



# **SJR 22 Joint Subcommittee on Health Care and Health Insurance**

## **57th Montana Legislature**

### **SENATE MEMBERS**

JON ELLINGSON, Vice Chairman  
DOROTHY BERRY  
ROYAL JOHNSON  
JERRY O'NEIL  
LINDA NELSON  
GLENN ROUSH

### **HOUSE MEMBERS**

JOE MCKENNEY, Chairman  
KATHLEEN GALVIN-HALCRO  
BOB LAWSON  
MICHELLE LEE  
GARY MATTHEWS  
BILL PRICE  
TRUDI SCHMIDT

### **COMMITTEE STAFF**

GORDY HIGGINS  
RESEARCH ANALYST  
BART CAMPBELL  
STAFF ATTORNEY  
LOIS O'CONNOR  
SECRETARY

## **MINUTES**

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 documents.**

Seventh Meeting of Interim  
Room 137, State Capitol  
July 18, 2002

### **SUBCOMMITTEE MEMBERS PRESENT**

Rep. Joe McKenney, Chair  
Sen. Jon Ellingson, Vice Chair  
Sen. Royal Johnson  
Sen. Jerry O'Neil  
Sen. Glenn Roush  
Rep. Kathleen Galvin-Halcro  
Rep. Bob Lawson  
Rep. Gary Matthews  
Rep. Bill Price  
Rep. Bill Thomas

### **SUBCOMMITTEE MEMBERS ABSENT**

Rep. Michelle Lee  
Sen. Dorothy Berry

### **SUBCOMMITTEE MEMBERS EXCUSED**

Rep. Trudi Schmidt  
Sen. Linda Nelson

### **STAFF PRESENT**

Dave Bohyer, Research Analyst  
Leanne Kurtz, Research Analyst

Bart Campbell, Staff Attorney  
Lois O'Connor, Secretary

**VISITORS**

Visitors' list, (ATTACHMENT #1)  
Agenda, (ATTACHMENT #2)

**SUBCOMMITTEE ACTION**

- Approved the minutes from the June 14, 2002, meeting
- Recommended that the Children, Families, Public Health and Human Services Interim Committee continue a Subcommittee on Health Care in the next biennium
- Approved August 29, 2002, and September 12, 2002, as their final two meeting dates

**CALL TO ORDER AND ROLL CALL**

The meeting was called to order by Rep. McKenney, Chair, at 9:00 a.m. Attendance was noted; Representative Lee and Senator Berry were absent and Representative Schmidt and Senator Nelson were excused. (ATTACHMENT #2)

Rep. Lawson **moved** that the minutes from the June 11, 2002, meeting be approved. Motion passed unanimously.

**HEALTH INSURANCE TAX CREDIT AND DISCUSSION**

Sen. Ellingson provided an update on the discussions of the Tax Credit Working Group. He stated the following:

- The Tax Credit Working Group began its work with the thought that there may be revenue available to fund a tax credit.
- It decided that it would not discuss where the funding source was going to come from but rather it would assume that if the ideas and options were attractive enough, the Legislature would find a funding source.
- The Working Group asked staff to provide rough cost estimates of the different tax credit options.

**Bart Campbell, Staff Attorney, Legislative Services Division**, provided a brief summary of Montana's major business entities and those that are pass-through. (EXHIBIT #1)

Sen. Ellingson asked if a limited liability partnership was the same thing as a limited liability company. Mr. Campbell said that limited liability partnerships are pass through entities and are much like limited liability companies. However, because the state has the Montana Limited Liability Company Act, he did not see any reason for limited liability partnerships anymore.

**Leanne Kurtz, Research Analyst, Legislative Services Division**, provided a summary of how a health insurance tax credit would be realized by pass-through entities and provided examples of the language used in Montana law for other kinds of credits available to pass-through entities. (EXHIBIT #2)

**Dave Bohyer, Director, Research and Policy Analysis, Legislative Services Division,** provided an overview of preliminary estimates related to a tax credit for insurance premiums. (EXHIBIT #3)

Referring to Part 3 of Exhibit #3, Sen. Johnson asked who the 166,000 uninsured individuals in Montana covered and did it include all citizens of the state. Mr. Bohyer said that the number covers all individuals not covered by Medicare or a publically funded insurance program, such as Medicaid, and everyone who is not covered by an employer policy or a similar private-pay policy. The number also reflects all citizens of the state.

