

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES

Call to Order: By **CHAIRMAN CHRISTINE KAUFMANN**, on February 2, 2005 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Christine Kaufmann, Chairman (D)
Sen. Dan Weinberg, Vice Chairman (D)
Sen. John Cobb (R)
Rep. Joey Jayne (D)
Sen. Greg Lind (D)
Rep. Penny Morgan (R)

Members Excused: Rep. Walter McNutt (R)

Members Absent: None.

Staff Present: Pat Gervais, Legislative Branch
Laura Good, Committee Secretary
Lois Steinbeck, Legislative Branch

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

Committee Business Summary:

Executive Action: Children and Family Services
Division, Child Support Enforcement
Division

CHAIR REP. CHRISTINE KAUFMANN, HD 81, HELENA, called the meeting to order.

EXECUTIVE ACTION ON CHILD SUPPORT ENFORCEMENT DIVISION

Discussion:

Ms. Gervais discussed Child Support Enforcement Division (CSED) Present Law Adjustment and Legislative Fiscal Division (LFD) issues on Page B-76 of the Budget Analysis.

At the request of **REP. PENNY MORGAN, HD 57, BILLINGS, Mr. Lonnie Olson, Administrator, CSED,** noted ways in which the proposed FTE cut would affect his division.

CSED Decision Packages (DPs) 191, 3006

Ms. Gervais noted that if funding levels fall below Federal requirements, Montana would be in danger of losing its Temporary Assistance for Needy Families (TANF) block grant. Responding to **REP. MORGAN,** she also expressed that related Federal funds are already accounted for in the base budget.

{Tape: 1; Side: A; Approx. Time Counter: 8.6}

Motion: **REP. KAUFMANN** moved that CSED DP 191 AND DP 3006 BE ADOPTED.

Discussion:

REP. JOEY JAYNE, HD 15, ARLEE, requested clarification regarding division expenditures on consulting and professional services.

Mr. Olsen explained that consulting and professional services expenditures constitute a minor line-item within the division's operating costs.

Ms. Gervais gave an allocation rationale, and suggested that if the Committee takes issue with this it may wish to work with Legislative Fiscal Division (LFD) staff to direct the Department toward other allocation practices.

{Tape: 1; Side: A; Approx. Time Counter: 11.1}

Responding to follow-up questions from **REP. MORGAN, Mr. Olsen** deferred to **Ms. Dawn Carson, Budget Bureau Chief, CSED,** who further explained that the Division's budgeting and allocation practices regarding consulting and professional services.

{Tape: 1; Side: A; Approx. Time Counter: 14.7}

REP. JOEY JAYNE, HD 15, ARLEE, asked whether State Special Revenue would be available to support projects detailed in CSED DP 191, if the Committee does not approve general fund appropriation.

Ms. Carson stated that there would be no State Special Revenue funds available to shore up funding shortfalls related to CSED DP 191.

SEN. DAN WEINBERG, SD 2, WHITEFISH, expressed his opinion that the Committee did not have sufficiently dependable information regarding these matters, and suggested that the Committee defer its vote.

Ms. Gervais stated that during the legislative interim, the Department may submit budget change requests in order to move funding among expenditure categories. She explained that this was CSED's plan in allocating large sums of money to the consulting and professional services line item, and told the Committee that it may request that CSED bring an itemized budget for DP 3006.

{Tape: 1; Side: A; Approx. Time Counter: 20}

Mr. John Chappuis, Deputy Director, Department of Public Health and Human Services (DPHHS), reminded the Committee that DP 191 and DP 3006 are part of the base budget.

REP. MORGAN and **SEN. WEINBERG** urged the Department and Senior and Long Term Care (SLTC) to label budgets in reliable and specific ways.

Mr. Chappuis apologized for the classifications that seem to be misleading.

{Tape: 1; Side: A; Approx. Time Counter: 22.5}

CHAIR KAUFMANN delayed votes without objection on DP 191 and DP 3006 until CSED produces an itemized budget.

Ms. Carson stated that CSED would provide an itemized budget before noon today, so that the Committee might vote during the meeting.

