



LEGISLATIVE FINANCE COMMITTEE

62nd Montana Legislature

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SENATE MEMBERS

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

HOUSE MEMBERS

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

DIANE MCDUFFIE, Secretary
AMY CARLSON, Director

MINUTES

Legislative Finance Committee

November 16, 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.

COMMITTEE MEMBERS PRESENT

REP. LLEW JONES, Chair
SEN. KEITH BALES
SEN. STEVE GALLUS
SEN. DAVE LEWIS
SEN. RICK RIPLEY
SEN. DAVID WANZENRIED
SEN. CAROL WILLIAMS

REP. WILLIAM GLASER (Via Conference Call)
REP. CYNTHIA HINER
REP. GALEN HOLLENBAUGH
REP. JON SESSO
REP. JANNA TAYLOR

STAFF PRESENT

SUSIE LINDSAY, Secretary
AMY CARLSON, Director

Visitors

Visitors' list, Attachment #1.

CALL TO ORDER AND ROLL CALL

00:02:01 **Rep. Llew Jones, Chair**, called the 216th meeting of the Legislative Finance Committee to order at 7:30 a.m.. The secretary noted the roll. Attachment #2

APPROVAL OF MINUTES FOR THE OCTOBER 8, 2010

00:02:12 **MOTION: Sen. Wanzonried** moved to approve the minutes. **VOTE:** Motion passed.

REVENUE UPDATE

00:02:16 Terry Johnson, Principal Fiscal Analyst, presented the Legislative Fiscal Division Revenue Estimate report. (Exhibit 1). The general outlook for the US and Montana's economy for the next three years is for a slow gradual recovery from the "Great Recession". The LFD receives the services of two economic forecasts companies - IHS Global Insight and Moody's Analytics. Both firms are projecting a very slow recovery for the national economy and Montana. However, Moody's Analytics does forecast a quicker growth pattern for Montana starting in FY 2012. Review of their underlying assumptions for Montana does not seem to support their growth outlook and is not consistent with the forecasts of the Bureau of Business and Economic Research of Missoula. Because of this, the "baseline" forecast of IHS was used to derive the LFD recommendations. There was a slight improvement in the revenue estimates for FY 2013 of about \$4.0 million over the biennium. The peak for revenue was in 2008 and revenues will not return to that level until 2015. There was an unprecedented decline in revenues in 2009 and 2010. In 2011, revenues are projected to move upward and increase each year thereafter.

00:16:22 **Sen. Lewis** asked about the total biennium general fund estimate compared to what the Governor released. Mr. Johnson advised that the total recommended in the Governor's budget is \$3.603 billion before any of the proposed tax changes.

00:16:47 **Chairman Jones** asked if the LFD estimate and the Governor's revenue estimate were fairly consistently close.

00:17:11 Mr. Johnson stated that one difference was the executive seemed to be more optimistic on a percentage basis. Their estimates show a drop off starting in 2012 down to about 3.7 percent and they forecast over a 5 percent increase from 2012 to 2013.

GLOBAL ISSUES: LFC RECOMMENDATIONS TO THE HOUSE APPROPRIATIONS AND SENATE FINANCE COMMITTEES.

