



LEGISLATIVE FINANCE COMMITTEE

65th Montana Legislature

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SENATE MEMBERS

LLEW JONES
EDIE MCCLAFFERTY
FREDERICK (ERIC) MOORE
RYAN OSMUNDSON
JON SESSO
NATE MCCONNELL

HOUSE MEMBERS

NANCY BALLANCE
KIMBERLY DUDIK
KENNETH HOLMLUND
MIKE HOPKINS
KELLY MCCARTHY
MARILYN RYAN

JULIE JOHNSON, Staff Attorney
KAREN GILBERT, Secretary
AMY CARLSON, Director

MINUTES LOG

May 9, 2018

Via Conference Call in Room 102, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. FREDERICK (ERIC) MOORE
SEN. JON SESSO
SEN. NATE MCCONNELL

REP. NANCY BALLANCE
REP. KIMBERLY DUDIK
REP. KENNETH HOLMLUND
REP. MIKE HOPKINS
REP. KELLY MCCARTHY
REP. MARILYN RYAN

COMMITTEE MEMBERS EXCUSED

SEN. EDIE MCCLAFFERTY
SEN. LLEW JONES
SEN. RYAN OSMUNDSON
REP. KELLY MCCARTHY

STAFF PRESENT

AMY CARLSON, Executive Director
JULIE JOHNSON, Legal Staff

KAREN GILBERT, Committee Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTION

The committee took no action.

CALL TO ORDER and ROLL CALL

- 00:00:02 Chair Ballance called the meeting to order and the secretary took the roll. Rep. McCarthy and Sen. Osmundson were absent, Sen. Jones left his proxy with Chair Ballance and Sen. McClafferty left her proxy with Rep. Dudik. ([Attachment 3](#))
- 00:02:17 The committee approved the minutes of the March 2018 meeting with changes suggested by Chair Ballance.

Supplemental Request including LFD Analysis - Quinn Holzer

- 00:05:27 Quinn Holzer, LFD operations manager, discussed the Office of Budget and Program Planning Supplemental Requests and LFD Analysis. ([Exhibit 1](#))
- 00:24:18 Rep. Holmlund asked if budgetary cuts have been taken.
- 00:24:35 Mr. Holzer said yes, the cuts have been implemented. He said the budget was reduced by the 17-7-140 cuts and the combination of a couple of things led to placing them in supplemental status.
- 00:25:23 Chair Ballance asked that as money moves back and forth between MDC and disability services, are they talking about the money follows the person waiver?
- 00:26:01 Mr. Holzer said they are not talking about that waiver but they are allowed to serve people at MDC with money appropriated to MDC even if they are not specifically individuals that were moved this year. He said they are able to move the appropriation to a specific area of Medicaid budget.
- 00:26:57 Chair Ballance clarified that the person may not have been at MDC but is qualified to be there so there is a connection.
- 00:27:12 Mr. Holzer said yes.
- 00:27:17 Chair Ballance said they aren't necessarily leaving MDC.

- 00:27:31 Mr. Holzer said they are limited on the number of individuals they can serve at MDC, some activities were put on hold freeing up some money that they are using to backfill the need for disability services in Medicaid appropriations.
- 00:28:08 Chair Ballance asked what portion is based on the projection of caseload vs actual cases already billed and presented as Medicaid billing.
- 00:28:29 Mr. Holzer said the entire thing is based on projection. He said these numbers are through April 17 but are based on numbers through the end of March, that allows the department to say these are actual expenditures and also project where they will end up.
- 00:29:19 Chair Ballance clarified it's a projection based on a change of expectation and that the projection going forward is higher.
- 00:29:35 Rep. Holmlund asked if Medicaid is separated out of Medicaid expansion.
- 00:29:59 Mr. Holzer said yes, the numbers before them are traditional Medicaid. He said expansion expenditures are outside of HB 2 and it is a statutory appropriation with no limit.
- 00:30:27 Rep. Ryan asked about increased costs at Montana State Hospital.
- 00:30:49 Mr. Holzer said it was a combination of issues including a population increase and an increased use of expensive contract services.
- 00:32:53 Chair Ballance asked about the Office of Public Defender supplemental request that delays implementation of structural changes made, are they back on track and moving forward?
- 00:33:53 Mr. Holzer said they are working toward implementing the bills. He said they are experiencing a high turnover rate and are taking action to reduce expenses. He said the changes are taking some time.
- 00:34:56 Chair Ballance asked Rep. Dudik if the committee should put this topic on the June agenda.
- 00:35:17 Rep. Dudik said yes, it would be good to keep their eyes on what is happening with the agency. She said they wanted to restructure the agency and have a department head, the position was filled and she feels like it's going well. She said the department has had issues with employee morale but things are turning around. She said the non-recidivist pilot program is up and running in four places and it would be good to get an update on those.
- 00:37:37 Mr. Holzer continued the presentation.

