MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on January 12, 2005 at 5:00 P.M., in Room 317 Capitol.

ROLL CALL

Members Present:
Sen. Mike Cooney, Chairman (D)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. John Brueggeman (R)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Lane L. Larson (D)
Sen. Greg Lind (D)
Sen. Don Ryan (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. Steven Gallus (D)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing & Date Posted: SB 41, 1/7/2005; SB 27, 1/7/2005
Executive Action:

HEARING ON SB 41

Opening Statement by Sponsor:

SEN. BOB KEENAN (R), SD 5, Bigfork, opened the hearing on SB 41, Medicaid redesign: funding principles. **SEN. KEENAN** advised the bill was at the request of the **Department of Public Health and Human Services (DPHHS).** This was one of a number of bills having to do with the redesign project in the last interim as a result of a bill by former **REP. HURWITZ** and **SEN. DUANE GRIMES.** The department went through excruciating times with falling revenue and they were forced to make cuts in programs with no guidelines for legislative intent. This would allow the department to make reductions based on legislative intent.

Proponents' Testimony:

John Chappuis, DPHHS, advised the bill would codify, in statute, the funding principles adopted by the **Public Funded Health Care Redesign Committee.** The committee was a group of about 18 people who were appointed by the Governor Martz and included legislators such as **SEN. KEENAN** and **REP. EDITH CLARK.** It also included provider associations, advocates, and there was great involvement from all seven Tribes. A subcommittee for Tribal Affairs provided a great deal of assistance and guidance. Copies of the Medicaid redesign would be provided to legislators. He read from written testimony.

EXHIBIT(fcs08a01)

Rose Hughes, Montana Health Care Association, stated they represented nursing homes and assisted living facilities throughout the state of Montana. The nursing homes were especially dependent on Medicaid reimbursement; about 60% of people in nursing homes were Medicaid recipients. She was a member of the Medicaid redesign committee and worked on the document. The association was in support of these principles. Of great interest to all of those on the redesign committee was that too often there were across the board cuts. Those were a lot easier but didn't make sense and were not the best solution. She thought the bill would benefit Medicaid recipients.

John Flink, Montana Hospital Association, supported the bill for the reasons stated. He thought a rational process was needed for making funding decisions when there is a budget shortfall in the Medicaid program. Hospitals were still trying to recover from a two percent rate cut from two years ago.

Jani McCall, Deaconess Billings Clinic, spoke in support of the bill. She indicated she spoke to the sponsor and requested the bill be amended to correct an oversight. In Section 1 (4) of the bill, on page 2, she wanted to include "children's out of home mental health services".

Questions from Committee Members and Responses:

SEN. GREG LIND expressed appreciation for the work of the committee. He asked **SEN. KEENAN** if the committee discussed whether preventive services would appear in the priority list. **SEN. KEENAN** did not recall specifically but said there were health education programs that might touch on prevention. **Mr. Chappuis** responded there was not much that talked about prevention in this particular bill. He contended prevention was a key point throughout the Medicaid program and thought it was an oversight that it was not included in the priority list. He indicated the issue was discussed many times during the redesign process and in the discussions of what the Medicaid program currently does.

SEN. DON RYAN asked if this would stop a future Governor or someone from ordering automatic across-the-board rollbacks. **SEN. KEENAN** conveyed he did not believe so.

SEN. JOHN ESP asked **Mr. Chappuis** about the process in the last interim to adjust programs and move money around and if the department used a particular set of principles or how they decided. **Mr. Chappuis** replied the first thing they looked at was their mission, which is a series of about eleven goals and objectives including prevention. Those had been adopted by the department as the basic mission and objective of the Medicaid program. They followed those to the greatest extent possible. He admitted they didn't identify the shortfall until about January of 2002, which gave them six months to make up for a whole year of problems. They were not always able to follow those principles. That is why the bill says "consider". They either had to cut services or reduce provider rates because they couldn't get the money quick enough otherwise. Those were short term cuts, not long term. **SEN. ESP** asked if the department could be more successful in applying these principles than the Legislature could. **Mr. Chappuis** indicated the department would consider these principles and he believed it would require not just the department but the Executive to consider them before making cuts. That is what the statute requires. He thought if a shortfall ever happens again the principles would be helpful to someone who didn't live through those cuts.

SEN. CORY STAPLETON asked about Section 1 and why on line 15 the words "of public health and human services" were deleted. **Mr. Chappuis** said that was not in the original draft. **SEN. STAPLETON** thought the bill should say who the department is. **Mr. Chappuis** thought the department may have been defined previously in the section of law. If not, he agreed the department should be defined as the Department of Public Health and Human Services.