- 00:18:25 Jon Moe, LFD, presented Global Issue Recommendations for Consideration of the Legislative Finance Committee. (Exhibit 2) The purpose of this report is to provide recommendations to the House Appropriations and Senate Finance and Claims committees regarding the activities of the joint appropriations subcommittees and various procedural issues related to developing the state budget. The LFC adopted in June the initial motion that all appropriation subcommittees for a starting point for budget deliberations shall include the adjusted base to include personal services adjustments, statewide fixed costs and inflation, any decision packages necessary to implement the two percent reductions approved in the 2009 session in an ongoing manner and then also the five percent reduction plans provided in 17-7-111. Also, adopted was a motion that the LFC request that the LFD and the LSD draft a bill that includes all statutory changes required to implement the five percent reduction plan. A recommendation concerning direct performance measurements was also adopted in June 2010.
- 00:28:48 **Rep. Jones** stated that the first global issue adopted in June is the adjusted base less five percent as shown in the chart. (Exhibit 3) Item #2 is in the adjusted base less five percent includes a four percent permanent reduction in FTE in addition to the vacancy savings.
- 00:30:41 **Sen. Wanzenried** asked about the bill that would include all the changes necessary to implement the five percent reductions and wondered if that was necessary. He cited the possibility of a veto.
- 00:31:52 Ms. Carlson said the number of bills is not designated in the recommendation. The items are being drafted and could be in one bill or a dozen bills depending on the decision of leadership.
- 00:32:01 **Sen Wanzenried** asked how many bills would be needed if there were separate bills.
- 00:32:25 Ms. Carlson responded for the five percent plans there would be four or five agencies that would need statutory changes. The most needed would be five.
- 00:33:21 **MOTION: Rep. Sesso** moved to amend the June motion to say “bill or bills” to allow the option of multiple bills as needed.
- 00:34:21 **VOTE:** Motion passed.
- 00:34:35 **MOTION: Sen. Williams** moved Item #2 that as a starting point in budget deliberations, the joint appropriations subcommittees be directed to adopt vacancy savings as proposed in the executive budget. For most agencies and programs this is a vacancy savings of 4 percent but the few exceptions in the executive budget are to be initially adopted as proposed.
- 00:35:22 **VOTE:** Motion passed.
- 00:35:35 **MOTION: Sen. Williams** moved Item #3 that as a starting point in budget deliberations,

joint appropriations subcommittees be directed to consistently apply fixed costs in agency budgets as included in the executive budget request. Adjustments to fixed cost rates shall be determined by the subcommittee examining the service provider and shall be globally adjusted on a consistent basis.

00:36:10 **VOTE:** Motion passed.

00:36:24 **MOTION: Sen. Williams** moved Item #4 that as a starting point in budget deliberations, subcommittees be directed to not vary from the executive budget proposed inflation or deflation factors. Subsequent adjustments, if any, shall be applied globally in the budget.

00:36:49 **VOTE:** Motion passed.

00:36:58 **MOTION: Sen. Williams** moved Item #5 that for budget proposals that require separate legislation to implement the proposal, joint appropriations subcommittees be directed to make no adjustments to the general appropriations act until required legislation passes, except for K-12 inflation which is present law if adopted by the subcommittee.

00:37:28 **VOTE:** Motion passed..

00:37:38 **MOTION: Sen. Williams** moved Item #6 that appropriations committee leadership shall request legislation, if needed, to provide a vehicle or vehicles for enacting substantive language related to the implementation of appropriations in the general appropriations act.

00:38:01 **VOTE:** Motion passed. **Rep. Sesso** voted no.

00:39:28 Mr. Moe indicated Item #8 was not needed.

00:39:40 **Sen Wanzenried** respectfully requested that if there were going to be any motions made on the first day of a significant departure from this model, that there be some courtesy extended to all the other members of Appropriations and Finance and Claims regarding such a motion. He referenced back to a similar time in 2003.

ITSD REGULAR REPORT

00:40:17 Greg DeWitt, LFD, explained changes in the IT Project Portfolio Report.(Exhibit 4)

00:42:08 Dick Clark, Chief Information Officer for State of Montana, invited questions from the committee about specific projects.

00:42:50 **Rep. Taylor** asked why MERLIN was on the list and if there were any new problems.

00:43:07 Mr. Clark advised the system was not yet complete but there are no problems.

00:43:20 **Rep. Sesso** asked about the Balance of Appropriated Funds column of the Portfolio Report and if items were completed on their due date, and whether there would be money left to appropriate differently.

00:44:20 Mr. Clark stated the money would be expended by those projects to complete the projects.

00:44:37 **Rep. Sesso** further questioned the Balance of Appropriated Funds and whether it could be less than what was needed to complete a project.

