



Children, Families, Health, and Human Services Interim Committee

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

59th Montana Legislature

SENATE MEMBERS

TRUDI SCHMIDT--Chair
JOHN ESP
JERRY O'NEIL
DAN WEINBERG

HOUSE MEMBERS

BILL WARDEN--Vice Chair
EMELIE EATON
EVE FRANKLIN
DON ROBERTS

COMMITTEE STAFF

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

MINUTES

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

September 13, 2006

Capitol Building, Room 102
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. TRUDI SCHMIDT, Chair
REP. BILL WARDEN, Vice Chair

SEN. JOHN ESP
SEN. JERRY O'NEIL
SEN. DAN WEINBERG

REP. EMELIE EATON
REP. EVE FRANKLIN
REP. DON ROBERTS

STAFF PRESENT

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

Visitors and Agenda

Visitors' list, Attachment 1
Agenda, Attachment 2

COMMITTEE ACTION

- The Committee adopted Sen. Esp's motion to allow staff to make necessary changes to the content of the bill but not the intent of the bills.
- The Committee passed a motion for a bill amending 2-4-302(2)(d) to cover rules implementing an amendment to require contact with the prime sponsor, by the agency for rules implementing the statute on a program-by-program basis.
- A motion was passed to support the concept of LCCF11 as a work in progress.

- A motion was passed to not have LCCF01 as a committee bill.
- A motion was passed to request DPHHS' proposed legislation including the two courtesy bills.
- The Committee passed a motion that LCCF13 with amendments be a committee bill for purposes of discussion.

TAPE 7A

CALL TO ORDER

Sen. Schmidt called the meeting to order at 7:55 a.m. to try to catch up on the previous agenda before beginning today's agenda items at 8:30 a.m.

SEN. SCHMIDT asked for a motion for David Niss and Susan Fox to follow the bill drafting manual in order to clean up bills.

SEN. ESP moved to allow staff to make necessary changes to the content of the bill but not the intent of the bills. MOTION PASSED.

ADMINISTRATIVE RULE ISSUE

REP. WARDEN moved that the Committee request and approve a bill amending 2-4-302(2)(d) to cover rules implementing an amendment (to a statute) for the first time; and to require contact with the prime sponsor, by the agency, for rule implementing the statute on a program-by-program basis.

DISCUSSION

DAVID NISS said that in SB 127 that there was a list of programs for which the Department is now authorized to seek a waiver for home and community treatment programs, to keep people out of nursing homes who don't truly need nursing home care. Whereas the statute prior to the enactment of SB 127 authorized a home and community treatment program only for the aged and disabled, they are now authorized because of the enactment of Sen. Keenan's bill to seek waivers from the requirements of the Social Security Act for six or eight different programs, all authorized under the same statute. The purpose of the motion is to amend the statute requiring that the prime sponsor of the bill be contacted for two purposes: 1) to require that an agency beginning to write rules to implement, not just a new statute, but an amendment to a statute authorizing a new program; and 2) to amend 2-4-302(2)(d) to require contact for new rules on a program by program basis.

SEN. O'NEIL asked how long this requirement to notify the sponsor would continue, as long as the sponsor is in the legislature, or as long as the sponsor is alive. MR. NISS said that it would apply as long as the sponsor was in the legislature. Additionally, there is a provision in MAPA that if members who sponsored a bill don't return to the legislature for whatever reason, they can still as the agency to be notified. **MOTION PASSED.**

MR. NISS also mentioned that this would apply to all rules proposed under new sections or amendments to sections for all subjects of all bills, not just those that come to this committee.

It was decided that the bill would list Sen. Weinberg as sponsor to start with and Sen. Esp will then sponsor it depending on the election.

SEN. SCHMIDT asked for a second sponsor for the psychologist bill. It will be under Sen. Weinberg first and then go to Rep. Eaton.

SEN. SCHMIDT said that the Committee needed to have a recommendation to support the concept of the methamphetamine bill from Pam Bucy and the treatment courts from Rep. Tom McGillvray so that they can put it into the final report.

LCCF01 AND LCCF11. CHILD PROTECTIVE SERVICES STATUTE REVISIONS.

REP. EATON moved that the committee support the concept of LCCF11 and not support LCCF01.

DISCUSSION

REP. ROBERTS said that he would like to separate that motion.

MOTION ON LCCF11

There was a motion that we support the concept of LCCF11 as a work in progress.

SEN. ESP said that he would ask them to consider that in light of the Committee's support to consider the notification section more carefully where they are proposing to drop the certified mail requirements and give that prudent thought.

MOTION CARRIED to support the concept that LCCF11 as a work in progress.

LCCF01. COMMISSION

SEN. ESP moved as substitute motion to adopt LCCF01 as committee bill for purpose of discussion.

DISCUSSION

SEN. ESP said that he thinks LCCF01 still needs to be revisited. He did not know if the Committee wanted to revise the statutes, but he would support an interim study on this.

SEN. WEINBERG said that he wanted to know what Rep. Eaton's rationale was for not wanting it to be a committee bill. REP. EATON said that she is acting in response to what she heard during testimony yesterday that the people who were actively working on this bill had felt that there were too many people on this committee to actually get any work done for this next legislative session and that the emphasis was to make some substantive changes to the statutes for this next legislative session. REP. FRANKLIN said that she wanted to share the letter from the Cascade County Attorney (Exhibit 10, September 12, 2006) who said "in regard to the proposed creation of the commission, I'd like to express my belief it would not be productive use of resources. If a decision is made to put the legislature in a position to consider rewrite, a proposal could be generated, draft without the need for a lengthy enlarged commission." She said that sometimes commissions do get unwieldy and take on a life of its own. She said how do we put light on the issue that we think that there needs to be a close scrutiny without creating a huge commission.

REP. WARDEN said that he agreed with Rep. Franklin and could go either way.

SEN. ESP withdrew his substitute motion.

SEN. SCHMIDT said that the motion is to not have LCCF01 as a committee bill. MOTION CARRIED UNANIMOUSLY.

LCCF12. FOSTER PARENTS AND LIABILITY.

SEN. ESP moved to forward LCCF12 as a committee bill and also moved for an amendment to strike subsections (3), (4) and (5) of Section 1.

DISCUSSION

REP. ROBERTS said that the basis for the foster care program is predicated on support for the people involved in foster care. He said that he is in favor of this bill.

SEN. SCHMIDT said that the Committee will take a vote on the Sen. Esp's amendment to strike subsections (3), (4), and (5) of Section 1. SEN. ESP explained that his amendment is to allow the Department to write the rules on the insurance coverage, not trying to specify what will be covered and what won't.

The motion of Sen. Esp to amend LCCF12 by striking subsections (3), (4), and (5) of Section 1, passed unanimously.