Closing by Sponsor:

SEN. KEENAN closed on the bill. He said this was a policy issue. He hoped the Legislature would take this bill seriously. He noted there would be eleven more bills coming out of the redesign and some were more contentious than others. He hoped the guidelines would help avoid a future special session and making the cuts in a political environment.

HEARING ON SB 27

Opening Statement by Sponsor:

SEN. RICK LAIBLE (R), SD 44, Ravalli, opened the hearing on SB 27, Budget stabilization and emergency funds. He indicated the bill was for a "rainy day" account. He did some research during the interim and found a Washington state tax study that said, "budget stabilization funds, or rainy day funds as they are often called, are now common in most states. By early 2002, forty-seven states, the District of Columbia and Puerto Rico, had created rainy day funds. The only states without such funds are Arkansas, Montana and Oregon." During the interim, he kept reading in the newspapers about the ending fund balance growing. He thought about the last session where there was a $232 million shortfall in the budget. He thought it would have been less painful for agencies if last session there would have been a rainy day fund for those times when revenue did not meet expectations. He said it served no purpose for agencies to go through a cycle of prosperity and then poverty. One of the advantages of a rainy day fund was the state's bond rating would go up; two or three percent would not affect the bond rating so he went with eight percent. The budget stabilization account would smooth out funding for agencies in economic hard times so those agencies would not have to do a slash and burn. The emergency account would be two percent of general fund expenditures to be used for fire suppression or natural disasters. The Governor has the authority to spend money on fire suppression. It was only by great good fortune and the largesse of the federal government that there was somewhere in excess of $70 million to plug some holes, fire suppression being one of

them. Both funds would have a cap and there was a mechanism for an income tax adjustment. The general fund ending fund balance must be an amount equal to at least one percent of general fund appropriations during the biennium. Money in the budget stabilization account established in Section one of the bill may not be considered as part of the one percent.

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In the event of a projected general fund budget deficit, the governor may transfer money from the budget stabilization account. In **SEN. LAIBLE'S** view this was not a political bill. This was about managing budgets and giving the governor options to have money available to fight fires and smooth out those rough times. He noted the Governor has the ability to ask all agencies to reduce budgets by 10%. This budget stabilization account in conjunction with that would give the Governor a lot of flexibility.

Proponents Testimony: None.

Opponents' Testimony:

David Ewer, Budget Director, advised he liked parts of the bill. He favored flexibility for the governor. Under law, there must be a balanced budget. The budget they submitted and the budget that **Chuck Swysgood** submitted were structurally balanced. The greatest flexibility was a strong fund balance, he held. They would also like to see the emergency authority raised from $16 million to $25 million. A strong fund balance would be about three percent or $80 million. He said that was the closest thing to liquidity that they could identify on an accounting basis. It didn't necessarily mean there was $80 million in cash; it meant at the end of 2007 they could reasonably expect, under the current revenues and expenditures, that there would be $80 million fund balance which should equate to sufficient cash that they shouldn't have to call legislators back in. **SEN. LAIBLE** was suggesting the state start accruing some monies in a separate fund that would smooth the highs and the lows. He said they support that idea because they want to have programs that are stable. There were several elements they supported and they wished to work with the sponsor. They opposed the bill becoming effective upon passage; it would affect the budget as early as June of 2005. They estimated the fund balance at the end of June would be about $175 million under the current revenue forecasts and the budget they've submitted. The bill would put $150 million in the budget stabilization account and $150 million would not be available for the budget. This would mean a lot of cuts. They opposed that because there was a level of goods and

services they think Montanans are insisting upon. It would mean either raising revenues, i.e. taxes, to make up for that shortfall or making cuts. It was not workable for 75% of the ending fund balance to move to this new account in June of 2005. He also took issue with a certain amount being categorically assigned for income tax reduction. He acknowledged philosophical differences regarding taxes and rebates. Current tax policy presents them with a revenue position that aligns with the budget they've presented. He cited the constitutional issue on K-12 and remarked the population is getting older and more money would be needed for Medicaid. Another concern was with looming federal deficits. He liked the flexibility the bill would give the governor and the option to meet current expenditures without convening a special session, causing a structural imbalance, or cutting services. He reiterated they would like to work with the sponsor.