00:46:11 Mr. Clark maintained that the balance of appropriated funds is the money they have left to complete the project and is not available for other uses.

00:47:08 **Chairman Jones** inquired about the interoperability project.

00:47:25 Carl Hotbed, Chief, Public Safety Services Bureau, advised there has been a strategic planning session to review the status of the current project. Goals and objectives were establish and what the build-out plan would look like going into the future.

00:48:26 **Sen. Wanzenried** asked what further inquiries should be made from a policy standpoint about how well these systems work once these are actually functioning. He has heard claims that the new systems were causing more work.

00:50:16 Mr. Clark replied that the determination of the requirements of the new system is extremely important. The scope of work must be reviewed and adhered to and followup by the agencies is important. No system will ever be one hundred percent complete.

00:54:30 **Rep. Sesso** asked about the MMIS system and Child Welfare System.

00:55:15 Ron Baldwin, CIO, Department of Health and Human Services (DPHHS), stated that an RFP would be posted for MMIS in the following week. The RFP would be out for 120 days followed by a three month period to evaluate and select a vendor. The department anticipates being under contract sometime in the third quarter of next year. He believes they have the funds they need from the appropriated funds.

00:57:06 **Rep. Sesso** asked about the Child Welfare Information System.

00:59:16 Mr. Baldwin stated the original budget in total funds for the project was \$27 million. About \$1.4 million has been spent on the planning phase. There is a proposal to postpone the project and revert funds under 17-7-140. The remaining \$13 million is federal funds. The transfers involved the general fund portion and the federal match was 50/50.

00:59:41 **Rep. Sesso** asked if the project would go forward without a new appropriation and Mr. Baldwin responded their plan was to keep the federal funds available and then reconstitute the project.

01:00:55 **Rep. Sesso** asked for an update on the statewide longitudinal data system.

01:01:17 Madalyn Quinlan, OPI, explained the department received a four-year federal grant for the development of the system for K-12. They are about a year-and-a-half into the

project.

01:06:28 **BREAK**

MANAGED CARE UPDATE

- 01:22:34 Lois Steinbeck, LFD, presented a report on Medicaid Managed and Programs Implemented. (Exhibit 5) The report describes managed care approaches to health care and some of the aspects of managed care programs and the various Montana Medicaid managed care initiatives that have been implemented by DPHHS. She explained the reasons that states opt to implement managed care contracts and the challenges of implementation. The Department was considering the feasibility of two proposals for Medicaid waivers. One was a managed care proposal to combine all Medicaid services in a five county area and the other dealt with prescription drugs.
- 01:32:52 Laurie Francis, Executive Director, Montana Primary Care Association, Inc. (MPCA), highlighted a few points of her report on Montana's community health centers which serve ten percent of Montana's population. Cost savings to the state were about \$98 million. DPHHS contracted with 14 community health centers to provide services under the Health Improvement Program (HIP). She thought this program would save the state \$4 million. She expressed concern that the program would not have the opportunity to see its full benefits and that Montana is one of three states being studied for best practices. (Exhibit 6)
- 01:38:36 **Sen. Wanzenried** asked Ms. Francis to explain the cost savings.
- 01:38:59 Ms. Francis stated the \$4 million was a conservative figure. She thought community health centers were best at serving high risk patients. Individuals are treated early and 80 percent of care managers are doing home visits.
- 01:42:00 **Sen. Wanzenried** inquired how the five county pilot project might affect the HIP program in those counties.
- 01:42:29 Ms. Francis thought those programs would be affected significantly.
- 01:43:43 **Sen. Lewis** asked if the cost savings were from using nurse practitioners and aggressive case management to reduce the use of higher cost professionals.
- 01:44:19 Ms. Francis stated their staff are nurses, health coaches and social workers. Patients don't need to go to the emergency room or an inpatient setting.
- 01:47:27 Ms. Anna Whiting Sorrell, Director DPHHS, explained that the managed care proposal being considered by the department would reduce costs while keeping in mind the quality of health care services provided by the Montana Medicaid program to citizens of low income. She cited the possibility of caseloads increasing as part of the federal health care reform beginning in January of 2014. Montana ranks among seven states with the highest provider reimbursement rates in the nation and Montana is seventh from the bottom in average income. The Montana Medicaid program has conservative eligibility

requirements but contains a generous benefit package. An RFP is planned for FY2011. The responder will be required to provide the services at ten percent less than the current cost.