Referring to Parts 5 and 6 of Exhibit #3, Sen. Ellingson said that the numbers illustrate the problem that the Working Group was grappling with in terms of providing tax credits, particularly the take-up rate (i.e., if the state provides a tax credit, what percentage of the individuals or businesses to whom the credit is directed are going to be induced to take it up.) For example, if an individual earning \$8,860 a year is given a 50% tax credit and the individual is looking at a minimum out-of-pocket cost of \$1,380, an economist may ask if it is a rational consumer who is going to accept the credit being offered.

Rep. Price asked if the federal poverty level (FPL) calculation included gross income or are there deduction for individuals who are Medicaid or CHIP eligible. Mr. Bohyer said that there are some deductions, but he was unsure what they were.

Sen. Johnson asked if the number of the uninsured related in any way to people who are working or unemployed. Mr. Bohyer said that the total number of uninsured does not take into account whether or not individuals are working and that approximately 86% of the uninsured individuals are people who live in a household in which at least one person has a full time job. Sen. Johnson felt that even if the Subcommittee decided to provide the tax credit as a way of insuring businesses whose employees would theoretically be part of the working uninsured, it would still have an unknown number that are not working and uninsured. Sen. Johnson felt that in the interest of fairness, the Subcommittee should pick a number that would ensure that all of the people in a category are provided the tax credit. Mr. Bohyer said that every variable discussed should be a Subcommittee consideration, whether it be the size of the business, the level of income, or the percentage of the FPL. He said that Sen. Johnson's suggestion was just as relevant as any of the other variables.

Rep. Lawson asked if the tax credit could be offered to a combination of businesses and individuals. Rep. McKenney said that if there is a cap on the number of dollars available, one-half could be used for businesses and one-half could be used for individuals. However, another issue is the take-up rate. If low-income individuals who are making their house payments, buying food, clothing, and making car payments, no matter what the tax credit is, unless it is 100%, it is not affordable. Rep. Lawson added that another complication is that the take-up rate is going to be affected by the attitude of individuals making the decision on the present state of their wellness. He felt that those leaning toward sickness or those who have a history of sickness would be the first to take advantage of the take-up.

Sen. Ellingson said that if the Subcommittee's focus of the tax credit leans toward businesses, it must keep in mind that agricultural workers are not included. It is a whole category that is not in the Subcommittee's list of employees of small businesses.

Sen. Johnson questioned whether the 166,000 uninsured individuals included farm workers. Sen. Ellingson said yes.

Sen. Ellingson pointed out that the relationship of increasing the tax credit to as much as 90% of the premium to what it may do to an individual's percentage of income that is expended on insurance could also have an impact on whether the individual was likely to accept the tax credit and purchase insurance.

Rep. Lawson said that consumers must also be educated on utilization and finding cheaper ways of doing things. He felt that through education the difference between the minimum out-of-pocket and moderate out-of-pocket expenses could be decreased.

Sen. Roush said that insurance companies in Montana and the health care industry are doing as much as they can to educate members on cost savings. The Subcommittee must also keep in mind that many rural communities do not have clinics available after working hours resulting in an influx of after-hour emergency services at hospitals. He was also concerned about the portion of the 86% uninsured who were single or 1-person families and the amount of wages they were being paid. He asked if statistics were available on the medium incomes of the 86% uninsured. Rep. McKenney said that 166,000 Montanans are uninsured, but of that amount, 85% live in a household where at least one family member has a full-time job.

Rep. McKenney asked if the tax credit for businesses extended to insuring family members or does it just extend to employees. Sen. Ellingson said that the Working Group discussed extending the tax credit to just individuals. However, if the Subcommittee wanted to extend it to family coverage, it could be done. Much discussion surrounded whether there should be a percentage of the premium and the tax credit would be based on a percentage of the premium or whether there should be a flat tax credit. He suggested that it would be easier to go with a flat amount for individuals.

Rep. Price said that the risk in broadening the numbers of individuals or business receiving the tax credit is who would be most dramatically affected. The Working Group decided to try to impact as many people as possible.

