 15 to make recommendations for agency budgets. She provided additional changes that may be taken either by the Governor or the Legislative Finance Committee could make recommendations. However, the \$22 million was one-time-only (oto) and the Governor will not backfill that money except for autism group homes and transplants for people on Medicaid.
- 00:28:09 REP CAFERRO stated that the legislature requested in 2009 that the department come forward with \$22 million in reductions. She stated that the report does not provide enough detail for her to understand what is being cut. However, she would like to know what specific services will be cut.
- 00:29:33 DIR WHITING SORRELL stated that there are different interpretations. She stated that she did not read where there were specific changes required. The department identified changes that may be taken. Those changes have been provided in this plan and to OBPP. The Governor has the right to decide how he will plan his budget on November 15. The commitment will be to not backfill the one-time-only money. There are many options that the department has provided that can be taken and considered. The agency fully realizes that during this tough economic time that these could be implemented by Governor Schweitzer or the legislature in January. All of these options are fully considered and could be made.
- 00:33:51 SEN WANZENRIED asked for further clarification of the report located under tab one in

the folders.

- 00:34:34 DIR WHITING SORRELL stated that the total on page five number 3, the statutory reduction plan is the detail between the 5 percent reduction plan. These are the recommendations that total \$15,172,205.
- 00:37:05 SEN WANZENRIED asked if page five of the main document under the title "reductions include" is the grand total on page five number 3.
- 00:37:45 DIR WHITING SORRELL responded. She said section three reads, "\$15 million identified of possible changes that may be taken" and the next portion includes a summary of the 4 percent FTE reductions. Chart 2 of the program operation efficiencies shows \$9.7 million that could be taken either from statutory reductions of \$15.7 million or from the \$10.1 million of optional services or from the 2003 reductions.
- 00:38:17 SEN WANZENRIED asked if the Governor will make recommendations in the budget proposal that is specific in regard to expenditures.
- 00:38:25 DIR WHITING SORRELL stated that she is confident Governor Schweitzer will put forth a balanced budget.
- 00:38:30 SEN LEWIS stated that the legislature asked for \$22 million out of the base, not a list of options. The legislature requested a line by line identification of the department's \$22 million reduction recommendations.
- 00:39:23 DIR WHITING SORRELL stated that the legislature will have a line by line description of the department's budget on November 15. There will not be a DP that will restore the \$22 million one-time-only.
- 00:42:02 SEN SCHMIDT asked to go through page 5 again. She wanted to know if all of the 2003 reductions are under tab 2 in their notebooks. All of the Medicaid options are under tab 3, then all of the statutory reductions are the attachment submitted on September 1. All of the reductions on this attachment list the areas on page 5 under section 3. She asked for the total amount of reductions.
- 00:44:10 LOIS STEINBECK, Senior Fiscal Analyst, explained that the 5 percent reduction plan includes all of the 17-7-140 reductions, and the \$22 million one-time-only. The reductions in the report are not separate.
- 00:44:52 SEN SCHMIDT reiterated that there is no accounting of the \$22 million one-time-only reductions.
- 00:45:17 MS STEINBECK explained that the \$22 million one-time-only are included in the 17-7-140. Elements of the \$22 million are in the agency's proposed budget request to the Governor. They duplicate 17-7-140 and the 4 percent personnel services.
- 00:46:08 REP CAFERRO asked the staff about the statutory requirements of the General Appropriations Act. She reiterated that her legislative intent was that the department would provide a list of identified \$22 million cuts.

00:47:35 AMY CARLSON, Director of the Legislative Fiscal Division, stated that the information provided is what the department is willing to provide. The interpretation of the statute may need to be looked at by the legal staff.

00:48:24 SEN RIPLEY stated that he supported the \$22 million and is now disappointed in the amount of information provided by DPHHS.

00:49:07 SEN SCHMIDT asked if further clarification on the \$22 million one-time-only is reflected throughout attachment four.

00:49:43 MS STEINBECK explained that DPHHS identified specific reductions totaling \$11 million of the \$22 million. That amount includes 17-7-140 reductions and the 4 percent personal services. These reductions were included in the DPHHS budget submission.