Responding to **REP. JAYNE, Ms. Gervais** stated that the decline in State Special Revenue is due to decline in state share of collections on TANF cases, and to a slight decline in federal incentive funds.

{Tape: 1; Side: A; Approx. Time Counter: 24}

CHAIR KAUFMANN directed the Committee to move on to discussion of Child and Family Services Division (CFSD) DPs.

Ms. Gervais asked that the Committee turn to Page B-66 in the Budget Analysis, and retrieve several previously provided hand-outs. She discussed several of the Department's revised requests, noted ways in which past cost containment measures affect the current budget.

CFSD DP 15, 16

Prompted by **SEN. WEINBERG**, **Ms. Gervais** pointed out the differences between the Executive Budget as submitted and CFSD budgets.

{Tape: 1; Side: B}

CHAIR KAUFMANN requested more information about why there are differences between the Executive Budget and CFSD budgets.

Ms. Gervais commented that the total funds requested in each budget are the same but there are differences in allocation.

{Tape: 1; Side: B; Approx. Time Counter: 3.9}

Mr. Bob Andersen, Office of Budget and Program Planning (OBPP), stated that such discrepancies are the norm.

Motion: **REP. KAUFMANN** moved that CFSD DP 15 AND DP 16, WITH NEW NUMBERS, BE ADOPTED.

Discussion:

Responding to questions from **REP. JAYNE**, **Mr. Thorsen** stated that biennial budgets are created far in advance and updated monthly. He explained that as the legislative session drew closer, CFSD officials met with **Ms. Gervais** regarding the shuffle of funds between subsidized adoption and foster care.

{Tape: 1; Side: B; Approx. Time Counter: 7.1}

Prompted by follow-up questions from **REP. JAYNE**, **Mr. Thorsen** said that CFSD recently saw a slight decrease in subsidized adoption and an increase in foster care caseload. CFSD believes that these caseload numbers will stabilize as a large number of older foster care children age out of the system.

{Tape: 1; Side: B; Approx. Time Counter: 9.2}

Mr. Chappuis expressed the volatility of foster care caseloads, especially as methamphetamine abuse precipitates an increased number of placements.

Vote: Motion carried unanimously by voice vote. **REP. WALTER MCNUTT** voted by proxy.

CFSD DP 35

{Tape: 1; Side: B; Approx. Time Counter: 12.1}

Responding to **REP. MORGAN**, **Mr. Thorsen** talked about how CFSD receives and accounts for Federal Medicaid reimbursements.

Mr. Chappuis noted how the two-year duplication of Medicaid billing has affected past, present and future budget concerns.

Prompted again by **REP. MORGAN**, **Ms. Gervais** discussed circumstances surrounding CFSD appropriations issues and DP 35. She noted possible repercussions of slating CFSD DP 35 as one-time-only.

Mr. Chappuis strongly requested that the Committee not make CFSD DP 35 one-time-only.

In reply to further follow-up questions from **REP. MORGAN**, **Ms. Gervais** attempted a fuller, more detailed explanation issues regarding CFSD DP 35.

{Tape: 1; Side: B; Approx. Time Counter: 26}

Motion/Vote: **SEN. COBB** moved that CFSD DP 35, AS DETAILED IN EXHIBIT 1, BE ADOPTED. Motion carried unanimously by voice vote. **REP. MCNUTT** voted by proxy.

CFSD DP 36

Motion/Vote: **SEN. GREG LIND**, SD 50, **MISSOULA** moved that CFSD DP 36 BE ADOPTED. Motion carried unanimously by voice vote. **REP. MCNUTT** voted by proxy.

CFSD DP 49

Mr. Thorsen provided a handout about and offered Division comments on CFSD DP 49.

EXHIBIT(jhh26a01)

{Tape: 2; Side: A}

Answering **REP. MORGAN's** question, **Mr. Thorsen** stated that Centralized Intake Unit FTE's are at Grade 14, earning approximately \$30,000 per year.

SEN. LIND asked for a comparison of overtime hours versus total hours in the last biennium, and how CFSD DP 35 might affect CFSD DP 9999.

Mr. Thorsen stated that overtime hours have been fairly consistent.

SEN. WEINBERG wondered whether or not it makes financial sense to convert overtime into FTE positions. He also asked if overtime is inevitable.