SEN. ESP moved LCCF12 as amended to be adopted as a committee bill. MOTION PASSED, with Sen. Weinberg and Rep. Eaton as sponsors.

LCCF09. INSURANCE PARITY.

SUSAN FOX gave a brief background of insurance parity. She said that Sen. Waterman carried a bill in 1997 to give full parity for serious mental illness with a list of seven diagnoses. Serious mental illness was at full parity. There were coverage limits and partial parity for the remainder of what was defined as mental illness, but not serious mental illness, and for chemical dependency. This bill takes out the list of the big "7" and all mental illnesses will be treated at parity with physical illness; no deductibles or higher annual limits, it must be treated the same as heart conditions or diabetes. Ms. Fox said that it goes to bigger insurance issues of what kind of authority the State Auditor has over insurance in general and how to enforce that.

REP. FRANKLIN said that Sen. Waterman's discussion was hearsay, she had heard second-hand that they were having trouble with enforcement, but what she was referring to is self-insured groups under the ERISA Act that fell outside the purview of the State Auditor.

SUSAN FOX said that ERISA is a federal law and it preempts states regulating self-insured plans. There is a federal mental health parity law and some parity required in those self-insured plans. Ms. Fox said that this insurance parity bill would cover individual and group coverage that is regulated by the state.

REP. FRANKLIN moved LCCF09 as a committee bill.

SEN. ESP said that he would not support LCCF09 as a committee bill because the Committee has not heard enough of the other side of this issue.

REP. ROBERTS said that he agrees with Sen. Esp in that this issue should be discussed in the legislature and not as a committee bill. He states as his reasons the increased costs of insurance, control of the type of coverage in the insurance, and with increased mandates, fewer

people would be insured.

REP. FRANKLIN said that the other view of insurance, is that the whole concept of insurance is based on shared risks. The more people you have covered, sharing more risks, the lower the rates are. The more things that you insure, the more coverage you have, the less uncompensated care you have.

SEN. WEINBERG said that the bill is not about the potential added costs to the insurance product but about fairness, about the fact that people with mental health issues are over and over again being marginalized in a way that other segments of our population are not. He strongly encouraged the Committee to carry this bill as a committee bill.

DAVID NISS said that CF09 contains only amended language to the disability insurance chapter to Title 33, Chapter 22. The State Auditor, acting as Insurance Commissioner, under Title 33 has a good deal of existing enforcement authority. He said that 33-1-101 constitutes the Montana Insurance Code, Section 33-1-104 is general penalty. He said that there is enforcement authority that applies to all of Title 33 and the bill simply amends a number of existing sections of that title.

SEN. O'NEIL said that this bill is a difference in philosophy between some people who want government to protect everybody and some people who want more of a libertarian streak that want people to be at liberty to protect themselves, to purchase their own insurance on a free market basis rather than have the government say you have to have this insurance to cover this items. Sen. O'Neil thinks that the Committee is going in the wrong way as a committee bill or as any bill.

SEN. SCHMIDT said that a vote on this will take place later on because the Committee needs to get on track with the today's agenda.

DPHHS UPDATE - Joan Miles, Director, and John Chappuis, Deputy Director

Joan Miles said that they will give an update on budget issues and some broad EPP priorities for next year as well as an overview of the HIFA Waiver that has recently been submitted, an update on CHIP, and an update of customer service and an overview of legislative proposals that they are requesting.

TAPE 7B

BUDGET UPDATE - John Chappuis

MR. CHAPPUIS discussed the budget (**EXHIBIT 1**) the Department of Public Health and Human Services. He distributed three packets of information: All Medicaid Eligibles FY 2006 & FY 2007; DPHHS EPP - W - version Release; and MT Medicaid 1115 Waiver Proposal.

ACCESS ISSUE AND TRANSPORTATION - Joan Miles

MS. MILES said they are continuing to look at the mileage reimbursement and access issues within the parameters of the overall budget numbers that they have been given and try to rework some things. MR. CHAPPUIS said that adding a rate increase is difficult within a supplemental situation. They don't do that when they are in a supplemental situation unless there is access issue. He anticipates that sometime in October they should be able to act.

SEN. SCHMIDT asked if in his chart, Transitional Medicaid, is moving out of TANF. MR. CHAPPUIS said that it can be those people who are TANF, but Medicaid and TANF eligibility are no longer linked, so they can be people that are not TANF that are leaving Medicaid because their income threshold is one above those basic Medicaid thresholds.

MS. MILES said that the Child Support Enforcement Program collected \$54M that was obligated to Montana families and children. They have also seen 14,500 children come in under insurance plans as a result of the work through the Child Support Enforcement Division. She said that there is a joint position between the DPHHS and the Department of Corrections that is an effort to build some bridges between Corrections and DPHHS to provide mental health treatment to offenders who are in the correction system so that they can benefit from the same type of services that people in our system get. There is also an effort to coordinate services when mentally ill offenders get out of prison so that they don't end up without services out in the community.

TAPE 8A

HIFA WAIVER PROGRAM - John Chappuis

MR. CHAPPUIS discussed the HIFA Waiver Chart (**EXHIBIT 2**). He said that the HIFA Waiver is an 1115 waiver which is a federal designation of which the state already has one. DPHHS submitted the process over a month ago and have gotten their first questions in, which dealt with CHIP. The feds are saying that we can't augment our basic CHIP, that we need to look at eligibility for kids who would not be eligible for CHIP, don't use Medicaid to cover kids that should be eligible for CHIP. If they are eligible for CHIP, cover them with CHIP. We have several options that would still provide us with the same thing because there are a number of kids who aren't eligible for CHIP who are out there who aren't eligible for Medicaid either.

SEN. WEINBERG asked if raising the FPL for CHIP to 200% would have any adverse effects on the HIFA Waiver. MR. CHAPPUIS said that they would have to adjust that waiver but they might also have to say that they will cover 200% to 210%. He said that he did not know how that would work but they could augment any changes that are done.

MR. CHAPPUIS talked about the threat to CHIP in that Congress is in the midst of looking at reauthorization of CHIP. The Montana CHIP program started slowly and they were able to use 2005 funds to augment 2007 funds but once that is exhausted, they will not be able to use federal funds to maintain the level that CHIP is at now. If they don't get reauthorization at a level that covers the 150% of poverty, they are in trouble.

REP. WARDEN asked if it is a good idea that this Committee goes on record supporting 200% of poverty based on what Mr. Chappuis said. MR. CHAPPUIS said that he thinks it is a great idea to give the flexibility to the Department to go up to 200%. It would be a grave error to say you will cover 200% because even with reauthorization, they will be fortunate to be able to have enough money to cover at 150%. The federal has to reauthorize before Federal Fiscal Year 2008.