Sen. O'Neil asked if thought was given to or if a study had been done on how much the tax credit concept would save the state. Mr. Bohyer said that savings, if any, were not a part of his calculations.

Sen. Ellingson commented that the scenarios illustrate the magnitude of the problem and cost commitment of the state if it were to decide to substantially address the problem of the uninsured in Montana. It will not be done for free through the tax credit mechanism.

## **PUBLIC COMMENT**

**Tanya Ask, Blue Cross Blue Shield Montana (BCBSMT)**, provided information on the various health care insurance plans offered by BCBSMT. (EXHIBITS #4 and #5 respectively) She stated the following:

- With the tax credit estimated at between \$2,400 and \$2,500, BCBSMT has three plans that could provide coverage for individuals for between \$1,200 and \$1,800 a year-- one plan would cost \$222 a month, another plan at \$319 a month, and another plan at \$351 a month.
- All of the plans have the requirement that individuals be medically underwritten.
- Premium coverage for families is much less per person.
- The more people that are covered impacts health care costs for everyone in the state not just the people who are currently insured.
- Cost shifting makes up between 30% and 33% of hospital prices. If the state could impact that, it can start lowering the cost that the insured population is paying.
- BCBSMT is working with provider community to address the uninsured.
- The provider community has said that they are willing to give substantial discounts because they know that they are going to get their costs covered.
- The tax credit option is very good but it needs more work.

**Claudia Clifford, State Auditor's Office**, stated the following:

- The Tax Credit Working Group's consideration of take-up rates, who would take advantage of which type of tax credit, and how to target the tax credits needs more refinement.
- The take-up rate is an economic and marketing question.
- Generally, smaller businesses cannot afford luxury coverage for their employees, and they have a certain number of people who opt for spousal coverage.
- She requested that the Tax Credit Working Group be given more time to refine the numbers attached to the various options it is discussing.

**Anita Bennett, MT Logging Association**, provided an article from [Kiplinger Forecasts](#) regarding legislatively mandated benefits. (EXHIBIT #6) Ms. Bennett requested that any future mandated benefits established by the Legislature have a cost and benefit analysis prior to its implementation.

**Chuck Butler, Blue Cross Blue Shield Montana and Montana Comprehensive Health Association (MCHA)**, provided a copy of MCHA's premium rates. (EXHIBIT #7) He suggested that the Subcommittee could reduce the 166,000 uninsured in Montana by aiming to cover 16,000 Montanans in the first year, for example, and the same amount in the following three years (i.e., present a 4-year plan to the 2003 Legislature). Over the four years, the Legislature could realistically reduce the 18.5% uninsured to 11%. In this way, the figures attached to the tax credit scenarios would not be so staggering.

Rep. Thomas asked if the issue of unhealthy lifestyles could be addressed by rewarding families for living healthier lifestyles. Mr. Butler said that BCBSMT is addressing unhealthy lifestyles but much more needs to be done because unhealthy people can have an impact

on the cost of health care overall. BCBSMT and its competitors are encouraging families to live healthier lives, and the state cannot let the message die.

**Tom Clinch, Montana School Services Foundation**, said that the Foundation covers approximately 16,000 employees and dependents of Montana's school districts. He encouraged the Subcommittee to look at the tax credit as part of the solution to reduce the number of uninsured and to make health care more affordable in general.

**Don Allen, MT Association of Insurance and Financial Advisors**, commented on the progress of the Subcommittee's work and encouraged them to continue its work.

Sen. O'Neil questioned whether the idea of a tax credit for providing health care coverage was a good one and whether it was accomplishing what it was intended to do because it meant increasing taxes. He said that small businesses that are financially healthy would be better for providing medical care for their employees versus those that are strapped for cash. If the Legislature takes the amount of money connected to the tax credits out of the economy, businesses will become less healthy and go broke resulting in more people on public assistance.

Sen. Johnson expressed his concern that all of the options change the percentage of the participation rates and assumed that \$50 million would be available to provide the tax credit. He said that if the percentages were incorrect, the state would have a huge problem. He asked if the percentage could be capped so that the state did not run past the \$50 million. Rep. McKenney said that the Tax Credit Working Group will review the issue.