Public Comment

- 00:40:22 Rep. Maryann Dunwell said she was encouraged by the fiscal developments and holds hope they can re-infuse some of the dollars cut to maintain essential human services programs. She said she wanted to talk about the letter she and six other legislators submitted in March -- since that meeting Helena Industries shut down. She said people are doing without those services and it affects their ability to function in society, not to mention the jobs lost. She asked the committee to reconsider the March letter requesting they find funding to restore some of the cuts. She said that is not included in the current supplemental requests. She said in addition to appropriating adequate revenues, the legislature needs to look at requesting services for mental and intellectual disabilities as mandated services.
- 00:45:42 Beth Brenneman, Disability Rights Montana, said her organization had been monitoring abuse and neglect at the Montana state hospital. She said they were trying to meet a census number of 189, they are at 230 now. She said it was not a surprise due to the cuts to community services for mental illness, involuntary commitments are up 30 percent, the Gallatin sheriff is driving folks to the state hospital. She said mental health reforms need to be funded. She said she was very disappointed there was not a supplemental request that included back-fill for community services. She said it would be very hard to recreate the community services network once it has been dismantled. She said we are losing things we are not aware of quite yet and the devastating impacts will be apparent soon.

Discussion on supplemental requests

- 00:50:29 Chair Ballance asked if the committee had 10 days from today to submit its response?
- 00:50:45 Amy Carlson, Legislative Fiscal Analyst, said yes.
- 00:50:52 Chair Ballance said she had comments on the request. She said there is a lack of a plan to recover funds in FY 2019. She said if 2018 revenue does come in higher than the Governor's special session estimate, the choice is to either apply that to the 17-7-140 reductions defined in HB 9 or it can be used to pay back the supplemental -- the committee needs to be clear and her personal opinion is to pay back the cuts. She said the \$15 million Core Civic negotiation is still on the table and she questioned whether some of these items were foreseen and maybe don't fit into this supplemental request. She asked the committee for thoughts on her suggestions.
- 00:54:55 Sen. Sesso said he was not persuaded her comments need to be made in a report. He said he didn't want a point/counterpoint -- when you cut budgets to the level we have, these things occur. He said these transfers are going to be made, whether now or in June. He made a motion that the LFC has no comment on transfers and let them occur now vs. later. He said let's give executive the opportunity to govern, if there is new revenue, we can deal with it later.
- 00:58:48 Sen. Moore said he disagreed with Sen. Sesso's motion. He said it was the duty

of the LFC to give thoughts on this proposal and how it complies with state law. He said he shared Chair Ballance's concerns.