REP. FRANKLIN said that another budget issue that came before this Committee was the request from people who are on the Mental Health Services Plan to raise what they are allowed to earn in order to remain in the MHSP. She asked for discussion about that and what the context would be. JOAN MILES said that they haven't heard too much discussion about some

of the work allowance. They were there for part of the discussion about increasing eligibility up to 200% and it would be millions of dollars if they were to do that. MR. CHAPPUIS said that they have waiting lists for current eligibility in the mental health centers and many services. That money was once at \$13 to \$14M and now it is at \$7M.

BIG SKY Rx UPDATE - Mary Dalton, Health Resources Administrator, DPHHS

MARY DALTON gave an update on the Big Sky Rx (**EXHIBIT 3**). She said that Montana has about 95,000 in Medicare Part D and one of the things that they had hoped for and had been promised was to get a list of those people who are on the low income subsidy for Medicare Part D. They want to do direct mailing to those people who need the help of Big Sky Rx premium assistance that they would offer them. She said that Big Sky Rx would pay up to \$33.11/month for the Medicare Part D premium.

CHIP UPDATE - Mary Dalton, Health Resources Administrator, DPHHS

MS. DALTON said that they estimate that they will run out of the 2005 grant in federal fiscal year 07. They will start on the 2006 grant and use all of it and then will start on the 2007 grant. By 2009, they will not have enough grant left to subsidize without the past three years worth of grants. There were 1748 children who had applied in state fiscal year 2006 who were not eligible because they were between 150% and 200% of poverty. Seven hundred and sixty-four of those children were up to 165% of the federal poverty level; 716 were at 185%; and 268 were up to 200%.

Ms. Dalton said that they have been doing an extensive media campaign as reflected in the CHIP Monthly Enrollment Chart (**EXHIBIT 4**). She said that the chart shows that the eligibility has stayed steady since July, but those are numbers of new children that they have to bring on every month to stay steady.

Ms. Dalton talked about her memo regarding CHIP contract (**EXHIBIT 5**). She said that their contract with Blue Cross Blue Shield for a fully insured product ends September 30. Throughout the summer they have been engaged in an analysis of whether it would be better to continue to fully insure or do a third party-administrator service with an entity. They asked for bids and received two, of which Blue Cross Blue Shield was the successful bidder.

JOAN MILES said that there is a transition from a lot of technical information to the big picture. This is one option to allow us to reduce overall administrative expenses from 17% down to under 10%. All of those dollars that are saved will be used to insure an additional 800 to 1000 children.

QUESTIONS

REP. ROBERTS asked if the insurance company would put a ceiling at what the department would be at risk for as a part of the signed contract. MS. DALTON said that it is part of their current contract under the fully insured product but is not with the third-party administrator contract.

REP. WARDEN asked if CHIP was into the slots that were legislated during the last legislative session. MS. DALTON said that they were and that the 13,900 number was based on the fact that they didn't have all those kids on in the first year and you could make their expenditure in the second year. She said that in September, there were 13,162 kids and there is enough money to sustain 13,900 in this biennium. She said that there is a request to annualize that and

stay in the next year. The other thing that she wanted to mention is that in their legislative packet they put a couple of different placeholders in there. She is in the midst of doing negotiations and her budget figures have to be in.

REP. WARDEN asked if the 13,900 is the ceiling beyond which you cannot go. MS. DALTON said that 13,900 is what they have appropriations for. They are restricted to the appropriation as opposed to the number.

CONSUMER RELATIONS PROPOSAL

MS. MILES began with a survey which the department did in looking at how they handle customer calls (**EXHIBIT 6**). She did not have minutes of their last meeting which contained numbers. Ms. Miles said that she would email that to Ms. Fox who will forward that to the committee. Ms. Miles said that the Department is big and diverse and they are still recovering from having all or part of four departments melded into one. They recognize that that is a continual struggle and a problem with people trying to find their way around DPHHS, find their way in, find their way to the right programs. They get hundreds of calls a day in their agency and thousands of calls a month on their 800 numbers. She said that they are finding through a self-assessment and self-evaluation by division that everyone is attempting to have someone who is responsible for customer calls and they are attempting to have backup for that so people get a live voice and not a voice mail or they don't get rolled over if they press 0. They are trying to revamp their education and customer service philosophy, that customer service is their job, even if it is not your particular issue area and they need to followup on those calls and make sure they get to the right place.

MS. MILES said that she is finalizing job descriptions for their Public Information Office so that they have one Public Information Officer and another position is a Public Affairs Coordinator who will coordinate the website and public information which can't be done through the Public Information Officer. She said that some of the things the Department will do is revisit customer focused training for staff and redo the DPHHS Guide and distribute that to all legislators, public health departments and county commissioners, and to continue providing better customer service for the public.

TAPE 8B

QUESTIONS

SEN. SCHMIDT said that after looking at the Customer Service Improvement Project, there are 800 numbers everywhere and if she was a citizen having a problem, she would not know where to look in the phone book to find whatever division she needed. MS. MILES said that the problem with phone directories is trying to find where you need to go is difficult. If we were to funnel every call that comes into this department through one number, there would be thousands of calls that come in and it would take 4 to 5 FTEs to answer those calls. When we get the list of toll free numbers and the numbers of calls that come in on them, we feel strongly that we need to keep those identifiable programs. What we don't want is to have everybody come through one single door because that would undo what we are trying to do and it wouldn't get people right in to the programs and the assistance that they need.

SEN. SCHMIDT asked if they were working with 2-1-1. MS. MILES said that the notion of one single number for somebody to call to have help on any health or human service issue raises the area of 2-1-1 because the original goal of that effort was that somebody could pick up a

phone and dial 2-1-1 and ask "where do I get help on something" whether it is their department or some other community resource. That is something they are trying to put some energy into but they don't have resources dedicated to that but they are continuing to work with that group.