- 02:01:53 **Sen. Williams** asked Ms. Whiting Sorrell whether any savings were included in the Governor's budget.
- 02:02:27 Ms. Whiting Sorrell stated savings were not included in the budget. She maintained managed care would save dollars and provide better care. Managing the care of the entire Medicaid population is not done anywhere else in the country.
- 02:04:35 **Sen Ripley** requested a copy of the information comparing provider rates with other states.
- 02:05:16 Ms. Whiting Sorrell said she would provide that information.
- 02:06:17 **Sen. Wanzenried** advised two issues have surfaced, process and content. He wondered, given Montana's bad experience with managed care, why not include people who had experience in the process. He thought providers and recipients of services should be involved.
- 02:08:17 Ms. Whiting Sorrell stated that it is early in the process and that their input will be considered.
- 02:12:09 **Sen. Wanzenried** inquired about managed care in other states and thought most of the savings came from reducing reimbursements to providers and denying access to recipients. He wondered if the premise of the RFP was that the system itself could be reformed to squeeze those kinds of savings out of it.
- 02:13:04 Ms. Whiting Sorrell responded this was not about denying service. It's a demonstration project to see if the benefits will come to be.
- 02:14:06 **Sen. Wanzenried** asked if a waiver will be needed and when the content of the RFP including performance measures and its duration will be available.
- 02:14:34 Ms. Whiting Sorrell explained the parameters. The department will submit a draft concept paper to CMMS and CMS will tell them what waiver is needed.
- 02:16:03 **Sen. Williams** asked about the low reimbursement rates for people with disabilities.
- 02:17:02 **Ms. Whiting Sorrell** said money was put back into the disability community by the administration.
- 02:17:30 **Rep. Sesso** asked if the RFP goes forward if the community health centers would not be involved in the delivery of service.
- 02:19:27 Ms. Whiting Sorrell said it would be the responsibility of the responder to the RFP to work with the providers in developing the provider network. She cited the success of the

community health centers as a reason to pursue the managed care approach.

- 02:19:54 **Rep. Sesso** asked if the responder to the RFP will be given the authority to assume the role of the state in the provision of services. He expressed concern that there would be disruption of services that are operating successfully such as community health centers.
- 02:21:34 Ms. Whiting Sorrell responded one of the most difficult parts of developing a managed care system is the development of a network of providers and the responder would be looking at every avenue to get the quality of care that is needed in these five counties. The RFP would include performance standards.
- 02:22:41 **Rep. Sesso** asked for an example of how this would work.
- 02:24:12 Ms. Whiting Sorrell replied provider networks are widespread and Blue Cross and New West have provider networks. The affordable care organizations being put together under health reform want providers to come together to coordinate services and eliminate duplication and help clients navigate the system. This would allow the department to manage the care through a set provider network with a cost benefit.
- 02:26:02 **Sen. Bales** asked if Ms. Whiting Sorrell had an estimate of the number of FTE not needed under the proposal.
- 02:26:36 Ms. Whiting Sorrell stated that she does not. She noted Medicaid is the Health and Resource Division with 48 employees. The 3,100 DPHHS employees are across the state, not just in Helena.
- 02:27:38 **Sen. Bales** asked if the ten percent savings will come from the providers or the FTE.
- 02:28:28 Ms. Whiting Sorrell replied if there is better preventive care and aggressive case management, those higher costs, such as ER visits, will not occur.