Ms. Brown expressed that additional overtime is always needed.

{Tape: 2; Side: A; Approx. Time Counter: 3.5}

Motion: **SEN. COBB** moved that CFSD DP 49 BE ADOPTED.

Substitute Motion/Vote: **REP. JAYNE** made a substitute motion that CFSD DP 49, FUNDED AT 40% FROM THE GENERAL FUND, RATHER THAN 60%, BE ADOPTED. Substitute motion carried unanimously by voice vote. **REP. MCNUTT** voted by proxy.

CFSD DP 53

Prompted by **REP. MORGAN**, **Mr. Thorsen** stated that DP 53 funds would cover Missoula and Great Falls office moves, as well as anticipated rent increases. He agreed to provide the Committee with information regarding CFSD rental contracts that will be re-negotiated this year.

Motion: SEN. COBB moved that CFSD DP 53 BE ADOPTED.

Substitute Motion/Vote: REP. MORGAN made a substitute motion that CFSD DP 53, FUNDED AT 40%, BE ADOPTED. Substitute motion carried 5-2 by voice vote with SEN. COBB and SEN. LIND voting no. REP. MCNUTT voted by proxy.

{Tape: 2; Side: A; Approx. Time Counter: 11.1}

CFSD DP 9999

Motion/Vote: SEN. WEINBERG moved that CFSD DP 9999 BE ADOPTED. Motion carried 6-1 by voice vote with REP. KAUFMANN voting no. REP. MCNUTT voted by proxy.

CFSD DP 152

Motion/Vote: REP. MORGAN moved that CFSD DP 152 BE ADOPTED. Motion carried unanimously by voice vote. REP. MCNUTT voted by proxy.

CFSD DP 177

Motion/Vote: REP. KAUFMANN moved that CFSD DP 177 BE ADOPTED. Motion carried unanimously by voice vote. REP. MCNUTT voted by proxy.

{Tape: 2; Side: A; Approx. Time Counter: 13.7}

Responding to questions from SEN. COBB, Ms. Brown described the Casey Family Foundation's current Montana-based programs.

CFSD DP 178

Prompted by REP. MORGAN, Ms. Brown explained that the stipend supports social work students studying for Bachelor's degrees in social work and current Department employees who are pursuing social work Master's degrees. Because of Title IV-E regulations, the funds must be used for training, not recruitment. She also stated that she is not aware of any high-school level social work recruitment projects.

To follow-up questions from SEN. LIND, Ms. Brown stated that the student agreement stipulates that for each year the student receives the stipend, the student owes two years of social work service in Montana.

{Tape: 2; Side: A; Approx. Time Counter: 19.1}

Responding to **SEN. WEINBERG**, **Ms. Gervais** expressed that she could see no benefit or detriment to restricting CFSD DP 178.

SEN. WEINBERG stated that he would like to restrict CFSD DP 178.

Mr. Thorsen countered that CFSD DP 178 is already restricted by Federal Law.

SEN. WEINBERG withdrew his request.

SEN. LIND asked if the stipend funds are always fully utilized.

Mr. Thorsen stated that the funds are unlimited due to the structure of the Federal program. He also said that CFSD has never advertised the Social Services Stipend Program.

{Tape: 2; Side: A; Approx. Time Counter: 21.5}

REP. MORGAN asked Mr. Thorsen how the Committee could help CFSD advertise the program, in order to promote social work education and increase the numbers of qualified professionals available to the state.

Ms. Brown noted that colleges market the program directly to students interested in social work.

Ms. Gervais commented that research would have to be done regarding whether or not Title IV-E funds could be used to fund the marketing of the program.

{Tape: 2; Side: A; Approx. Time Counter: 25.1}

Responding to **SEN. WEINBERG**, **Mr. Thorsen** agreed to provide the Committee with information regarding what it would take to develop a Social Services Stipend Program advertisement project.

Prompted by **CHAIR KAUFMANN**, **Ms. Gervais** said that she knew of no barrier to the Committee in appropriating general fund monies to match Federal funds that support current Social Service Stipend Program promotion in colleges and universities.