00:52:26 SEN LEWIS asked for further clarification on the \$4-5 million portion labeled program efficiencies.

00:53:12 MS STEINBECK stated that some of the program efficiencies are part of 17-7-140 reductions and are in the DPHHS budget submission.

00:53:37 SEN LEWIS asked about the other reductions categories and program efficiencies categories.

00:53:53 DIR WHITING SORRELL stated that she would like to look at program efficiencies with the committee. Her department has reduced out of state travel. The department has saved money by using Web Ex instead of traveling to locations. In addition the department has made energy efficiencies. She handed out two charts. (EXHIBIT 5 & 6)

00:56:49 REP MACLAREN asked about the units of measure in Exhibit 5.

00:56:57 DIR WHITING SORRELL responded that the amount of money is in thousands.

00:57:25 SEN SCHMIDT asked again about the \$22 million on page 2 of tab one and how it appeared in the General Appropriations Act.

00:58:07 MS STEINBECK responded that when the \$22 million reduction was taken in HB 2 it was removed from Medicaid services. The language that the legislature added was that the reductions could be made wherever DPHHS chose.

01:00:22 SEN WANZENRIED asked Dir Whiting Sorrell to move to the next agenda item.

01:01:14 DIR WHITING SORRELL commented on Rep Clark's memo from 2003 that her department provided to the committee. (EXHIBIT 7)

01:02:06 SEN WANZENRIED asked if any part of these ideas from 2003 are included in the department's proposal to the executive.

01:02:31 DIR WHITING SORRELL stated that she didn't know.

01:02:42 MS STEINBECK pointed out that many of the options were implemented in 2003. Some were reversed, but many are still operational. Therefore, not all of these may be available for consideration by the legislature because they have already been done.

01:03:48 SEN WANZENRIED asked Ms Steinbeck if in her experience that most of these options from 2003 were still in effect.

01:03:55 MS STEINBECK asked the department to comment.

01:04:09 DIR WHITING SORRELL stated that the department would have to go through to see which were acted upon.

01:05:12 SEN WANZENRIED asked why the department would provide the report if only to remind the committee of the 2003 session.

01:05:21 DIR WHITING SORRELL stated that the memo was provided for historical purposes.

01:06:34 SEN WANZENRIED asked the committee to move to the next agenda item.

01:08:02 MS STEINBECK explained the optional Medicaid services spreadsheet provided by DPHHS. She explained that the recipients column shows how many would be effected. SPA means state plan amendment, which means the state would have to submit that option to the federal government. (EXHIBIT 8)

01:12:25 REP MACLAREN asked Ms Steinbeck for clarification of the elimination of the senior long term care PACE program.

01:13:00 MS STEINBECK stated that it has an effect on 42 individuals and 1 provider and a 50 percent cost shift.

01:13:48 REP MACLAREN asked if the PACE program were eliminated than the net savings would be \$482.

01:14:08 MS STEINBECK agreed.

01:15:06 SEN SCHMIDT asked to have the information located at the bottom of page one on the optional Medicaid spreadsheet further explained.

01:15:24 MARY DALTON, Medicaid and Health Services Branch Manager at DPHHS, explained. She stated that if the \$13.3 million were eliminated for the facility in Boulder, the net cost savings would be about \$2.6 million. All individuals in this program would need other DPHHS services, so if the facility were closed, other programs would still be needed.

01:17:05 SEN SCHMIDT asked about critical access hospitals.

01:17:23 MS DALTON responded.

01:19:56 SEN KAUFMANN asked about the PACE program and the cost shift.

01:20:17 MS DALTON responded.

01:23:44 REP CAFERRO asked if the \$965,000 includes state and federal funds for PACE.

01:24:06 MS DALTON agreed.

01:24:29 REP CAFERRO asked what portion of the \$965,000 is general fund.

01:25:23 MS DALTON directed committee members to the last page of the report to explain the amounts.

01:29:00 REP MACLAREN asked about the net savings prediction of \$38.9 million.