LESSONS LEARNED FROM MENTAL HEALTH ACCESS PLAN

- 02:32:14 Randy Poulsen, Center of Medicaid and Medicare in Seattle, gave a brief overview of the Mental Health Access Plan. He was Chief of the Mental Health Services Bureau in the Addictive and Mental Disorders Division until 2001 and had primary responsibility for the development of the Mental Health Access Plan and oversight of the contractor. He said the program was under development for at least two years with an advisory committee. Implementation was statewide resulting in problems with claims payment and authorization systems. The development of alternative services were not in place and functioning. Other problems included budget cuts and provider resistance.
- 02:44:36 Jani McCall, Yellowstone Boys and Girls Ranch, remarked on the effects on the Montana Community Partners from the Mental Health Access Plan. Montana was the only state doing a statewide managed care project and did too much too soon. The implementation occurred too quickly and without adequate staff or skills. The program was implemented

in April and providers did not start to see payments until November. Another challenge was in addition to managing care and controlling costs, Montana Community Partners was also charged with developing services and enhancing the service base throughout the state without the time or money. Individuals were doing well enough to step down but step down resources were not available.

- 02:56:55 Kathy McGowan, representing Montana's Community Health Centers, stated most providers were on board with the managed care system. The first problem occurred with the firing of two people who had been instrumental in setting up the Montana corporation that partnered with the company. She stressed that besides providers not getting paid, clients had to be protected from knowing how serious things were. Many of those who issued authorizations were not familiar with Montana's geography and what services were available.
- 03:06:53 **Sen. Wanzenried** asked how to avoid the major pitfalls in the RFP.
- 03:07:49 Mr. Poulsen restated the good points of the previous program which included an open, transparent planning process. The RFP was comprehensive and clear resulting in positive competition. Stakeholder involvement is important.
- 03:09:18 Ms. McCall agreed with Mr. Poulsen. She urged DPHHS to allow public input into the process, particularly consumers. She stressed the importance of due diligence.
- 03:10:40 Ms. McGowan said she is not convinced the department has the capabilities to write and negotiate this kind of contract and suggested contracting with someone who does. She didn't think corporate takeovers could be avoided.
- 03:12:42 Jaret Coles, LSD Attorney, presented a report on Montana Status Regarding Managed Care and Medicaid Waivers. (Exhibit 7) The information provides the LFC with a summary of some Montana statutes that DPHHS should consider when developing a managed care system. In order to pursue managed care, DPHHS may need to obtain a federal Medicaid Waiver. There are two types of waivers that can apply in a managed care setting. Additionally, there are two statutory procedures that DPHHS can choose when developing a managed care system.

PUBLIC COMMENT

- 03:22:06 Bob Olson, Director Montana Hospital Association
- 03:28:05 Rose Hughes, Executive Director Montana Healthcare Association (Exhibits 8 & 8a)
- 03:35:19 Mike Mayor, Executive Director, Summit Independent Living Center, Missoula
- 03:37:48 Travis Hoffman, Montana Independent Living Centers
- 03:43:12 Matt Kuntz, Executive Director, National Alliance on Mental Illness for Montana (Exhibit 9)
- 03:46:17 Charlie Briggs, Easter Seals Goodwill Northern Rocky Mountain (Exhibit 10)
- 03:52:01 Amy Grmoljez, Billings Clinic
- 03:55:19 Mike Foster, Catholic Hospitals of Montana
- 03:57:27 Kelly Casillas, spoke as private citizen on behalf of her son
- 04:00:49 Jed Barton, Living Independently for Today and Tomorrow
- 04:03:49 Theresa Gardner (Exhibit 11)
- 04:06:38 Frank Cody, Blue Cross/Blue Shield

04:08:16 Dan Aune, Executive Director, Mental Health America of Montana
04:10:11 Rep. Tim Furey, HD 91, Missoula
04:11:27 Anita Roessmann, Disability Rights Montana
Shyla Patera written testimony via email (Exhibit 12)

04:13:41 **Rep. Jones** expressed concern regarding an open and transparent planning process and that the stakeholders, providers, care givers, and recipients need to be part of the process.