LCCF08 - Requiring DPHHS to use existing funding to appoint a department employee to assist Consumer Affairs issues

REP. EATON said that she is proposing LCCF08 (**EXHIBIT 7**) because this group of legislators can attest to the need for this bill. Rep. Eaton read her testimony:

As we saw yesterday, there are some citizens of this state who are confused by, disenchanted by, and resent of actions DPHHS has taken. Their outlet is to come before this committee, to have their version go on record to express their disenchantment with DPHHS, or, as was very clearly stated yesterday in the written testimony of Aaron Christensen, they come looking for direction to attempt to solve their problems. The general public quickly learns that DPHHS, generally, has no desire to deal with questions, concerns or dissatisfaction from any arena. My proposal is to use current funding, which DPHHS has already set aside for an FTE, and have that FTE responsible for answering questions and finding the complete responses and reasons for the actions DPHHS has taken. As this committee has personally experienced, DPHHS can provide mountains of paperwork which never answer a question but they bury an individual with information that detracts from the point at hand. Yesterday I heard one of the legislators on this committee say to a DPHHS staff person, "at some point you have to answer my question". That is exactly what I am attempting to achieve with this bill. I want one person within DPHHS who can answer a question in plain, direct English. Consumers, as well as members of this committee, deserve clear answers to their questions. Yesterday we heard testimony of one individual who admitted that there is an oft used expression used by DPHHS which she paraphrased as, "that's the way we've always done it". Why are we, as legislators, allowing an unacceptable status quo of DPHHS to frustrate the very consumers we are suppose to be serving. Yesterday we heard testimony that stated very clearly that DPHHS provides a disservice when the process, programs and procedures are not clearly explained. LCCF08 attempts to put an end to that disservice by having one person who will answer questions or research an issue. That same individual, yesterday, stated that, "it is better for the consumer to learn answers directly from DPHHS rather than hear incorrect or incomplete answers and then have to be corrected". I believe it is better for a consumer to have one person in DPHHS who can give direction to a consumer rather than have him come before this committee as was experienced yesterday, to tearfully explain his personal history. I believe that in addition to doing a disservice to consumers by not answering questions, DPHHS has also been doing a disservice to this interim committee by figuratively hiding behind us rather than dealing definitively with consumer problems. Yesterday we heard testimony on 12 bills. Many times what we heard in response was an objection to simply tweaking the status quo and a call for change that reflects what consumers want. My intention by bringing forward LCCF08 is to respond to the obviously need of the consumers, to get clear direction, timely answers, information and direction. Thank you.

DISCUSSION ON LCCF08

SEN. WEINBERG said that he didn't know if he liked the bill or not, but he feels an obligation to come to the defense of the Department in that what Rep. Eaton just read sounded like they intentionally mislead us and they intentionally mislead consumers. He didn't think that's the case. He thinks that we are dealing with complex issues, complex benefits, an imperfect world,

and human beings. He thinks that sometimes things don't work out. He has worked alongside the Department for a couple of years now and he thinks they are good people who are doing the best they can, which is not to say that they couldn't do better, that some of their systems couldn't be upgraded, that they could have greater expertise. But he didn't for a minute think that they intentionally have tried to mislead us or that they intentionally tried to mislead the public.

REP. ROBERTS said that he can see the frustration and a few issues, but DPHHS is over a billion dollar business and that the percentage of concerns are they seeing in a given year is few, less than 20% that reaches this magnitude. Anybody who is in practice is only as good as the information that comes in. He said that maybe there should be a direct appeal system where somebody could come in as an ombudsman, oversee something that might be an error on the part of the decision. The Department has many different and difficult issues to deal with. You are not going to have an easy solution, otherwise they wouldn't be coming to the state for an answer.

SEN. ESP said that he thinks that if there were such a person who handled calls and was with the Director's Office, that communication link would be close and then systematic problems would be picked up sooner than they are now. He said he thinks the bill has some merit and as he reads it, there are things he would do to wordsmith it but he thinks the concept has some validity and would be a benefit to everybody.

REP. FRANKLIN wanted to know what FTE Rep. Eaton was referring to and if there was any money set aside for that. REP. EATON said that she is going to refer that to the Department because it was mentioned at one time that they did have funding set aside. MS. MILES said that it is not funding set aside for this position, it is funding to look at some critical needs that we have in our public information public affairs, trying to cross divisions, public information. We wanted to dedicate at least part of that position to somebody that could help track some of these. What we would envision doing is having somebody in our department who could at least dedicate part of her or his time to helping to track, to make sure that somebody is getting the information that they need and if they haven't heard from somebody, to continue to make sure you get connected with the correct person and get what you need. Ms. Miles said that she is not in the position to being able to dedicate one or more FTEs solely to that without additional funding.

SEN. O'NEIL asked what Ms. Miles would do if the bill was killed today. MS. MILES said that they would continue their customer service improvement initiative in the department and they are committed to improving what they have to in educating staff, taking a more active role in making sure that questions are answered, or getting people the help that they need.

REP. WARDEN said that he is going to support this legislation and he thinks that it is needed. He thinks it is a great piece of legislation.

REP. FRANKLIN said that she doesn't think that some of the levels of frustration will be solved by this bill. She is considering supporting the bill with some caveats. She could see a position like this helping in the Department's efforts. She said that she doesn't think that this bill would help some of the people that we have heard from because there is a commitment to personal pain that the government cannot fix. She would like to see some different language to allow that individual to help with professionalism within the department and be of assistance to them as

part of their role. Rep. Franklin said that she would design it for some or partially public information and consumer specialty work and then working with departments to develop their own internal culture.

BREAK

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES LEGISLATIVE PROPOSALS

JOAN MILES discussed their legislative proposals (**EXHIBIT 8**). Ms. Miles understood that they are only requesting that the Committee begin the process on these proposals by requesting the drafts and in no way does that indicate the Committee's endorsement of this legislation.

- PRIORITY 06. Modernize Montana Public Health Statutes. A general revision of their public health statutes, adding procedural due process protections.
- PRIORITY 10. Modification of Guest Ranch Statute. This came about as a result of the issues with Paws Up. Need to clarify who is a guest ranch, what is a guest ranch and what licensing requirements are they required to meet.
- PRIORITY 17. Delete "oral" and allow dispensing of all contraceptives. To reflect what statutes currently allow in terms of certain entities to dispense pre-packaged contraceptives because of other methods such as patches which are being used, clarifying how these can be dispensed in their clinics.
- PRIORITY 29. Universal newborn hearing screening. Need to make sure that that is reported in a similar manner and gets into the state databank.
- PRIORITY 31. Automated External Defibrillator Legislation. When first put into strategic places, a national standard required the entities to have physician medical directors. This will make statutes comply with what the current practice is, that a physician is no longer needed onsite.
- PRIORITY 32. Removal of regulation of "non-prescription drug" manufacturers for wholesale. This is to clarify legislation that was passed two years ago which revamped their wholesale manufacturer statute.

Ms. Miles discussed proposed legislation, "Montana's Older American's Trust Fund" that is still under discussion. She asked that the Committee for a courtesy hold on that so that the Department could begin the process. That is the notion of having a trust fund in our state to provide for Aging Services. Another courtesy hold is for the STEP program, the collaboration between DPHHS and Department of Corrections and the Dr. X Building.

RUSS CATER, Chief Legal Counsel, DPHHS,

- PRIORITY 22. Removal of Total Care from Development Disability Commitment Law. The Department believes that we can serve developmentally disabled individuals that require total care in the community. There isn't a need to serve them at Boulder, at the Montana Developmental Center. They would like to remove that from the statute.
- PRIORITY 24. Clarify division role - child placed with noncustodial parent. This is to clarify

the role regarding the placement of children with noncustodial parents.

