

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on January 19, 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. Steven Gallus (D)
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. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. Trudi Schmidt (D)

Members Absent: None.

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

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

Committee Business Summary:

Hearing & Date Posted: HB 1, 1/14/2005; SB 120, 1/14/2005
Executive Action: HB 1; SB 120

HEARING ON HB 1**Opening Statement by Sponsor:**

REP. JOHN WITT, HD 28, CARTER, opened the hearing on HB 1, Feed bill. The bill appropriated money for the operation of the 2005 Legislature in regular session and for the start-up costs of the 2007 Legislature. The total requested in the bill was \$6,899,722 which included money for the Senate, House, and Legislative Services Division. The 2005 Feed Bill was about \$200,000 more than in 2003, an increase of approximately three percent. The increase was the result of increased costs for Legislator's health insurance. He indicated more was being spent now on Legislator's health insurance than on Legislative salaries. He characterized that as kind of a crime.

Proponents: None.

Opponents: None.

Informational Testimony:

Lois Menzies, Legislative Services Division, distributed and explained a summary of the bill.

EXHIBIT(fcs14a01)

Questions from Committee Members and Responses:

SEN. RICK LIABLE asked how leadership travel and expenses for the Senate and the House were allocated. **Ms. Menzies** advised the \$15,000 has been stable for the last several feed bills and has been divided \$10,000 to the majority and \$5,000 to the minority. **Sen. Liable** asked if that was consistent in the House and the Senate. **Ms. Menzies** replied the Senate requested \$7,500 for both parties. **SEN. LIABLE** asked if this amount of money was adequate for training for legislators, considering term limits. **Ms. Menzies** observed she had seen, on occasion, the money in those four accounts not being sufficient to fully cover travel for legislators who wanted to attend interstate meetings.

Closing by Sponsor:

REP. WITT closed on the bill.

HEARING ON SB 120**Opening Statement by Sponsor:**

SEN. BOB KEENAN, SD 5, BIGFORK opened the hearing on SB 120, Extend hospital tax on inpatient bed days. The bill would extend a program started two years ago, remove the sunset, and extend the sunset for two more years. He indicated it was a very successful program and described it as creative thinking on the part of Montana to maximize federal Medicaid matching money. He noted the Montana Medicaid Program had historically reimbursed hospitals at a rate less than the cost of providing the services. In order to bring that up to speed and give the hospitals some relief, the hospitals agreed to impose a fee upon themselves. The money they collect goes into the Medicaid budget and it brings about \$40 million in matching funds. **SEN. KEENAN** described SB 120 as a good bill that solved the problem two years ago. He did not think there were any opponents but he got a letter from a woman in Bozeman who objected to the five dollars per bed and thought it was a tax increase. His answer to that would have been if she didn't like paying five dollars, she probably wouldn't want to pay the \$35 she would have to pay if they didn't do this. This took the hospital rate, appreciating at 6.5% a year, down to 3% a year.

Proponents: **Chuck Hunter, Department of Health and Human Services**
Bob Olson, Montana Hospital Association
Jani McCall, Deaconess Billings Clinic
Paul Ebzerry, St. Vincent Health Care
Mona Jamison, Shodair Hospital

Opponents: None.

Proponents' Testimony:

Chuck Hunter, DPHHS, rose as a proponent of the bill. The department, along with the Hospital Association and others, pitched this concept of a hospital bed tax to deal with the growing problem with disparity between the hospital cost of providing care to Medicaid clients and the department's ability to reimburse them for those costs. He provided a chart that depicted that gap.

EXHIBIT (fcs14a02)

The bill was a creative solution that helped bridge that gap with no infusion of general fund monies. The hospital tax bill enacted last session was a good solution for both the hospitals and the department. Tax revenues are collected on bed days and reported to the Department of Revenue. Those revenues are put into a state special revenue account and then are matched with Medicaid money at a match rate of three to one. Those funds are returned to hospitals as a one-time annual payment and the hospitals can use those monies to close the gap. In February of

2004, the department made a one-time payment of almost \$30 million back to hospitals based upon their net payment of close to \$8 million. In February of 2005, they expected to pay almost \$31 million to hospitals based upon their expected bed fee of about \$8.7 million. Those payments allow hospitals to cover that gap and allow the Medicaid program to continue to offer good access to hospital care in Montana.