04:15:20 **Sen. Williams** agreed with **Rep. Jones** about the process and some of the comments. She applauded the Governor for addressing costs but said it needed to be done in a transparent and open way.

04:19:22 **LUNCH**

MONTANA STATE FUND BUDGET

04:33:47 Kris Wilkinson, LFD, presented the Montana State Fund (MSF) 2011 Budget Analysis Old Fund and New Fund. (Exhibit 13) The purpose of the report is to provide a summary of the analysis of the Montana State Fund's budget. The report outlines the following:

- ◆ Budgetary risks associated with the funds
- ◆ Factors resulting in need for additional reserves
- ◆ Increased loss reserves in the new fund
- ◆ Achievement of reserves in the new fund
- ◆ Decreases in loss costs average 6.4 percent
- ◆ Manual rates decrease an average 4.0 percent
- ◆ Merit rate adjustments and employee incentive payments
- ◆ Increased general fund transfers of \$4 million needed for the old fund
- ◆ The reasonableness of discounting old fund liabilities
- ◆ Economic Affairs Interim Committee bill drafts

04:53:38 **Sen. Keane** stated a bill will be drafted for the upcoming legislature.

04:54:00 **Rep. Jones** said one of the major cost drivers in work comp is using higher level care causing higher rates than most other states.

04:54:56 **Sen. Keane** said this will not be an easy bill and it will have a significant push back from various groups. He confirmed Montana is now number 1 in the U.S. for work comp costs. Major drivers are medical costs, return to work, and number of accidents.

04:57:07 **Rep. Taylor** asked about the percentage of state employees at MSF and wondered if rates would go up for private business if state agencies choose to be self insured.

04:57:39 Mark Barry, MSF, responded that 10 percent are state employees and that self insuring by state agencies could raise rates.

04:59:27 **Sen. Keane** commented that there is a bill that would allow state agencies to self insure, but noted that unlike other types of insurance, work comp insurance has longer pay outs. Agencies that opted to self insure could end up with significant unfunded liabilities. He

commended State Fund for their management of reserves. In Sen. Keane's opinion, work comp belongs under the purview of the Economic Affairs Committee.

- 05:01:07 Mr. Barry reported that premium rates decreased by 33 percent since 2007. Unemployment was high and payrolls declined, most significantly in the construction industry. MSF paid dividends of \$48 million to policy holders since 2000. Even with additional loss reserves MSF generated net income between 8.6 million and \$32 million a year since 2005 and increased policy holder equity. (Exhibit 14) Regarding merit pay, he contended the operating expense ratio was about 25 percent while the private market was anywhere from 39 to 44 percent. For 2011 their budget reduced 15 FTE and was 7 percent below 2010 in operational costs. The expense ratio increases to 28 percent primarily driven by the reduction in anticipated premium for the year. A legislative audit concluded that even though MSF employees receive higher salaries than the average, MSF salaries should still be seen as within an acceptable range. Regarding the old fund, he affirmed there were not sufficient assets set aside to pay claims that currently exist. Also included in the committee notebooks is the Montana State Fund Annual Budget and Montana State Fund Strategic Plan. (Exhibits 14a and 14b)
- 05:11:13 **Sen. Ripley** asked if the compensation packages would be released as suggested in the audit report.
- 05:11:54 Mr. Barry stated the annual report is not complete. The Board was still in discussion about whether they should publish that or not. The salaries are available for legislative review.
- 05:13:12 **Rep. Sesso** asked whether the worst rate in the country ranking occurred before or after the dividend. He asked why money was not set aside for the old fund before paying the dividends.
- 05:13:32 Mr. Barry responded the rating does not include consideration of dividends. The new fund and the old fund were separated effective July 1, 1990. They are not allowed to co-mingle accounts by law.
- 05:15:45 **Rep. Hollenbaugh** asked about other recommendations the Economic Affairs Committee considered regarding the old fund.
- 05:16:30 **Sen. Keane** responded the old fund and new fund are separate. A bill would be necessary to take new fund money to alleviate the old fund. The Economic Affairs Committee tried to deal with the cost of work comp insurance.
- 05:17:20 **Rep. Reinhart** commented MSF does not have the best oversight. One of the concerns is the lack of appropriate accountability for this quasi public entity that acts very much like a private insurance company.
- 05:19:43 **Rep. Sesso** asked why the committee did not go forward with a bill to require market conduct and financial examination.
- 05:20:16 **Rep. Reinhart** responded the committee was not comfortable with the cost of reporting being passed along to policyholders.

