

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on February 14, 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. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Dan Weinberg (D)

Members Excused: Sen. Don Ryan (D)
Sen. Carol Williams (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 433, 2/10/2005; SB 447,
2/10/2005
Executive Action: SB 447; SB 443

HEARING ON SB 433**Opening Statement by Sponsor:**

SEN. GREG LIND (D), SD 50, opened the hearing on **SB 433**, Medicaid pilot program for individuals with developmental disabilities.

SEN. LIND explained he serves on the Health and Human Services Joint Subcommittee and the bill has no fiscal note. In the Developmental Disabilities Division, there are wholesale changes being made in the way services are paid for. There is a shift from block grants to a program that provides portability and choice to individuals. He presented a handout that illustrated an individual cost plan.

EXHIBIT (fcs36a01)

SEN. LIND advised this would be a pilot program with individual waiver accounts that can be carried forward. It was hoped this would provide incentives for family members to provide more care and would help with the transition from childhood to adult services. He noted the legislation was purposely vague to allow the Department to write some rules. The pilot program would be in place for five years and use existing resources in the Department. The main goals are to maintain quality of care, provide incentives for savings, and flexibility for individuals.

Proponents' Testimony:

Pat Melby, Montana Medical Association, stood in support of SB 433 and urged a do pass recommendation.

Charlie Briggs, Montana Association of Independent Disability Services, proclaimed they were a cautious proponent. They support the concept of portability for consumers. The Association appreciated that this is a limited pilot project with the outcome reported to the 2007 Legislative session and that it is limited to 50 people. The program is limited to the general fund portion of Medicaid resources. The money is placed in an individual waiver account and used to purchase one or more additional Medicaid waiver services. The other half of the money reverts to the state, and **Mr. Briggs** felt clarification is necessary as to what would happen to that balance. He offered the assistance of the Association in developing the administrative rules and monitoring this project. If the project goes forward, he thought discussions of fiscal management would be appropriate.

Jeff Folsom, AWARE, Inc., strongly supported the bill. They favored more decision making in the hands of consumers. He thought the details can be worked out by the Department. There will be incentives for the family and less control by providers.

Debra Swingley, Montana Council on Developmental Disabilities, advised SB 433 is a good bill. It dovetails nicely with current efforts of the Developmental Disabilities Program for individualized services, portability, and choice. She urged support for the bill.

Opponents' Testimony: None.

Informational Testimony:

Jeff Sturm, Department of Health and Human Services, offered to answer questions.

Questions from Committee Members and Responses:

SEN. DAN WEINBERG asked if this program would be helpful with decreasing the waiting list for the Developmental Disabilities Program. **Mr. Sturm** advised any unused dollars would be turned back, but there would be no substantial effect on the waiting list. **SEN. WEINBERG** asked about those in the 15-21 age group where some people leave the program and can't enter the program again until they are 21. He asked if they are on a waiting list during that period. **Mr. Sturm** advised they are on a waiting list for whatever services they may need. **SEN. WEINBERG** wondered if they have saved some money up that point, if this would help them during that period of time. **Mr. Sturm** indicated the bill was written for those in the waiver program.

SEN. RICK LAIBLE asked who determines what services would be provided. **Mr. Sturm** answered the individual, in conjunction with the case manager and family, would make the choices. **SEN. LAIBLE** inquired if there was potential liability if services are not provided and the savings are divided between the family and the Department. **Mr. Sturm** advised the waiver program requires them to provide all services needed by the individual. Health and safety services will not be in jeopardy. **SEN. LAIBLE** asked if there was a baseline of services and anything else can be postponed with half of the savings banked. **Mr. Sturm** clarified it is based on individual needs.

SEN. JOHN ESP asked about money going back to the feds. **Mr. Sturm** advised once someone decides to participate in the pilot,

half of the money will remain with them until they die or leave the state.

Closing by Sponsor:

SEN. LIND closed on the bill.

HEARING ON HB 447

{Tape: 1; Side: A; Approx. Time Counter: 18.8}

Opening Statement by Sponsor:

REP. DAVE GALLIK (D), HD 79, Helena, opened the hearing on HB 447, Increase state employee pay.

REP. GALLIK stated negotiations started between the 65 collective bargaining units and the Executive Branch in April, 2004, with the Martz administration. The negotiations finished up on January 7, 2005 with the Schweitzer administration. As a result of those good faith negotiations, the parties came up with an agreement. The plan was ratified by 89% of union members. Since 1975, there have only been a couple of times when the collective bargaining agreement has not been accepted by the Legislature. That was in 1991, when there was a strike, and 1993 and 2003 when money was short.

Proponents' Testimony:

David Ewer, Budget Director, testified they worked on the negotiations on behalf of the state. The agreement was accepted and he asked that the committee concur.