Rep. Lawson said that Dave Kendall, Progressive Policy Institute, shared examples of federal and other state-level programs where a cap on the amount spent for a tax credit was established, and when the money ran out, there was no more. He questioned whether the tax credit could be established under a pilot project where the variables could be controlled.

Sen. Roush said that other issues that need consideration are how long the premiums will be current and what happens to them over time.

Rep. McKenney said that Montana ranks 47th in per capita income, and Montana businesses are not the type of businesses that show enough profit to pay health insurance premiums for their employees. He said that if he did not provide health insurance to his employees, they would not buy insurance on their own. He felt that if Montana was going to reduce the number of its uninsured, it had to look at the employer-based system.

#### **PILOT OPTION OFFERED BY NEW WEST HEALTH**

**Patrick Aberle, CEO, New West Health**, spoke to the Subcommittee about its 1-year pilot program option to provide health care access plans for uninsured Montanans. (EXHIBIT #8)

Ms. Clifford said that New West Health's proposal is not a formal submission of an insurance plan, but a description of the plan, and that the State Auditor's Office is supportive of all attempts to design creative products to help the uninsured in Montana. BCBSMT currently

has BlueCare that is targeted for the uninsured and meets all standards of Montana law. The State Auditor's Office is set up to enforce Montana law, and it has given New West suggestions on how to make its product work and pointed out Montana's mandated benefits that needed to be included in the proposed plan.

Ms. Clifford added that there is no law that requires inpatient care but it did require some level of emergency care services, which is one of the problems with New West Health's proposal. The State Auditor's Office suggested that the proposal be subject to higher deductibles and copayments if New West wanted to minimize costs, but that it could not waive the requirements in law.

Sen. Johnson asked if New Health's proposal did not include inpatient and emergency care. Ms. Clifford said that the law does not require the proposal to include inpatient care, however, it does require some level of emergency care coverage, subjected to any level of deductible or co-payments. Other mandates that need to be included in the proposal are coverage for new born and adoptive children for the first 31 days of life and coverage for the PKU law. The severe mental illness statute would also be applicable.

Rep. Lawson asked if higher copayments and deductibles would mitigate the effects of mandated services. Ms. Clifford referred to 33-36-205, MCA, which describes the emergency services that must be part of a managed care plan. The law states that the coverage of emergency services is subject to applicable coinsurance, co-payments, and deductibles. However, there is nothing in statute that states what those prices should be.

Sen. Ellingson asked if legislative action was needed to proceed with the proposal. Mr. Aberle said yes, that research showed that individuals needed unlimited and unrestricted access to health care and, legislatively, the authority does not exist to run a pilot program like New West Health is proposing. Mr. Aberle stated that New West would have to modify the plan to include emergency services and the other mandates which increases the cost of the plan to the uninsured. New West has chosen to not pursue that avenue, and relief from the legislative mandates for the pilot program is needed.

Sen. Johnson asked about the cost of New West's proposal with and without the mandated benefits and, if for example, 1,000 people were covered under the pilot, how would it relate to the other insurance that New West currently has. Mr. Aberle said that New West's proposal is to create health care access plans that are unique and distinctive from any other plan or service that it currently offers in the marketplace. The proposal is to develop the pilot project under a limited time frame so that New West can study the results of the project before it comes back to the Legislature seeking legislative relief from the mandates before it continues the project. It would be a completely separate project from New West's current membership. Mr. Aberle said that the cost of the benefit packages without the mandated benefits is approximately \$24 a month. If the mandates are added, the cost of the base proposal would more than double.

Rep. McKenney asked if New West anticipated a sunset date on the proposed legislation. Mr. Aberle said "yes" that the legislation would be enabling legislation and would provide a

1-year window to run the pilot program. Rep. McKenney asked if the legislation was a monopoly demonstration from New West or will other insurers be able to establish pilot projects also. Mr. Aberle said that it is New West's hope that other insurers, both public and private, would join.