- 00:59:32 Rep. Holmlund asked what sort of detail they need for a plan?
- 00:59:52 Chair Ballance said the law doesn't say how much detail, just that it requires a plan.
- 01:00:26 Rep. Holmlund clarified that the committee would just be expressing an opinion that a plan needs to be done by law.
- 01:00:43 Chair Ballance said yes, they would be making a statement that there is no plan. She said if they can't make a plan due to the situation, that needs to be stated, just ignoring it would not be fulfilling committee's responsibility.
- 01:01:28 Sen. Sesso said it was a misnomer to say "ignore." He said he read the report, and he understands the report -- they are short of money to meet obligations. He said the committee has to give them the opportunity to move money. He said that is why no comment is better than making a comment, they are not going to be able to come up with a better way. He said the bottom line is money is transferred from FY 2019 to FY 2018 and it will affect FY 2019 but they will have to deal with it. He said to delay the transfer and prepare a letter in another month seems a waste of time.
- 01:03:04 Chair Ballance said in terms of delay, the governor still has to wait the 90 days before he can move on this. She said she might be wrong, she thought the 90 days was for LFC to comment.
- 01:03:48 Julie Johnson, LSD attorney, said there are 90 days from day the supplemental request is received if the LFC were not to issue a written report. She said if the LFC is inclined to submit a report, the Governor can make the transfers upon receipt of report regardless the content of report.
- 01:04:55 Sen. Moore asked if the Governor can move it sooner if they make a report, otherwise he has to wait 90 days.
- 01:05:10 Sen. Sesso said that is not his understanding.
- 01:05:28 Sen. McConnell said he was looking at 17-7-311 in subsection 3, that said the written report triggers the Governor's transfer.
- 01:06:11 Chair Ballance said yes. She said she was very uncomfortable with having no plan whatsoever. She said she understands it is the executive's responsibility to figure it out, but some kind of plan is required.
- 01:06:58 Rep. Ryan asked about the monthly report that indicates cuts that have been made -- that implied the plan. She said cuts have been happening, there are no funds to replenish, the plan is what we're already seeing in the monthly report.

01:07:45 Chair Ballance said it was two different things, the 17-7- 140 cuts are different.

01:08:05 Rep. Hopkins asked if they asked for a plan instead of relying on a monthly report, would that allow governor to make transfers sooner?

01:09:01 Ms. Johnson said once the committee discussed the request they had 10 days to issue a report. She said according to statute, the Legislative Fiscal Analyst shall submit the Legislative Finance Committee's report to the Governor. Upon receipt of the written report, the Governor can make the transfers. She said the statute implies some sort of document would trigger the transfers.

01:10:35 Rep. Hopkins said he would like to see a plan.

01:10:47 Sen. McConnell asked if the committee was talking about the DPHHS supplemental request. He said the Office of the Public Defender had submitted a mitigation plan at some point.

01:11:39 Chair Ballance said yes, DPHHS did not submit plan.

01:12:20 Sen. Sesso said the plan is to deal with the issues of meeting the necessary services. He said job one is to make ends meet in FY 2018 and to do the best they can in FY 2019. He said they have made no comment many times before and it was an appropriate motion.

01:14:18 **MOTION:** Sen. Sesso moved the LFC submit no comment as their response to the supplemental requests. **VOTE:** Five voted yes, five voted no. The motion did not carry. Ms. Johnson said they needed 7 votes to carry a motion.

01:18:36 Chair Ballance asked if the group would be comfortable with a motion saying they don't see a plan and one is required by law.

01:19:28 Rep. Holmlund said he was fine with that.

01:19:40 Sen. Sesso asked when the response would happen, if it was today, then OK. He said if they delayed the response he didn't know what expectation of the motion is. He said the department is on the ropes trying to deliver services Montanans need. He said he is not into delaying them in their efforts to fulfill responsibilities. He said he resisted the motion.

01:21:30 Chair Ballance said she is not seeing it as a delay, she said they could have it done by the end of today.

01:22:17 Rep. Hopkins agreed. He said he would like to see a plan for the next fiscal year without making delays.

01:22:44 Chair Ballance moved to send a report saying the LFC notes the fact there is no plan and it should see one according to law, beyond that no additional comment.