- PRIORITY 26. Energy Conservation & Energy Assistance funds for low-income people. This fund was created by the Legislature in 1987 and kept in reserve and only interest and income from that would be used. It is the Department's recommendation to use the principle of that fund for low-income weatherization and low-income energy assistance.
- PRIORITY 27. Permissive Guardianship. The Department has been ordered to be guardians for an individual against the wishes of the Department on several occasions and it is their fear that the courts may order DPHHS to provide and pay for the needs of the persons for whom they are the guardian.
- PRIORITY 36. Deficit Reduction Act (DRA) (Sec 6036) Clarification of Right of Recovery Again. This pertains to the Medicaid Program. The federal government is mandating that the Department tighten up their ability as to who the Medicaid Program can go after and collect from.

THERE WAS AN EVACUATION DUE TO A GAS LEAK IN THE CAPITOL COMPLEX.

- PRIORITY 37. Amend the child abuse and neglect law to comply with federal law requirements. This proposal is trying to achieve the ability to identify and take care of children that are in homes where illegal substances are being used. Trying to expand that definition of abuse and neglect and allows foster parents and pre-adoptive parents the right to be heard at the termination of parental rights hearings. It would also allow videoconferencing at the court hearings.
- PRIORITY 8a. Amending statutes pertaining to the Montana State Hospital and forensic commitments when someone has criminal charges against him and have the evaluations performed in the community rather than at the State Hospital.

JOAN MILES, Director, DPHHS

- PRIORITY 13. CHIP Administrative Expense Limits and Special Revenue Account. The Department needs to have clarification on the Special Revenue Account. Asking to delete the 10% cap on administrative expenses that is in state statute to allow the Department, in two years, if there is an incentive and a desire to go to the full self-administration program. If it is over 10%, they will not be able to do that until after the legislative session and they have to renew the contract before the next legislative session.
- PRIORITY 21. Reduce out of home placements. This is an incentive program to use positive incentives to encourage communities to reduce out of home placements for children with severe emotional disturbances.
- PRIORITY 23. MCDC, Involuntary Commitments. They need to include chemically dependent persons rather than just alcoholic individuals, as the statute currently states.

PRIORITY 25. Multi-year adjustment to institutional per diem. This allows the Department the option of changing the per diem any time during the fiscal year if budgeted costs of an institution has changed substantially since the last review which would give them some flexibility during the interim.

MS. MILES referred to the proposed legislation asking for a courtesy spot for the STEP Program (**EXHIBIT 9**) which Mr. Chappuis had previously talked about. She said that it is the collaboration between Department of Corrections and DPHHS to use the Dr. X building as a treatment facility for mentally ill offenders. She said that is still undergoing review in the Governor's Office, but she is requesting a placeholder in case that moves forward.

QUESTIONS

REP. ROBERTS asked if the change in per diem is subjective to any kind of approval by anyone or if that was a departmental decision. MR. CATER said that the Department's auditors would go in and evaluate the costs. He said that it all has to be cost-based. The initial setting of that rate now is established by the Department without further review unless a legislative auditor would come in and question it at a later date.

MOTION ON DPHHS' PROPOSED LEGISLATION

SEN. ESP moved that the Department's proposed legislation be drafted as listed plus the courtesy bills be drafted when available. MOTION PASSED.

LUNCH BREAK

TAPE 9A

AGING SERVICES - Charlie Rehbein, Aging Services Bureau Chief in Senior and Long-Term Care Division, DPHHS and Kelly Moore, State Long-Term Care Ombudsman

MR. REHBEIN discussed the changing demographics of the aging population and what they are doing to address that situation, how the change in demographics affects statewide aging services. Mr. Rehbein distributed several handouts for his presentation (**EXHIBIT 10**).

KELLY MOORSE discussed the Long-Term Care Ombudsman Program and the Long-Term Care Residents' Bill of Rights (**EXHIBIT 11**). She said that their focus and function is to make sure that the rights of people who live in nursing homes and assisted living are protected. Those laws were created by the federal government in 1987 under the Omnibus Budget Reconciliation Act (OBRA). She said that Montana currently has 98 nursing homes and 184 licensed assisted living facilities with the anticipation of another 5 to be licensed by the Licensing Bureau. She talked about complaints within the nursing home and assisted living consumers and how her program deals with them. She said that assisted living costs in Montana range from \$1,800 to \$3,500 and those caring for people with dementia could go up to \$4,000 to \$5,000 per month. The average Medicaid nursing home bed currently in Montana is \$4,320 a month and the private pay rate ranges from \$4,500 to \$5,200. She said that they have around 7,000 beds in assisted living.

QUESTIONS

SEN. ESP asked Ms. Moore for elaboration on her statement that there were difficulties in response to discharge notices. MS. MOORSE said that nursing homes can give a discharge notice for a variety of reasons: if you don't need the level of care at a nursing home; if you

hadn't paid the bill, they can give a 30-day notice; if you create some kind of behavioral problem that can't be controlled at the hospital and you may need hospitalization or you may need consultation by a medical specialist. There is a federal law that requires that there be a transition plan created by the nursing home for providing some safe alternative and this is where we are at odds and are working with the facility to reinforce that they need to help.

SEN. SCHMIDT asked what is meant by part-time ombudsman. MS. MOORSE said that the part time ombudsmen work 8.75 to 20 hours a week.

SEN. SCHMIDT asked if an ombudsman can go into the nursing and assisted living at any time. MS. MOORSE said that they are one of the few states where the ombudsman is limited access between 9 a.m. and 6 p.m. She said that there is a provision if there is a need that she can grant permission to a local ombudsman to do that. She said that the state of Montana is the most restrictive. Ms. Moorese said that that was put in statute in 1987 when they adopted the long-term care resident rights and there has not been any change in the statute since that time.

SEN. O'NEIL asked Mr. Rehbein if the percentage of older citizens are getting more senile and feebler or are we getting in better shape. MR. REHBEIN said that the statistics are showing that people are living longer and healthier but when they do need services, when they start to run into problems, it is worse. For example, people going into our nursing homes are going in sicker and needing more assistance.

SEN. SCHMIDT asked if there are any definite guidelines about the rules and processes for the assisted living facilities. MR. REHBEIN said that the quality assurance people within the Department license them.

SEN. SCHMIDT asked Ms. Moorese asked if the 9 a.m. to 6 p.m. is a problem. MS. MOORSE said that in many situations it is a problem, especially if she is not available and they have to get permission from the State Ombudsman. There are some restrictions with these time limitations.

CERVICAL CANCER TASK FORCE AND CANCER CONTROL COALITION - Sue Miller, Section Supervisor of Cancer Control Coalition

MS. MILLER gave her report on the task force (**EXHIBIT 12**) and talked about the Comprehensive Cancer Control Plan (**EXHIBIT 13**).