Randy Morris, Department of Administration, said HB 447 became a vehicle for the Governor's biennial pay package after the House Appropriations Committee failed to pass HB 13. It provides an appropriation for pay and benefit increases for all employees covered in HB 2. In its present form, HB 447 represents the ratified agreement between Governor Schweitzer and two major state employee unions, the Montana Public Employees Association, and MEA-MFT. These two unions represent 80% of the Montana state government organized workforce. A third union, AFSCME, tentatively agreed to the package on January 17, 2005. Based on a 2003 salary survey, Montana state government's total compensation package lagged behind the labor market some 6.8%. When only salary is considered, and not benefits, the average state employee is behind 13.7% of market. The 2003 survey further indicated the state of Montana continues to be more competitive for jobs in the lower pay scale than those in the

higher pay jobs. Governor Schweitzer's bargaining agreement recognized workers in low paid grades who have not realized comparable pay raises with the across-the-board increases that have been enacted during the past ten years. The agreement will narrow the gap between the salaries of higher-paid, higher-skilled workers and their private sector counterparts. The bill also contains 10% increases in the state's health insurance premium in each year of the biennium. The state personnel department anticipates no change in employee insurance cost in FY 2006 and the possibility of a modest change in FY 2007. HB 447 seeks to repeal the statutory pay rate increases for teachers and blue collar workers. By removing the 2% vacancy savings from state law, the state and affected employee unions will be given more flexibility to negotiate changes in the structure of the schedules. This change will not affect the appropriation and those pay schedules will still be subject to collective bargaining.

Tom Schneider, Montana Public Employees Association, indicated 5000 of those employees are covered by the negotiated pay agreement. They negotiated the agreement in good faith, ratified it by 88% by individual ballot, and the Association stands by what was negotiated. They asked the committee to do the same.

Eric Feaver, MEA-MFT, spoke in favor of the pay plan. He thought it was a fair plan for all state employees. He hoped for quick passage of the bill.

Mike McGrath, Attorney General, testified the Department of Justice has over 700 employees, most of whom could be covered by the agreement. He had been a county attorney for 18 years, and when he came to state government his biggest challenge was the lack of pay for state employees. Across the board, state employees were paid significantly less than employees of Lewis and Clark County. The Department has been losing employees, including an employee of the state crime lab. Legal secretaries in the Department are at Grade 10, and a position is currently being advertised for the third time with no applicants. They have had to use a temporary agency. He noted it is also difficult to recruit qualified applicants to fill attorney positions. He reported a near crisis situation with the Highway Patrol. HB 35 will address that situation.

{Tape: 1; Side: B}

Linda McCulloch, State Superintendent of Public Instruction, read from written testimony.

EXHIBIT (fcs36a02)

Sheila Stearns, Montana University System, and Commissioner of Higher Education, spoke in favor of the bill. She stated a need to be competitive at all levels of the pay scale. She expressed concern about the portion of the pay plan funded by tuition; about 40% is funded by the state and 60% by students. She thought that should be addressed over time.

Ronda Carpenter-Wiggers, Helena Chamber of Commerce, thanked **Rep. Gallik** for his work. She said fairly compensated workers are happy workers, and happy workers are productive workers. The Chamber feels a pay raise for state workers is long overdue. She asked for support for the bill.

Don Kinman, AFSCME, said he participated in the negotiations. The agreement was reached in good faith, and is the first significant raise state employees have gotten in some time. He stated support for HB 447.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. CORY STAPLETON, inquired about the role of the Legislature in the state's pay plan. He wondered if the alternative idea proposed this year in the House might be considered in the interim. **Mr. Feaver** maintained the Governor, by law, must represent the state in negotiations with unions, and the unions must negotiate with the Governor; unions cannot negotiate with the Legislature when it comes to a bargaining agreement. The Legislature can dispose of that agreement as it sees fit. The next round of bargaining will begin next year, and someone may bring something like the alternative plan to the table. Whether that would satisfy all parties, he didn't know. In this round of bargaining, they were representing the full spectrum of members. Half of their membership earn less than \$39,000 and about half earn more. Last session, when there was not a ratified agreement, the Legislature, in the last hours, adopted a twenty-five cent increase for state employees that did not go into effect until January, 2005. Vacancy savings were increased about 2% to make that happen. That was not bargaining, and was not the sort of thing they wanted to repeat. It was in their best interest to work with this Governor and come back and work with him again. **SEN. STAPLETON** asked if there were any lessons learned this session that would make it better for workers in the next session. **Mr. Feaver** declared they came up with a pretty good deal. It would have been better without the twenty-five cent increase in the last biennium. That was the kind of event

they do not want to replicate. They want to build on the deal they made this time. Another lesson learned is the Governor prepares the budget and this agreement is in his budget. The proposal in the House wasn't in the budget. He stressed again that the unions cannot bargain with the Legislature, by law, nor can the Legislature bargain with the unions. Consequently, a bargaining agreement with the Governor has huge weight, once they have reached it in good faith and ratified it. If the Legislature wishes to change that, it has to know that it is doing so outside of the parameters of collective bargaining.