01:29:36 MS DALTON responded.

01:29:53 SEN RIPLEY asked if the people in the PACE program would need to move to a different program.

01:30:38 MS DALTON explained.

01:33:16 SEN WANZENRIED stated that the public comment survey monkey program will be available until September 23, 2010. (EXHIBIT #9)

#### PUBLIC COMMENT

01:34:59 TRAVIS HOFFMAN, Montana Centers for Independent Living, stated that the spend down for persons with disabilities went from \$645 to \$545.

01:38:22 MATT KUNTZ, Executive Director of the National Alliance of Mental Illness for Montana, stated that eliminating the Big Sky Rx program will result in a cost shift.

01:40:32 MIKE FOSTER, representing Catholic Hospitals, provided comments.

01:41:54 ROSE HUGHES, Executive Director of the Montana Healthcare Association, discussed cuts to provider rates.

01:46:18 ANITA ROESSMANN, representing Disability Rights Montana, stated her concerns.

01:48:16 CLAUDIA CLIFFORD, Director of ARRP Montana, discussed her opposition to the elimination of the Big Sky Rx program.

01:52:48 SEN WANZENRIED asked the committee to move to the next agenda item.

01:52:55 AMY CARLSON, Director of the Legislative Fiscal Division, explained evidence based practices and treatment protocols. She explained that the Legislative Branch hosted a health care roundtable in which health care groups provided information on how to save money. Evidenced based practices and treatment protocols may be a way to lower costs. The Legislative Fiscal Division will provide additional information to the legislature as it becomes available.

02:09:22 MS WILKINSON, Fiscal Analyst II, explained the Medicare memo she prepared for the committee. (EXHIBIT #10)

#### PUBLIC COMMENT

02:10:39 MR KUNTZ stated his support for evidence based practices and treatment protocols.

02:12:20 MR FOSTER stated that evidence based treatment is complicated. His organization believes quality care brings costs down.

02:14:25 ERIN MACLEAN, representing the Montana Medical Association, added that she agreed with Mike Foster.

02:14:58 SEN KAUFMANN stated that she supports the study of evidence based practices and treatment protocols.

02:16:29 REP MACLAREN agreed.

02:17:20 SEN SCHMIDT stated that she would like to see a study as well.

02:18:07 SEN WANZENRIED asked Ms Carlson to prepare a letter to DPHHS to ask for access to data and help accessing federal Medicaid matching funds to begin the process.

02:23:08 MS STEINBECK explained the reference book options spreadsheet. (EXHIBIT 11 & 12) (EXHIBIT 13) She explained her chart on Healthy Montana Kids and Healthy Montana Kids Plus. This is a combined chart that demonstrates the Medicaid and CHIP numbers, but at the bottom is the unduplicated amount. (EXHIBIT 14)

#### PUBLIC COMMENT on Sections 1 & 2 of Reference Book Options

03:00:15 JAN CAHILL, Executive Director of Montana Association for Disabilities, gave an overview of the history of the provider rate increase.

03:05:27 KATHY MCGOWAN, representing the Community Mental Health Centers, commented on the mental health services plan.

03:09:44 TRAVIS HOFFMAN, representing Montana Independent Living Centers, reiterated his concern for cutting provider rates.

03:12:47 ROSE HUGHES, Montana Healthcare Association, provided additional public comments (EXHIBIT 15).

03:14:52 CLAUDIA CLIFFORD stated that she represents a coalition of health care providers that think the federal money coming to the state is to stop some reduction. While she understands that the money is one-time-only, she hopes the funding will continue.

03:17:33 JOHN LYNN, Western Montana Center, stated that he has read Sen Wanzenried's FMAP letters that he sent to the Governor and thanked him for that effort. Mr. Lynn stated that he has seen cuts over the years so that the provider rates are lower now than they were

previously. He suggested cutting the Magellan contract.