QUESTIONS

REP. FRANKLIN asked about the status of the federal Medicaid money that was available for treatment of cervical and breast cancer. MARY DALTON said that there is still eligibility for people with breast and cervical cancer, around \$2.5M. MS. MILLER said that the Breast and Cervical Health Program is a federally funded program and serves women at 200% poverty. It expands the population of women who are underinsured in Montana. They are then eligible for treatment. When we lower the age to 35 for women to become screened for cervical cancer through the Breast and Cervical Health Program, they will then also be eligible for that program for treatment.

REP. EATON asked if the HPB vaccine is available to young ladies in the state of Montana. MS. MILLER said that the HPB vaccine has been approved and it is available.

TAPE 9B

PUBLIC COMMENT

AART GOLDMAN, Great Falls, Adjunct Professor, Community Activist for mentally ill people, said that for the past year he has worked on several committees dealing with mental illness, served on the Mental Health Center in Great Falls, on a foundation board. Mr. Goldman spoke on the Peer Support Oversight Committee of which he is a member.

ANDREA DELIGDISCH said that she is a social worker by profession and is currently working at Headstart. She was asked by DPHHS in Great Falls to sit in on the session in which the staff as well as other people from the community were looking at the work that is currently being done and has to be done by federal regulations on Child Protective Services records. She thinks that most of us have little idea how much work the federal government puts on the social workers at DPHHS and she is glad that DPHHS has asked for more workers. She spoke on LCCF08. She said that if some people are going to testify on behalf of having DPHHS ombudsperson somewhere, her opinion is that it should not be in the DPHHS because of the perception that that person could not be objective if they are paid by DPHHS.

QUESTIONS

REP. WARDEN said that he sees as a disconnect between what the Department says that they feel and believe about helping these local entities and what seems to actually be happening. This is precipitated by the Central Service Area Authority letter that was written and signed by all the Authorities. He asked Ms. Miles to address what he sees as a disconnect and what her philosophy is. MS. MILES said that she didn't know what was in that letter and when she sees that letter, she will respond to that letter. She said that she has talked to him before that she came from a local background and she understands that that is where they can make a difference in people's lives and that their job, whether it is local offices or our public health offices, or whether it is the entities that they contract with to provide services, that their job is to insure that they are assisting them in having the resources that they need to do the work. Her philosophy is to support and provide services at the local level and she thinks that is the philosophy of the Division and the Department.

REP. WARDEN said that he would ask Ms. Miles to look at the CSSA letter and let the committee know what her response is to their concern about funding. MS. MILES said that they will copy the committee on their response. Regarding the 72-hour, they will need to manage a method of people presenting themselves with medical problems as well as the mental problems, and if they can have the flexibility to get people in the right place, they would want to do that.

LCCF09. INSURANCE PARITY

SEN. ESP said that in LCCF09, full parity will happen. He said he is still unsure of what it will do and he will not support it. He said that there is fairly complicated sections of law that they are proposing to repeal in this bill, he thinks that they should know about before they push forward with a committee bill.

REP. FRANKLIN said that she knows that the insurance industry has significant resources that we will hear from them soon enough, but the concept of this committee of putting this on the front burner is important to what we are doing.

SEN. WEINBERG said that this setting is a way that we can reach out to these folks. He said that we have a responsibility here if we are going to sit here and listen to folks and ask them

questions and advocate. We have to step up and put the money there, we have to allow the Department to do their work. He said that if they spoke to each person around this table and asked, do you think that we ought to do more for folks with mental disabilities, he thinks everybody here would say yes. This is an opportunity to put our money where our mouths are. This is an opportunity to raise the bar. Yes, it is going to be tough to get there; yes, the insurance folks are going to scream and holler, but we have to step up and raise the bar. We have to commit ourselves to our work. He thinks that this is a good opportunity and we shouldn't let it go.

SEN. O'NEIL said that this is not to putting our money where our mouth is, this is somebody else's money that we are trying to put where our mouths are. There are people who pay the insurance dividends, it's the taxpayers who pay the insurance dividends, it's insurance companies. Maybe it does make a difference to us whether the insurance companies are making a profit. He said that we all want the state to take care of people as much as they can. He thinks we have a responsibility to limit how far we go into socialism and how far we command other people to take care of people rather than doing it ourselves. Charity begins at home, it doesn't begin with the government.

REP. FRANKLIN said that when you look at the pragmatic insurance concept that the idea of spreading as much risk, that we pay health care premiums to a business that allows all consumers of health insurance to share risks so that none of us are paying, paying less, or have less risk when it comes to compensated care. She said that our culture is consistent with capitalist notions of business and how we take care of health care. The more we can share risk, the less uncompensated care we will be.

SEN. SCHMIDT asked for a vote on the motion to move LCCF09 forward as a committee bill. MOTION FAILED on a tie vote with Sen. Weinberg, Rep. Franklin, Rep. Eaton and Sen. Schmidt in favor and Sen. O'Neil, Rep. Roberts, Sen. Esp and Rep. Warden against.

LCCF 13. SECURE CRISIS STABILIZATION AND BEHAVIORAL HEALTH INPATIENT FACILITIES (BHIF)

SEN. WEINBERG moved that LCCF 13 be a committee bill.

SUSAN FOX said that this bill needs more work in policy direction, that Anita Roessmann's concerns pointed to the fact that this is something that would or would not require involuntary commitment. The bill was drafted with the idea that it could be used for emergency evaluation on the front end but also provide provisions on commitment. Those are things that the Committee needs to think about when talking about secure crisis stabilization, short-term in the process, or if it is something that you believe someone could be committed to for a longer period of time.

SEN. WEINBERG said that his understanding of this bill is that in the near future it could give us an alternative to the hospital-based 72-hour services which we have agreed that providing 72-hour services at the community level is a good idea. It is a humane and quick way to provide services and it will avoid taking some of the people all the way to the State Hospital. One of the complaints about the 72-hour plan is that it is going to the hospitals. By upgrading and modernizing the BHIF statute, we might have an opportunity to get out of the hospitals and have a stand alone 72-hour clinic that we don't have now and might be a way that we can get similar kind of service at a more reasonable cost.

SEN. ESP said that it is a leap of faith to roll this forward when we don't know what it does. He said that he didn't have a problem with the concept. When we created BHIFs, we wanted to be able to have secure beds to commit people for more than 72 hours, so that families would be closer to the people who were in the hospitals long term and there would be more of a connection to community.

REP. FRANKLIN said that she thinks that the cost involved in building mini-hospitals throughout the state brings up a lot of issues which will be more expensive and more difficult than what we imagine. She would like to see the trend of the Department go into stronger community-based services, excluding building mini-hospitals. She said that she doesn't support the concept at this point.