Sen. Johnson said that if the Legislature approves the pilot project in the 2003 Session, it would not meet again until 2005 which would be past the 1-year sunset. Mr. Aberle said that once the legislation is approved, it would take several months more of development before it can be offered. It could begin the project in July 2003, operate the pilot project for one year. At the end of the year, the project would end until New West came back to the Legislature for further extension of the pilot. Sen. Johnson asked why the legislation did not include a provision to cover the remaining time if the pilot program were successful after the one year. Mr. Aberle said that New West would use the time between the end of the one year and the beginning of the 2005 Legislature to accumulate, analyze, and share the data and to develop additional interest. Without the pilot, New West would not meet the needs of the 1,000 people, for example, during the gap period. Sen. Johnson commented that it would put 1,000 more people on the uninsured roles after termination.

Rep. Lawson asked if there were other areas of state law that needed to be changed other than the mandated benefits. Mr. Aberle said that New West is unaware of any other structural problems that need to be addressed other than the mandated benefits issue.

No action was taken on the proposal.

#### **FUTURE AGENDA ITEMS**

Suggested agenda items for the Subcommittee's final two meetings are as follows:

- review Sen. O'Neil's request for certificate of need comparisons from other states;
- hold a conference call with Mr. Sussman of West Virginia's multi-state purchasing pool and make a recommendation to the Legislature on the feasibility of going forward with the purchasing pool;
- discuss ways to maximize the CHIP program;
- discuss any available information on the effects federal legislation related to pharmaceutical drugs would have on multi-state purchasing pools;
- discuss suggestions for the proposed tax credit;
- review the Subcommittee's study plan;
- review any other housekeeping measures; and
- final Subcommittee comments.

Sen. Ellingson said that the Tax Credit Working group would continue to work on the following:

- further refine the various tax credit options;
- request more information on and review the suggestions made by Ms. Ask (BCBSMT);
- continue to review take-up rates and discuss any additional information on take-up rates and the relationship between the amount of the credit and the cost of policy and take-up rate;



- explore what type of mechanism that could be established to ensure that the tax credit did not exceed the cap of expenditures;
- explore ways to deal with the increasing cost of insurance and the decreasing tax base; and
- establish a target for the tax credit (i.e., how much money is targeted toward individuals and how much toward employers to purchase health insurance).

Following a request by Mr. Bohyer regarding the continuation of the SJR 22 Subcommittee or whether a new committee should be formed in the next interim, the Subcommittee felt that the issues of accessible health care and affordable health insurance were long-term issues that needed continuous review.

Rep. Thomas felt that the Subcommittee should continue but that it include private sector, nonvoting members much like the membership of the Environmental Quality Council (EQC) while Sen. Johnson felt that the Subcommittee be under the umbrella of an existing, permanent interim committee. The permanent committee could then choose whether to appoint a subcommittee or tackle the issues on its own. It could also choose the number of Subcommittee members and from which other interim committees those members should come. Sen. Johnson **moved** that the Subcommittee recommend that the Children, Families, Public Health and Human Services Interim Committee continue a Subcommittee on Health Care in the next biennium.

Rep. Price asked if the motion precluded private sector members. Sen. Johnson said that he was not precluding anyone but felt that private sector members were not needed. The people who are truly interested in the issue and who are experts in those areas would be willing to attend and provide their expertise. Rep. Price was unsure whether it was appropriate for the Subcommittee to make a motion that would control the activities of another interim committee. Sen. Johnson said that his motion was only a recommendation and the Children and Families Interim Committee can do what it wants with the recommendation.

Sen. Johnson's motion passed unanimously.

In response to a question from Chairman McKenney, Mr. Bohyer discussed the staff transition since Gordon Higgin's departure from the Legislative Services Division. He said that with the impending special session, staffing workloads and levels are critical and bill drafting for the 2003 Session begins in earnest right after Labor Day. However, he would provide the Subcommittee support to the best of his ability. He added that it was his understanding from discussions with Mr. Higgins that some pieces of the Subcommittee's final report were in place but that Mr. Higgins has been unable to work on the report in any meaningful way. Mr. Bohyer felt that the Subcommittee's final report was more important than the full Economic Affairs Committee final report because the former was required under SJR 22.

The Subcommittee approved August 29, 2002, and September 12, 2002, as their final meeting dates.

**PUBLIC COMMENT**

**Bob Bartholomew, Director, AARP of Montana**, provided written comments regarding AARP's concern about the high cost of prescription drugs. (EXHIBIT #9)

There being no further business, the meeting adjourned at 12:40 p.m.

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