#### LUNCH

- 04:24:28 SEN WANZENRIED reconvened the meeting at 1:00.
- 04:25:16 MS STEINBECK introduced the presenter Mr. Richard Cauchi from the National Conference of State Legislatures (NCSL). (EXHIBIT 16)
- 04:27:04 RICHARD CAUCHI, NCSL, provided an overview on state provider fees. He stated that 45 states have a provider fee and numerically not many states have broadened that fee to other providers. The states that have done it include large institutions. (EXHIBIT 17-20)
- 05:05:37 SEN WANZENRIED thanked Mr. Cauchi for his presentation.
- 05:07:39 SEN KAUFMANN issued an invitation to providers to speak about a fee increase.
- 05:08:53 BOB OLSEN, representing the Montana Hospital Association, commented.
- 05:12:01 SEN SCHMIDT asked Mr. Olsen to explain which type of beds qualify for the fee.
- 05:13:57 MR OLSEN responded.
- 05:17:27 MS HUGHES reiterated her comments on the provider fee.
- 05:23:51 DENNIS TAYLOR, representing Children's Mental Health Care Providers, commented.
- 05:25:55 ERIN MACLEAN, representing the Montana Medical Association, would like to take part in the discussion, however, they opted out of the last provider fees.
- 05:27:26 JANIE MCCALL, Yellowstone Boys and Girls Ranch, followed up with what Mr. Taylor indicated. She believed providers involved would like to discuss the fee option and she mentioned that Shodair Hospital is already taking part in the provider fee.
- 05:29:22 SEN LEWIS suggested that the provider group could put together a proposal and bring it back to the committee.
- 05:30:35 MS WILKINSON stated that this is the last subcommittee meeting.
- 05:31:13 SEN WANZENRIED reiterated the Legislative Finance Committee's upcoming meeting dates. He asked for the conclusion of the reference book items.
- 05:32:20 MS WILKINSON explained that funding is available for increased FMAP under the Health Care Act.

#### PUBLIC COMMENT

- 05:39:40 CLAUDIA CLIFFORD, representing ARRP, commented.

05:46:35 BREAK

06:00:57 SEN WANZENRIED asked for discussion of the final section of the reference book.

06:01:59 MS DAUMILLER, Fiscal Analyst II, stated that the report under tab 9 is the activity summary report on the Food and Consumer Safety Report. She stated that Erin McGowan-Finchum has prepared a report. (EXHIBIT #21)

06:04:26 ERIN MCGOWAN-FINCHUM with the Association of the Montana Health Officials, updated the committee on health inspections. She added that reference book option number 26 is a very important component and urges the committee to reconsider that proposal.

06:12:02 SEN SCHMIDT asked about option 24 and the report at tab 9.

06:12:57 MS DAUMILLER responded.

06:18:13 SEN LEWIS asked about the Children's Trust Fund's request to spend the interest.

06:18:43 MS DAUMILLER stated that she was not aware that they had a request in to spend the interest.

PUBLIC COMMENT ON ALL SECTIONS  
NONE

06:21:52 MS WILKINSON summarized the committee's directions to the Legislative Fiscal Division's staff.

06:27:01 LAURIE LAMSON, DPHHS, clarified that the ambulatory surgical centers are not part of the hospital utilization fee.

06:27:30 SEN KAUFMANN stated that she would like to add an option to the reference book to possibly eliminate the Magellan contract for \$1.6 million.

06:28:49 REP CAFERRO wants staff to perform additional research on the enhanced FMAP. She wants an option to be added that looks at enhanced FMAP for the calendar year 2011.

06:43:56 SEN KAUFMANN commented that no option in this portion of the reference book suggests furlough days for state employees. In addition, she would like an option that looks at streamlining programs to save money.

06:48:22 MS WILKINSON stated the general government section is looking at furlough days for state employees. She further explained that the other options will be added, but resources may not be devoted to the ideas.

06:50:58 SEN SCHMIDT added that she would like the Magellan option to go to the Legislative Audit Division.

06:57:02 SEN WANZENRIED restated the additional options to the reference book.

PUBLIC COMMENT-GENERAL

07:00:18 SHEILA SMITH, representing Western Mental Health Center, discussed provider rates.

07:10:11 SEN WANZENRIED adjourned the meeting at 3:48.