SEN. O'NEIL asked Sen. Weinberg if these little hospitals are going to be built with state money or with private money. SEN. WEINBERG said that they haven't gotten that far, that it is a plan in development. He said that the idea of this goes back to when the Billings group was talking about their 23-hour crisis center and he raised the question that if they are going to do it right, they should do a 72-hour crisis center. It escalated from there and it was a leap from a 24-hour crisis center to a 72-hour crisis center. The Department said that we can't do the 72-hour crisis center in the community except in hospitals unless we change the BHIF statute. As far as how to fund it, that is still undetermined. Before we can do anything like that, the statute has to be written such that it will allow us to go forward and put it together.

SUSAN FOX said that as the bill is drafted, it allows the Department to adopt rules for how long that would be. The commitment length is another issue that is not in the bill. As the bill was drafted, it was intended to be a non-hospital one. In the original BHIF language, it was very department-controlled; this bill takes the Department out of that part and allows it to be a community-based place. The commitment is the part that is still circular, as Sen. Esp points out, and that would need to get clarified.

TAPE 10A

SEN. ESP moved LCCF13 as committee bill for purposes of discussion and also moved for amendments. The first one is in Section 1 (2) "means of facility of 16 beds or a distinct part of a facility". MOTION PASSED.

SEN. ESP moved LCCF13 as amended. SEN. ESP spoke on Section 5, page 13 and 14. He said that you will be able to use a facility like this for emergency detentions.

SEN. ESP moved for a general amendment to clean up the language on page 17 so that we are not going to commit people long term to one of these facilities.

REP. FRANKLIN said that she would not like to take out Anita Roessmann's point of why that should be the only option. SEN. ESP said that there are a couple of problems regarding transporting. The person who is going to transport, as it is written, now gets to choose whether he takes him to the hospital or the Behavioral Health Facilities. It is confusing that the person responsible for transporting or the professional person should choose, that it shouldn't be the guy who is driving that takes you to the hospital.

SUSAN FOX said that there is a section in the bill that talks about a professional person making

that decision and directing the person who is responsible to transport them to the appropriate facility. The question is, do you want it to be an option to be able to commit somebody involuntarily to this type of facility or not. SEN. ESP said that that is the intent of his amendment. If the Committee decides not to forward it as a committee bill, either Sen. Weinberg or he will carry it, stand alone in a different way.

Susan Fox said that this amendment is involuntary commitment and professional person making the decision about appropriateness and a judge if in event of a commitment.

REP. ROBERTS asked Sen. Esp what his definition is for long term. SEN. ESP said that on page 17, the Department will develop the rules and when they will have input into whether we will limit it to 14 days or 72 hours. At this point, it is hard to know. REP. ROBERTS said that if you are going to have small communities building these facilities, there is going to have to be some assurance that they are going to be utilized and that is going to require capital investment. So, perhaps 30 days or 60 days would be considered.

REP. FRANKLIN said that she keeps thinking of these little hospitals built all over the state and she gets weak in the knees financially. REP. ROBERTS asked her what would be her suggestion. REP. FRANKLIN said that it's not a day issue.

SEN. ESP said that the motion to amend doesn't concern the days at this point. He said that his amendment is to clean up the language on page 17, so that it is not the driver making the decision.

SEN. ESP's motion for a general amendment to clean up the language on page 17 so that people are not committed to long term to one of the facilities. Motion passed.

SEN. ESP moved the bill as amended. SEN. SCHMIDT said that it already has been moved one time by Sen. Weinberg.

SEN. O'NEIL moved for amendment on page 2, line 4, to make it "who have been voluntarily or involuntarily committed through care." He would like to change the language "involuntary" to "voluntary". SUSAN FOX made a recommendation that because that is in the definition, they could strike the whole sentence and leave the body of bill to...it would leave that silent issue. SEN. O'NEIL said that his motion is to accomplish what he is trying to accomplish. He said to do it however she suggests. SUSAN FOX recommends to strike that language and it would like that, **SEN. O'NEIL moved to strike the sentence "involuntary.....". Motion carried.**

SEN. SCHMIDT said that we have three amendments.

SEN. ESP moved LCCF13 as amended to be a committee bill. MOTION PASSED.

LCCF08. Requiring DPHHS to use existing funding to appoint a department employee to assist Consumer Affairs issues

REP. EATON moved to consider LCCF08 as a committee bill. Rep. Eaton said that Sen. Weinberg's comment that she felt that the statements that she made in her presentation of this bill were because she felt that they were intentional acts of the Department and she does not think that. She said that she was trying to record what had happened yesterday just as a matter of testimony that supported the fact that she feels that we need to have someone within DPHHS

who is more responsive to consumer complaints, questions and problems. If you will note on page 2 of the December 12 draft, there are other duties as assigned by the Director of the Department. She did not want some one person who is going to be a full time employee sitting, waiting for the phone to ring. That is not her intention. Her intention is that the Department be more responsive.

A vote was taken on Rep. Eaton's motion. **MOTION FAILED ON A TIE VOTE.**

OTHER ISSUES

SEN. WEINBERG said that we have heard testimony that 40 states have a 200% FPL for CHIP. We have 150%. He would propose that this committee have a bill that says that we will change the statute to 200% and also at the same time, give the Department flexibility in their ability to get there. This raises the bar, it doesn't spend anymore money unless the money is available. This also recognizes the importance of kids getting the insurance they need. Two hundred percent FPL is the national standard and we are below that.

SEN. WEINBERG moved to change the statute to allow DPHHS to get up to the 200% FPL for CHIP and give DPHHS the flexibility in getting to that level.

DISCUSSION

SEN. ESP said that he doesn't think that that is the best use if we had extra money. We heard from people in the last couple of days that we are not funding fully 150% below Mental Health Services Plan by about half magnitude of 50%. He said that there are other priorities and kids by and large are healthy. Mentally ill people under 150% by and large are unhealthy by definition. It's hoped that we can put resources to help the people who are more than likely unhealthy instead of buying insurance plans for young people who are healthier. That's a better use of resources and that's why, at least at this time, he would not support that.

REP. EATON asked how that is different than what the Department said that they are already going to do. MARY DALTON said that the last time the Committee met, that was still in their package that they were asking to take forward, but it was not moved forward in the Governor's package, so the Department doesn't have a bill to go up to 200% at this time.

REP. EATON asked if that means that the Governor did not support that concept. MS. DALTON said that Mr. Chappuis talked earlier this morning about the fact that the federal appropriation has not come in yet and they do not know where they will appropriate those funds in. The language that Sen. Weinberg has proposed, however, would give the state enough flexibility to set it at wherever that appropriation came in.