EXHIBIT(fcs08a02)

Questions from Committee Members and Responses:

SEN. JOHN COBB asked **SEN. LAIBLE** if he was willing to give up things like the effective date and the income tax rebate for a possible compromise. **SEN. LAIBLE** indicated he just found out that day there was some interest in the bill but not in its exact form. He believed the state needed a budget stabilization account and asked the committee for time to work on mutually agreeable language that would ease their discomfort with the bill but allow the bill to function as he had envisioned it.

SEN. KEITH BALES addressed **Mr. Ewer** and declared this was his third session. The first session he came they managed to get a balanced budget and then had to come back for a special session. Cutting budgets in the last session was not comfortable. He inquired if **Mr. Ewer** was not willing to use part of the ending fund balance at a time when they were getting record high prices and record high revenues from oil and gas and when and how would there be any money to go into this fund. **Mr. Ewer** thought the concept was one they could work on but he wasn't guaranteeing it. There were many pieces of legislation they were trying to get a handle on. The bill in its current form was not workable because it was $150 million in cuts they would have to make to the budget now. He thought **SEN. BALES** posed a philosophical question about whether they were being responsible with one-time monies and one-time programs. Oil and gas were in a sense one-time. The concept of $40 oil would not be there indefinitely. That was why the Schweitzer budget fully funded the low income energy assistance Program (LEAP) with one-time only money. They hoped they wouldn't need that level of support as prices come down. If

they could agree on timing and amounts without draconian cuts to the level of goods and services Montanans want, they were willing to pursue this but not with a hit of $155 million on June 30, 2005.

SEN. RYAN asked **SEN. LAIBLE** when he did his research how many states had funds similar to the coal tax trust fund that is a big part of the bond rating and the financial security of Montana. **SEN. LAIBLE** indicated he did not research those types of funds; he researched funds that were available. Some funds required a 2/3 majority vote of the legislature. He tried to stay away from that because then they would be in the same boat they are with the coal trust fund. It would become a political issue instead of a fiscally responsible issue. **SEN. RYAN** addressed making it a political issue. If **SEN. LAIBLE** ran for governor four years from now and a rainy day fund had been created, it would be easy for **SEN. LAIBLE** as a candidate to say he wouldn't raise taxes--the state already had the money and he would just spend that rainy day fund. Or, he could say the government shouldn't be holding onto all your money and we'll just send it back to you in a check. That would help him get re-elected. **SEN. RYAN** thought there was tremendous political pressure to play that game. Another legislature could come in and say they could do this without taxing people and they would spend it all. The people don't understand the dynamics of that many times, according to **SEN. RYAN**, and it would become a political football. He believed the ending fund balance was better than creating a special fund. **SEN. LAIBLE** said that was a valid point but he disagreed with it. The reality was the Executive Branch was not appropriating the money; this is future money. The Legislature meets, goes over the bill proposals and appropriations for every agency of government not knowing what the ending fund balance will be--only knowing they have to fund government based on estimated income streams. This bill would give them something at the end no different than the ability of the Governor to reduce agency budgets by 10%. He thought this was fiscally responsible and compared it to a family savings account. He stated his intent was not political. He did not want to have a super majority to access this money because that was the problem with the coal trust fund. **SEN. RYAN** asked **SEN. LAIBLE** if he would build himself a savings account if he knew four years from now someone else could gain control of it and decide whether it was spent or not. Then he might get an opportunity to get back in control of his savings account four years later. That is the difference between a personal savings account and what they do at the state level. He didn't believe the problem with the coal tax trust fund was the super majority; that is the best thing about it. He asked if **SEN. LAIBLE** would build that savings account if he knew he wouldn't have control of it. **SEN. LAIBLE** replied if that

savings account was for the benefit of his family and he didn't know if he would be here in four years as the provider of the family, he would want his family to be taken care of. He would at least like his replacement to have the opportunity, the wherewithal and the assets to take care of his family in case something happened to him. He maintained that the reason for insurance. He wouldn't have control over insurance money but thought it imperative that his family be taken care of. He thought it imperative that the Montana families in this state have some assurance of that as well. He did not favor returning checks. He favored a mechanism so citizens could say the state had a savings account and when it reached the cap money would be coming back to them.

Closing by Sponsor:

SEN. LAIBLE said this wasn't an easy bill to get their hands around. He said it was a wonderful debate and he appreciated the questions. He said he respected the comments of the Budget Director and requested additional time from the committee to find some common ground.

ADJOURNMENT

Adjournment: 6:00 P.M.

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SEN. MIKE COONEY, Chairman

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PRUDENCE GILDROY, Secretary

MC/PG

Additional Exhibits:

EXHIBIT(fcs08aad0.PDF)