{Tape: 2; Side: A; Approx. Time Counter: 27.6}

Motion/Vote: **REP. KAUFMANN** moved that CFSD DP 178 BE ADOPTED. Motion carried unanimously by voice vote. **REP. MCNUTT** voted by proxy.

CFSD DP 3201

Motion: SEN. LIND moved that CFSD DP 3201, RESTRICTED, BE ADOPTED.

Discussion:

Following further discussion on the part of **Ms. Gervais, SEN. LIND** withdrew his motion without objection.

{Tape: 2; Side: B}

Mr. Thorsen and **Ms. Gervais** discussed and noted specific costs of foster care program expenditures on clothing, transportation, respite and diapers.

Responding to **REP. MORGAN**, **Mr. Thorsen** told the Committee about how CFSD has projected and administered the clothing allowance, both in the past and at the present time.

Motion: SEN. WEINBERG moved that CFSD DP 3201 BE ADOPTED.

Substitute Motion/Vote: REP. JAYNE made a substitute motion that CFSD DP 3201, PLUS \$10,000 ADDITIONAL GENERAL FUND EXPENDITURE EACH YEAR OF THE BIENNIUM, BE ADOPTED. Substitute motion carried 5-2 by voice vote with REP. MCNUTT and REP. MORGAN voting no. REP. MCNUTT voted by proxy.

Motion: REP. MORGAN moved that RESTRICTED INDIVIDUAL LINE ITEMS FOR CLOTHING ALLOWANCE, RESPITE CARE, TRANSPORTATION ALLOWANCE, AND DIAPER ALLOWANCE BE ADOPTED.

Discussion:

{Tape: 2; Side: B; Approx. Time Counter: 10.2}

Responding to **REP. MORGAN** and recent public testimony regarding medical transportation monies for foster care families, **Mr. Chappuis** noted that such transportation is paid for by Medicaid, not by the CFSD foster care transportation budget.

Ms. Brown discussed general usage of CFSD foster care transportation budget.

{Tape: 2; Side: B; Approx. Time Counter: 11.7}

Reviewing this information, **SEN. WEINBERG** asked the Department to explain why the foster family who spoke in yesterday's public

testimony could not afford transportation costs involved in providing their foster children with routine HIV management care available only in Salt Lake City.

Mr. Chappuis explained that for a child, Medicaid transportation is mandatory, but requires prior approval. Statutory rule states that if a hospital service is available in Montana, and the family chooses to receive it in another state, the family can request cost coverage for that out-of-state care.

CHAIR KAUFMANN asked Ms. Brown to follow up on the aforementioned family and report back to the Committee.

Ms. Brown agreed to do so, provided the family is willing to sign a release allowing Ms. Brown to relay their information to the Committee.

{Tape: 2; Side: B; Approx. Time Counter: 16}

REP. MORGAN withdrew without objection the phrase from her previous motion that included line-item restrictions for transportation.

CHAIR KAUFMANN clarified that the motion currently stands as:

REP. MORGAN clarified her motion to state that restricted individual line items for clothing, diapers, and respite care, in the CFSD base budget, be adopted.

REP. MORGAN withdrew her motion without objection.

Motion/Vote: **REP. MORGAN** moved that **RESTRICTED INDIVIDUAL LINE ITEMS IN THE CFSD BASE BUDGET FOR CLOTHING, DIAPERS, AND RESPITE CARE, WITH TRANSPORTATION TO BE USED FOR TRANSPORTATION, CLOTHING, RESPITE OR DIAPERS, BE ADOPTED.** Motion carried unanimously by voice vote. **REP. MCNUTT** voted by proxy.

{Tape: 2; Side: B; Approx. Time Counter: 20}

CFSD DP 3202

REP. MORGAN asked how the Committee might work to fund BBBS long-term through tobacco fund monies.

Ms. Gervais explained that statutory change would be needed to divert any tobacco monies for BBBS funding.

{Tape: 2; Side: B; Approx. Time Counter: 23.2}

SEN. LIND wondered how much the Committee has exceeded the Governor's budget in its appropriations.

Ms. Gervais told the Committee that its appropriations have not yet exceeded the Governor's budget, primarily because it has not taken action on a large number of items.