REP. WARDEN asked what the current federal allotment was at. MS. DALTON said that the current federal allotment for this year is \$15M. The percentage is based on a formula of uninsured children across the United States. Part of the reason that Montana and South Dakota and North Dakota's federal poverty levels are lower is that they are the minimum level of where their Medicaid programs can be. Every state got an allotment based on the census data at the time of what the uninsured number of kids in the state was. Medicaid and private insurance were counted as insurance, but IHS was not. Montana ended up at 150% because that is how much money we had at the time. It varies from state to state, depending on where your Medicaid levels were set and how much private insurance is available in the state through industry.

REP. WARDEN asked if it is correct that you are allowed to be at 200% of poverty, it would be irrelevant because you are mandated to be at 150%. MS. DALTON said that we are mandated by the state to stop at 150%. The federal and state plan would have to be amended to allow us to go to 200%. We chose our own level because that is where our state appropriation is to pull down our match.

REP. WARDEN asked if we raise them to 200%, are they going to have to appropriate more general fund money to accomplish this. MS. DALTON said no, the language says "up to" because the appropriation will be at whatever level you appropriate us at. The difference would be, we are serving a large percentage of those kids at 150% of poverty right now. There are some people, who for whatever reason, will not join the program, they don't want it, they don't know about it. What up to 200% would do is, if they start seeing children move off, in this year, if they could go to 200% of poverty for instance, those 600 kids who are not on the program right now because they are at 13,172, they would have the authority to serve 700 more kids. When we reach that level of year appropriation where we would cut it off, there might be a waiting list or there might not be a waiting list at that time. Ms. Dalton said that in the past year they had 1748 kids that they determined were not eligible for CHIP because they were over the levels that had been set. Seven hundred sixty-four of those children were up to 165% of poverty.

The vote on the motion that CHIP be expanded up to 200% poverty level was called for. Sen. Weinberg, Rep. Franklin (through proxy vote), Rep. Eaton, and Sen. Schmidt voted in favor; opposing the motion were Sen. O'Neil, Rep. Roberts, Rep. Warden and Sen. Esp.
MOTION FAILED ON TIE VOTE.

REP. ROBERTS moved for amendment for CHIP up to 165% MR. NISS said that you need a motion to reconsider. **REP. ROBERTS moved to reconsider CHIP bill that dealt with 200%. MOTION PASSED with Sen. O'Neil and Sen. Esp voting no.**

MOTION TO CONSIDER THE CHIP BILL TO 165% AS A COMMITTEE BILL. MOTION PASSED with Sen. O'Neil and Sen. Esp voting no.

DISCUSSION ON LONG TERM OMBUDSMAN BILL

SEN. ESP asked if there was a subtle distinction between long term care ombudsman and whatever the folks are out in the hinterlands. He said that the long term care ombudsman already has the right to go in at any time. It's the people out in the hinterlands who don't. SEN. SCHMIDT said that it must be granted to the long term care ombudsman or local ombudsman during normal visiting hours. SEN. ESP said that the motion Sen. Schmidt is looking for is to move to allow the local ombudsman flexibility, that it is just not 9 to 6. SUSAN FOX asked if she wanted it time specific. SEN. SCHMIDT said flexibility without time.

SEN. O'NEIL said that if we give them flexibility, does that mean that the Department is going to set a rulemaking for what times they can go? If we say by normal visiting hours, we would be setting when they can go. MR. NISS said that if Sen. Schmidt's motion were to pass and he were drafting that bill, he would strike that sentence from the statute so that there was no limitation at all for either the local or the state specified in the statute. That gives either or both total flexibility.

SEN. SCHMIDT moved that language in statute 52-3-604(2) be deleted regarding the

hours and the concept be a committee bill. MOTION PASSED.

DISCUSSION ON THE FINAL REPORT

SUSAN FOX said that there are many recommendations and findings that come out of a committee such as this that do not manifest themselves in a committee bill. The only place those recommendations and findings would show up is in the Final Report. She said that she hopes that each committee member would tell her where their priorities were and what they learned out of this interim and if they had any recommendations. She asked if there were any concepts or statements that were discussed and reported on at the interim meetings that could be put into the final report to reflect what findings and recommendations were strongly made and supported.

- SEN. SCHMIDT said the methamphetamine bill that came from the Drug Endangered Children Committee and the Treatment Court proposal by Rep. Tom McGillvray and Damon Gannett. Sen. Schmidt asked if the Committee would like to have that in the final report as a concept that we support. It was the consensus of the Committee to have that in the report.
- SEN. SCHMIDT said that funding treatment and instead of using treatment courts since it served so few people, allow first and second time non-violent simple drug possession offenders the opportunity to receive substance abuse treatment instead of incarceration. California taxpayers have saved an estimated \$1.5B by doing this, and they have chosen that route rather than treatment courts. SEN. O'NEIL said that treatment is the way to go, but he doesn't think we want to use our judicial resource in this way. We should somehow transfer it down to where we have more resources than just judges. SEN. SCHMIDT asked if it is by consensus to put in here that we are supporting the idea of treatment courts.
- SEN. ESP said that one thing that should be in the report is that the committee applauds the Governor's Office for recognizing that treatment is important and the resources that they have delegated, the \$2M a year in the budget process for that purpose, that would at least send a message that we support their efforts in that regard. We support the efforts in the flexibility in the 72-hour presumptive eligibility, money following the person. We could say the same thing about treatment courts but the idea that they recognize treatment is important and we need to put resources there is probably the underlying thought, not necessarily where the resources should go. SEN. SCHMIDT asked if everyone was comfortable with the statement that Sen. Esp made. She said that could be our statement.
- Sen. Esp also added that he attended the symposium put on by the Supreme Court and the Attorney General's Office where the format of the symposium was excellent regarding endangered children and how to protect the children. He said it was a great opportunity to have dialogue with district court judges, clerks, CASA, defense attorneys, county attorneys.
- SEN. WEINBERG asked if the committee would be willing to make a statement that we consider that the suicide rate in Montana is high and we support the idea of doing more work on suicide prevention and looking for a system of suicide prevention. It was the consensus of the Committee to have that in the report.

- REP. FRANKLIN said some acknowledge of those transition needs of people who are working their way into more economic stability but really are not in the position to pay for their own care because of their chronic condition. We talk about working toward recovery and there are people like her who have been successful but would lose it all and not be able to pay for private therapists. SEN. SCHMIDT asked for supporting concept of Rep. Franklin. SUSAN FOX said that what is going through her head is that the Committee has often had this discussion in multiple areas that we create these cliffs, and perhaps by some participation by clients as they become more economically more secure, but they can't go from all to nothing overnight.

TAPE 10B

SEN. SCHMIDT adjourned the meeting at 2:38 p.m. Sen. Schmidt thanked everyone on the Committee and said that they have done a lot of work and a lot of good work.

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