Bob Olson, Montana Hospital Association, explained that two years ago, as the gap began to widen, hospitals came forward with a proposal to tax themselves in order to gain federal dollars. If the cost of care is not covered, the cost is shifted to private payers which shows up in higher health insurance bills and out-of-pocket health care costs. This bill takes the pressure off the cost shift so hospitals do not have to raise their charges as fast as they might otherwise have to. They have estimated historically that private pay health costs for hospital care run about 130% with true costs to give care at the hospital. They believe if all the government programs paid their fair share then the private payer and private insurance would have lower charges and it could help deal with the uninsured as well. **Mr. Olson** explained Section 1 of the bill would be amended to clarify that Critical Access Hospitals are subject to paying the utilization fee. Under federal rules, all hospitals have to be treated the same. Section 2 would amend the bill to update the amount of the fee in order to keep Medicaid payments current with cost increases. There was a proposed hike of one percent in the tobacco tax funded from I-149 tobacco taxes, or \$270,000 per year. Section 3 would be amended to update hospital reporting requirements. Section 4 would extend the sunset provision. He noted the program is kept out of the base to make sure that Medicaid doesn't build any system that later finds it can't pay if the federal government changes its rules. He advised the federal government is considering Medicaid for future budget reductions and constraints on how states can operate their programs. They were not sure how long the federal government will allow the use of the provider tax and other funding mechanisms. In two years, there should be a better understanding of what the federal government intends to do with Medicaid and whether or not the sunset provision needed to be continued.

EXHIBIT(fcs14a03)

Jani McCall, Deaconess Billings Clinic, stated strong support for the bill. She advised there is a large psychiatric unit at the hospital and nearly 25% of Medicaid discharges were related to the psych unit. They typically have bad debt in the area of \$3.2 million that they cover in terms of charity care for the psych unit alone. More than a third of births were Medicaid and 20% of those births had additional complications. There was an increase

of 2% in the uninsured population at the end of FY 03 and there had been a 46% increase in charity care in the last year. The hospital tax helped to supply some of those services and many of the services that individuals cannot pay for.

Paul Ebzerry, St. Vincent Health Care, Holy Rosary Health Care, Saint James Health Care, expressed strong support for retaining the utilization fee for the reasons given. He pointed out on page 2, line 21 and 22, it said a hospital may not place a fee created in this chapter on a patient's bill. He supported the sunset because they do not trust the federal government. He encouraged a do pass consideration.

Mona Jamison, Shodair Hospital, advised Shodair Hospital was founded in 1896 and continues to serve Montana's children and families. Ninety-three percent of Shodair's patients are Medicaid. The hospital serves the entire state of Montana; 33% within 100 miles and the remainder from the entire state. Their uncompensated care exceeded over \$1 million a year for the past 18 years. During the managed care crisis they lost \$2.9 million in that year alone. Shodair has a foundation that has supported it and has contributed to make up the shortages that occurred prior to the enactment of this bill. The foundation now is depleted and the hospital needs this bill to continue operations.

Questions from Committee Members and Responses:

SEN. JOHN ESP asked **Mr. Hunter** about part of the fiscal note.