Motion: **SEN. COBB** moved that CFSD 3203, NOT OTO, BE ADOPTED.

Substitute Motion: **SEN. WEINBERG** made a substitute motion that CFSD DP 3203, OTO, BE ADOPTED.

{Tape: 3; Side: A}

REP. MORGAN and **REP. JAYNE** expressed their opposition to slating BBBS funding as OTO.

SEN. WEINBERG withdrew his motion without objection.

CHAIR KAUFMANN called for a vote on **SEN. COBB's** motion.

Vote: Motion carried unanimously by voice vote. **REP. MCNUTT** voted by proxy.

CFSD DP 3205

Responding to questions from **CHAIR KAUFMANN, Mr. Thorsen** explained that CFSD DP 3205 monies would cover a large range of programs within foster care.

Responding to further questions from **CHAIR KAUFMANN, Mr. Andersen** gave his office's perspective CFSD DP 3205.

{Tape: 3; Side: A; Approx. Time Counter: 6.4}

Motion/Vote: **REP. KAUFMANN** moved that CFSD DP 3205 BE ADOPTED. Motion carried unanimously by voice vote. **REP. MCNUTT** voted by proxy.

Speaking to Ms. Brown, **SEN. WEINBERG** reiterated his request for follow-up on the transportation situation of the foster family discussed earlier.

SEN. COBB expressed his interest in having CFSD staff members report back to the Committee regarding CFSD's confidence that its management structure will be able to successfully implement audit performance improvement plans.

Following a brief break, **CHAIR KAUFMANN** reconvened the Committee.

Ms. Brown provided and discussed two exhibits, putting them in the context of CFSD audit performance improvement plans. She stated that CFSD expects to pay \$2 million in Federal fines.

[EXHIBIT\(jhh26a02\)](#)

[EXHIBIT\(jhh26a03\)](#)

Responding to questions from **REP. MORGAN**, **Ms. Brown** said that the CFSD will pay the fines - first through division funds, and then through department funds.

Mr. Chappuis explained that if there were no funds with the department to pay Federal fines, DPHHS would come to the Governor and the OBPP for help. If DPHHS cuts were necessary, the Department would first initiate administrative cuts across the board.

{Tape: 3; Side: A; Approx. Time Counter: 18}

Ms. Gervais told the Committee that if the Department has a shortfall during the first year, it can transfer money from the Year 2 Budget into the Year 1 Budget, but must also submit a cost reduction plan for Year 2. Additionally, supplemental budget requests would come to the Legislature in HB 3 of the following session.

Ms. Brown also pointed out staffing complications that may affect CFSD's ability to achieve necessary improvements.

Ms. Gervais stated that the Governor and OBPP may, as a final effort, direct CFSD to cut services in order to pay Federal fines.

Responding to **CHAIR KAUFMANN**, **Ms. Brown** discussed the effects of vacancy savings on CFSD.

Prompted by **REP. MORGAN**, **Ms. Brown** told the Committee how CFSD would go about recruiting and hiring 40 social workers, if it had the funds necessary to fill these vacant positions.

{Tape: 3; Side: A; Approx. Time Counter: 24.5}

Ms. Gervais confirmed the Committee's intention regarding restricted line items voted on in Motion 19. She then directed the Committee to Page B-68 in the Budget Analysis.

Mr. Olsen provided and discussed two exhibits.

[EXHIBIT\(jhh26a04\)](#)

[EXHIBIT\(jhh26a05\)](#)

{Tape: 3; Side: B}

Motion/Vote: REP. KAUFMANN moved that CSED DP 191 AND CFSD DP 3006 BE ADOPTED. Motion carried unanimously by voice vote. REP. MCNUTT and SEN. COBB voted by proxy.

Responding to **SEN. LIND**, **Mr. Olsen** discussed cost savings attributed to electronic funds transfer implementation, and to reasons for an increase in communication costs.

Replying to **REP. JAYNE**, **Ms. Gervais** explained that CSED DP 191 and CFSD DP 3006 were broken up into two separate DPs because one of them is related to the PSA.