- 05:21:00 **Rep. Sesso** asked about the transfer of responsibility to the Economic Affairs Interim Committee.
- 05:21:47 Mr. Barry stated before **Sen. Johnson's** bill passed requiring oversight by the LFC, the MSF budget was reviewed only by the Board of Directors.
- 05:22:57 Pat Murdo, LSD, stated that one part of the law is that the budget has to be reported to the LFC. The Economic Affairs Committee (EAIC) has responsibility for five different agencies. State Fund is in the Department of Administration, which is overseen by the State Administration and Veterans Affairs Committee (SAVA). The Legislative Council has a bill draft to move MSF under the EAIC.
- 05:24:00 **Sen. Lewis** recalled he was on the interim committee that **Sen. Johnson** headed in 2003. The idea was to run MSF more like an insurance company and remove them from the appropriation process. He was not so sure that was a good decision and favored looking at having them come back through the appropriation process.
- 05:27:22 **Sen. Keane** indicated other states have management styles that would be helpful to look at, but that both sides have to agree to changes. Having the highest work comp rates in the nation has to be addressed in this Legislature.
- 05:29:15 **BREAK**

REGULAR MEETING REPORTS

- 05:56:15 The following reports were included in committee notebooks without formal presentation:
- Budget Amendment Report (Exhibit 15)
 - Operating Plan Changes (Exhibit 16)
 - Other Required Reports (Exhibit 17)
- 05:57:35 **Rep. Sesso** asked if there was anything out of the ordinary in either the budget amendment report or the operating plan changes.
- 05:57:55 Greg Dewitt, LFD, stated the only thing different is the number of biennia in the budget amendment report. The numbers are probably in line with historical numbers.
- 05:59:14 **Rep. Sesso** clarified the number of biennia was because of spending authority for the entire scope of federal grants.

LFC BILL DRAFTS REQUESTS

- 05:59:39 Jaret Coles explained LC0181, an act imposing financial responsibility for legal representation of certain defendants on city or county governments when the charge includes a city or county misdemeanor with the possibility of incarceration. The purpose of the bill draft is to shift some financial responsibility from the Office of Public Defender (OPD) to local cities and counties when the jail time imposed is a violation of a city or county ordinance. Mr. Coles contended it is not an unfunded mandate since the cities and counties

can determine whether to have a law on their books that imposes jail time. The effective date is July 1, 2011. (Exhibit 18)

PUBLIC COMMENT

- 06:07:45 Alec Hansen, League of Cities and Towns
06:12:50 Jani McCall, Billings City Council
- 06:14:20 **Sen. Lewis** asked if LJIC was bringing a bill forward.
- 06:14:45 Mr. Hansen responded he was not sure, but they are looking at public defender costs and ways of reducing those costs by cutting the cases where jail time is a sentencing option. One way to do this is to identify ordinance violations and misdemeanors where jail time can be eliminated.
- 06:16:47 **MOTION: Sen. Gallus** moved the committee move on to LC0182.
- 06:18:12 **Rep. Sesso** inquired why this was in the LFC arena and that it is more a legal issue than a fiscal issue and warned of unintended consequences.
- 06:20:03 **Sen. Gallus** stated his motion was a procedural maneuver to end the discussion.
- 06:20:34 **Sen. Bales** noted that the OPD is under the purview of the LFC. This was an effort to stop the bleeding in the OPD.
- 06:22:30 **VOTE:** Motion carried.
- 06:22:33 Mr. Coles explained LC0182, an act revising certain misdemeanor offenses; eliminating jail time for certain misdemeanor offenses; and amending certain sections of law. There is a current bill request in LJIC at the request of the OPD with the intent of LC0182. (Exhibit 19)
- 06:24:27 **Sen. Gallus** said he will sponsor LC0182.