- 01:23:23 Sen. Sesso said he doesn't support the motion and he does see a plan. He said he didn't know what they are expecting to see at this point in the biennium unless you want them to show they will make additional cuts. He said he is not in agreement there is no plan, they submitted a supplemental request and told us why they need it.
- 01:24:32 Chair Ballance said she is looking for a plan for reducing expenditures in the second year of the biennium.
- 01:25:05 **MOTION:** Chair Ballance motioned to send a report requesting a plan to reflect the way it is stated in law. **VOTE:** Five voted yes, five voted no. The motion did not pass.
- 01:26:57 Chair Ballance said they will need to let time expire.
- 01:27:06 Rep. Hopkins asked if no response creates delay? And doesn't that go against what the majority and the minority is trying to achieve?
- 01:27:34 Chair Ballance said yes.
- 01:27:42 Chair Ballance asked Ms. Johnson what is the next step.
- 01:27:51 Ms. Johnson said they will wait for the 90 days to expire. The Governor can make transfers on June 10.

2021 Biennium Budget Preparation

- 01:28:39 Nick VanBrown, lead fiscal analyst, presented the 2021 biennium budget preparation report of the Fiscal Division regarding discussions with the Management Advisory Workgroup and the Office of Budget and Program Planning. ([Exhibit 2](#))
- 01:34:31 Mr. Holzer gave an update from the Section B team regarding data needs and additional detailed budget reporting levels, as was provided in the past.
- 01:37:53 Rep. Ryan said she was happy to see the changes.

Committee Business

- 01:38:38 Ms. Carlson presented the LFC June meeting agenda topics.
- 01:41:48 Rep. Ballance asked if there would be time to discuss the Office of the Public Defender. Ms. Carlson said yes and possibly Corrections as well.
- 01:42:35 Chair Ballance confirmed the dates for the next meeting are June 18-19.
- 01:42:43 Rep. Ryan asked for clarification about an item regarding the base vs. one-time only money presented earlier by Mr. VanBrown.

- 01:43:13 Ms. Carlson clarified that some items are not zero-based but will be explained from the ground up in spreadsheets to subcommittees. She said there are only a couple of programs that have that designation. She said the other base question regards the rollback of 17-7-140 reductions from session. The LFC will have opportunity to think about that question during the June meeting.
- 01:44:29 Rep. Ryan said she wants a clear picture of the ramifications during the June meeting.
- 01:44:55 Chair Ballance asked for a couple of examples to help lay it out. Ms. Carlson said certainly.
- 01:45:17 Sen. Moore said he wanted to respond to Rep. Dunwell's earlier comments and said this committee doesn't have the authority to restore funding, that could occur only during a special session or by the Governor.
- 01:46:02 Sen. Sesso asked Chair Ballance to not conclude the meeting without allowing for additional public comment.
- 01:46:16 Chair Ballance called for public comment.

Public comment

- 01:46:23 Heather O'Loughlin, Montana Budget & Policy Center, said she appreciates the discussion on budget levels and details. She said unfortunately the reporting levels left many policy makers without the information they previously had. She asked the LFC to encourage their staff to restore the reporting levels to those previously used. She said functions and services should be separated, and administration should be broken out from grants. She said adequate reporting levels are crucial. She asked the LFC to please discuss this with the Governor's budget office.
- 01:48:05 Chair Ballance agreed.
- 01:48:12 Rep. Hopkins asked to resume the DPHHS conversation one more time and take one more vote.
- 01:49:41 Rep. Dudik asked for clarification of what they were voting on.
- 01:49:47 Chair Ballance said it was a reconsideration of a previous vote.
- 01:50:10 Sen. Sesso asked if the motion included demanding a plan from the Governor to outline additional cuts.
- 01:50:26 Chair Ballance said no, it would note the fact the committee did not have a plan.
- 01:50:20 Sen. Sesso said he couldn't support the motion because he believes the plan is self-evident.

- 1:50:25 **MOTION:** Sen. Sesso moved the LFC have no comment so the transfers can go forward. **VOTE:** The vote was 5 yes to 5 no. The motion did not carry.
- 01:52:14 **MOTION:** Rep. Hopkins called for a vote on his original motion. **VOTE:** The vote was 5 yes to 5 no. The motion did not carry.
- 01:53:54 With no public comment or further business before the committee, Chair Ballance adjourned the meeting.