Mr. Hunter clarified that a portion of the original bill got pulled over into the note. **SEN. ESP** asked if money comes into the account and goes out as increased provider rates. **Mr. Hunter** said that was correct and there is a formula to distribute the money back out that had to be approved by the federal government. Money comes in, is matched with Medicaid dollars and it is distributed back out to hospitals. **SEN. ESP** asked if that is done on a fee for service schedule of some kind. **Mr. Hunter** advised it is based on a couple of factors, but the primary factor is the amount of Medicaid business that various hospitals had over the past year and the amount of uncompensated care. They collect data from the hospitals that tell, both on the inpatient and the outpatient hospital side, how many Medicaid clients they have seen on those bed days. The hospitals also provide data on the amount of uncompensated care they have. Those are the main factors the department uses for distribution. **SEN. ESP** asked if that is tagged to certain patients or how it is accounted for to the feds. **Mr. Hunter** advised it is done on the basis of bed days reported, both inpatient and outpatient. That data is collected and what is reported back to the feds is the payment made to the hospital. They have approved the method of

the distribution based on bed days. The distribution by hospitals is reported and it is not tied back to individual patients.

SEN. GREG BARKUS asked how long before the federal government figures this out. **Mr. Hunter** declared the provider tax is a well recognized and well studied part of the Medicaid system. There is a history of states abusing provider tax. About four or five years ago, the federal government moved to prescribe that tax and set definite limits. They enacted a limit on these taxes to six percent of the gross revenues of the industry. They also set rules about uniformly imposing this tax on all the providers in that sector of the business and making sure there were not hold harmless provisions that would guarantee any individual payer that they would get their money back. With those provisions, the use of provider tax had been radically narrowed across the country. **Mr. Hunter** described this as a very legitimate use of provider tax.

Closing by Sponsor:

SEN. KEENAN advised the **Subcommittee on Health and Human Services** was getting a good education on how this is done. When this first came up there were a lot more providers; there was a lot of resistance and a lot of doubt about it. He was surprised there was not an expansion of Medicaid providers wanting to get in on this now. Nursing homes have been doing this since 1993. **{Tape: 1; Side: B}**

EXECUTIVE ACTION ON HB 1

Motion: **SEN. KEENAN** moved that HB 1 BE CONCURRED IN.

Motion: **SEN. ESP** moved that TO AMEND HB 1 TO ADD \$20,000 TO THE LEGISLATIVE SERVICES DIVISION TO PROVIDE FOR MORE TRAVEL AND EXPENSES DURING THE INTERIM FOR THOSE WHO WANT TO TRAVEL TO MCEL EVENTS OR EDUCATIONAL EVENTS AROUND THE COUNTRY BE ADOPTED.

SEN. ESP thought in this age of term limited legislators they need to start allowing expenses for people who want to travel to educate themselves about issues. This would be for \$10,000 for each house.

SEN. DON RYAN advised if they amend HB 1, they have to send it back to the House. This is not the last place in which they can make those adjustments. This is a discussion they can have at a later time, he held, rather than slowing down the implementation of HB 1.

SEN. ESP said that may or may not be true. His impression was those kinds of issues were in HB 1 and other issues with LSD staff were in HB 2. He asked **Ms. Menzies** if this could be amended later in HB 2. **Ms. Menzies** advised there was a technique used in a past session where approximately \$200,000 was added to the LSD budget and then transferred to the House and the Senate to make up for a reduction that occurred on the floor in the House. It was a maneuver she had not seen before but it worked. It came in during conference committee. She advised in HB 2, the LSD budget for interim committees and activities, there was a new proposal for additional money for legislative participation in these interstate organizations. The equation they used would allow eight members from each house to attend three meetings of CSG and three meetings of NCSL. This would cover sixteen meetings and would include salary, travel, registration, lodging and meals.

SEN. ESP withdrew his amendment.

Vote: Motion carried unanimously.

Motion/Vote: **SEN. KEENAN** moved that SB 120 DO PASS. Motion carried 17-1 by voice vote with **ESP** voting no.

CHAIRMAN COONEY would carry HB 1 on the floor of the House.

ADJOURNMENT

Adjournment: 5:36 P.M.

SEN. MIKE COONEY, Chairman

PRUDENCE GILDROY, Secretary

MC/PG

Additional Exhibits:

EXHIBIT ([fcs14aad0.PDF](#))