LFC DIRECTIONS TO STAFF REGARDING MANAGED CARE

- 06:25:52 **Rep. Jones** asked about the draft proposal on Montana Medicaid Prescription Drug Program. (Exhibit 20)
- 06:26:45 Mr. Coles explained the 1115 waiver statute requires the department to present the waiver proposal to the House Appropriations Committee, or during the interim, to the Children, Families, Health and Human Services Interim Committee for review and comment at a public hearing prior to the submission of the proposal to the federal government. The department shall provide for a public comment period on the proposed waiver at least 60 days before the submission of the section 1115 waiver.

- 06:28:54 **Sen. Gallus** stated it is his understanding that this document as is will be submitted today by 5:00 p.m.
- 06:30:02 Mr. Coles explained if this is a new proposal which it seems to be, there is a conflict with the 60 day period for public comment. He noted he had not reviewed the proposal but other staff is also looking at the issue.
- 06:31:00 **Sen. Lewis** recommended staff continue to monitor the proposal and report on what the Federal government responds.
- 06:33:22 **MOTION: Sen. Gallus** moved to have Mr. Coles inquire about the 60 day public comment period and whether the department will accept public comment.
- 06:33:44 **VOTE:** Motion passed.

COMMITTEE BUSINESS

- 06:34:31 **Rep. Jones** mentioned that LFC cannot act upon the Legislative Branch budget, which has to be acted upon by the legislature. The LFD has proposed cuts to meet the adjusted base less five percent. There is a large percentage of professional staff, both legal and fiscal, and a small percentage of clerical. The professional legal staff has a higher cost on average but in order to serve the needs of the legislature a professional legal staff is required.
- 06:37:13 Ms. Carlson addressed two central issues with the budget office. One was that the executive did not follow through on the commitment to put the 5 percent plans into MBARS which shifted new work onto the LFD. Vacancy savings has always been 4 percent but the 2009 Legislature approved 7 percent. The Office of Budget and Program Planning (OBPP) chose to go with 4 percent without consultation with the legislature. That is inconsistent with the notion of building the core pieces of the budget together. She warned that was an area of potential conflict. The other process issue concerned how the executive treated the \$22 million versus the 5 percent versus everything else in the budget. She pointed out a lack of information in the executive budget. Ms. Carlson provided a chart on the Governor's Budget Compared to LFD and a financial overview of the 2011 Biennium Governor's budget book. (Exhibits 21&22)
- 06:46:30 **Sen. Ripley** inquired about the \$73 million of K-12 funding from an unspecified source of revenue and whether that was the same as the K-12 \$77 million.
- 06:47:09 Ms. Carlson explained the proposal was to take the quality educator payment and fund the quality educator payment with another funding stream, which was about \$38 million a year with inflation. The \$77 million included the inflation component. The stream was unidentified.
- 06:48:31 **Sen. Bales** expressed his concern about broken agreements to work together. He thought there was an issue of the separation of powers and the relationship between two equal branches of government. He felt that staff in the future needs strong and more timely support than they have had in the past. His feeling was staff works their hearts out for the legislature and had at times been overrun. He encouraged the legislature to stand up for them.

06:53:24 The committee thanked **Sen. Bales** and **Rep. Glaser** for their service. **Rep. Glaser** advised legislators to do what they think is right with the budget. He said he enjoyed working with everyone and hoped legislators could disagree without being disagreeable. He expressed his thanks. **Sen. Bales** said it had been an honor and a pleasure to serve in the legislature and on this committee. He expressed his thanks.

ADJOURNMENT

06:58:37 Meeting adjourned at 2:50 p.m.

Llew Jones, Chairman

Susie Lindsay, Secretary