SEN. BOB KEENAN expressed curiosity about the timing of this.

Mr. Feaver advised former Governor Martz gave her last best offer on October 26, and the unions did not accept that offer. It was clear they weren't going to be bargaining with Governor Martz any further, and so no further bargaining took place until the inauguration. They had some preliminary meetings with the Governor's people before he was inaugurated, and they were interested in reaching some kind of agreement in the early days of the session. They asked for and had a bargaining session on January 3. They did not reach an agreement on that day; however, on January 7, they reached the agreement that is in HB 447. **SEN. KEENAN** said he had no problem with this and was willing to take this bill up today. He thought preliminary meetings should be publicly noticed so the press and members of the public can be there. **Mr. Feaver** indicated nobody is turned away. He didn't know if they were publicly noticed or not. Over forty members of MEA-MFT and AFSCME were at the bargaining table. He added these are not the most exciting events. He thought the meetings could be noticed and they will see who shows up.

SEN. GREG BARKUS asked **REP. GALLIK** about the vote in the House. **REP. GALLIK** said it was 84-16. **SEN. BARKUS** asked why there were only 50 representatives as sponsors on the bill. **REP. GALLIK** responded they asked fifty people and were unable to get more than 50. **SEN. BARKUS** asked why there were no Democrat senators to co-sponsor this bill. **REP. GALLIK** did not know the reason.

Closing by Sponsor:

REP. GALLIK advised the statutory authority on which **SEN. STAPLETON'S** question was based was in 931-102. The Legislature has the final say in the appropriation. He noted there was a spirited debate in the House. The policy on collective bargaining is set forth in 39-31-101.

EXECUTIVE ACTION ON HB 447

{Tape: 1; Side: B; Approx. Time Counter: 19.8 - 20.8}

Motion/Vote: SEN. JOHN TESTER moved that HB 447 BE CONCURRED IN.
Motion carried 17-0 by voice vote.

EXECUTIVE ACTION ON HB 433

{Tape: 1; Side: B; Approx. Time Counter: 21.4 - 32.5}

SEN. TESTER asked if a fiscal note was needed. CHAIRMAN COONEY advised there was no fiscal note. SEN. LIND said he asked the Department and they say they are fully able to do this without a fiscal note.

Motion: SEN. TESTER moved that SB 433 DO PASS.

SEN. LIND commented there is no down side to the bill and that there was overwhelming, positive response from providers.

SEN. STAPLETON expressed concern that anytime a program is run for six years, there has to be some fiscal impact. His main concern was how much general fund money was involved. SEN. LIND advised consumers can't over-save to the point of a negative impact. That is a provision in federal standards for the waiver program. His hope was tens of thousands of dollars will accumulate. The current system is a classic spend it or lose it scenario. There is no incentive under the current system for savings. SEN. STAPLETON asked how many people statewide are in these community-based programs. SEN. LIND believed it was in the thousands. In response to a further question by SEN. STAPLETON, SEN. LIND replied it was his hope people would make wise choices about how much they consume, that quality will be retained, and there will be incentives for families, communities, and churches to participate in the care of these individuals. If the program shows positive results, the program can be expanded in the future.

SEN. KEITH BALES asked if the money will go into an account that sits at the Department. SEN. LIND replied yes. SEN. BALES said this is a pilot program that goes on for five years. He wondered how this would be accounted for. Money that is left over at the end of the year is an ending fund balance. He wondered if a fund is needed to put that in and if the program goes forward after five years, how that money and the budget would be managed. SEN. LIND advised the original bill draft had an RFP for health savings accounts and other mechanisms. General fund money has to be matched through the Medicaid program. It can't be put in the individual's account to carry forward. Staff contends these accounts in the bill can be carried forward. SEN. BALES asked how this would affect the match going forward. SEN. LIND said

the Center for Medicaid Services advised them no matched funds could be put into an account and steered them to this mechanism. The Department convinced him they could do this reasonably and cost effectively.

SEN. STAPLETON asked **Mr. Ewer** about the potential for a fiscal note. With general fund dollars being diverted, he thought a fiscal note was needed. **Amy Sassano, Office of Budget and Program Planning**, thought it would resolve a lot of questions down the road if the bill had a zero fiscal note.

{Tape: 2; Side: A}

SEN. TESTER offered that a fiscal note would be done before second reading.

Vote: Motion carried 17-0 by voice vote.

CHAIRMAN COONEY advised any bill in the committee is considered a revenue spending bill and will continue past the 45 day limit.

ADJOURNMENT

Adjournment: 6:15 P.M.

SEN. MIKE COONEY, Chairman

PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT ([fcs36aad0.PDF](#))