Ms. Steinbeck provided and discussed a handout on the ramifications of FY 2006 Medicaid Reform's prohibitions on use of "financial loopholes," such as intergovernmental transfers (IGTs).

[EXHIBIT\(jhh26a06\)](#)

{Tape: 3; Side: B; Approx. Time Counter: 11.2}

SEN. LIND requested that DPHHS prepare for the Committee a list of current IGTs and possible contingency plans.

Mr. Chappuis agreed to do this, and offered DPHHS reflections on the IGT mandate.

Ms. Steinbeck said that nursing home services rely heavily on IGTs and, to a lesser extent, Mental Health Services. She suggested ways that the legislature and DPHHS might function without IGTs.

REP. MORGAN discussed her knowledge of questionable IGT use.

{Tape: 3; Side: B; Approx. Time Counter: 16.2}

Responding to **CHAIR KAUFMANN**, **Ms. Steinbeck** stated that if a mandate outlawing IGTs required amendments to the Social Security Act, Congress would have to confirm the mandate. However, if the mandate could be undertaken within the parameters of the Act, the Executive Branch would be able to establish administrative rule

without the influence of Congress. **Ms. Steinbeck** noted that it would take an act of Congress to overturn or offset such a rule.

Mr. Chappuis discussed ways in which IGT usage could be change through statute or rule change.

{Tape: 3; Side: B; Approx. Time Counter: 20.7}

OVERVIEW: SENIOR AND LONG-TERM CARE DIVISION

Ms. Kelly Williams, Administrator, SLTC Division, introduced SLTC management staff in attendance and provided the Committee with an SLTC Overview and a list of SLTC Acronyms.

[EXHIBIT\(jhh26a07\)](#)

[EXHIBIT\(jhh26a08\)](#)

Ms. Williams began with Page 1, Necessity for a SLTC Division, Aging Demographics; Page 2, Aging Demographics (continued); Maps noting State Aging in Montana by County, 1999 and 2025; Page 3, Mission of SLTC Division, What SLTC Does; Page 4, SLTC Division Expenditures, Medicaid Expenditures by SLTC program; Page 5, Sources of Funding; Who the Division Serves.

{Tape: 4; Side: A; Comments: Due to technical difficulties, no audio exists for the following portion of the proceedings.}

Ms. Williams continued with a Chart outlining SLTC management structure; Page 6, SLTC Staffing, Types of SLTC Programs.

Ms. Steinbeck interjected that on average in 2004, the State paid 200 days of nursing care for each eligible individual at a yearly rate of \$6,000 general fund and \$12,000 Federal funds.

Ms. Williams discussed Page 7, Nursing Facility Services, Nursing Facility Occupancy/Caseload.

REP. MORGAN asked why costs have gone up, while caseloads have gone down.

Ms. Williams attributed this to increases in costs and inflation, resulting in increased reimbursements to providers.

Ms. Steinbeck provided and discussed a handout entitled Total Average Daily Medicaid Reimbursement - Nursing Homes, Fiscal Year (FY) 2004, Actual Compared to 2007 Biennium Request, LFD Estimate Based on December 2004 Data.

[EXHIBIT\(jhh26a09\)](#)

CHAIR KAUFMANN asked why the caseload is decreasing.

Ms. Williams stated that this decrease is due to increased health among the elderly, a growing range of community services that enable them to defer nursing home entrance, and prohibitively high nursing costs.

Ms. Williams continued with Page 8, Nursing Facility Funding, At Risk Payments - Intergovernmental Transfers (IGT).

Ms. Steinbeck discussed statutorily authorized uses of the Bed Tax and, at the request of the Committee, clarified and outlined the role of the Committee's auditor-in-attendance.

In response to a question from **REP. MORGAN, Mr. Chappuis** discussed IGT usage in SLTC and problems that might arise due to Medicaid Review changes to IGT regulations.

Ms. Williams discussed how and why IGT usage developed in Montana and stated that Federal regulators have, as recently as 2002, approved SLTC's modes of IGT usage.

ADJOURNMENT

Adjournment: 12:00 P.M.

REP. CHRISTINE KAUFMANN, Chairman

LAURA GOOD, Secretary

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Additional Exhibits:

EXHIBIT ([jhh26aad0.PDF](#))