

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY**

Call to Order: By **CHAIRMAN AL BISHOP**, on February 14, 2001 at 3:25 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Eve Franklin (D)
Sen. Don Hargrove (R)
Sen. Dan Harrington (D)
Sen. Royal Johnson (R)
Sen. Jerry O'Neil (R)
Sen. Emily Stonington (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Jeanne Forrester, Committee Secretary
Susan Fox, Legislative Branch

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 324, 2/1/2001; SB 338,
2/1/2001; SB 420, 2/9/2001
Executive Action: SB 324; SB310; SB 361; SB 207;
SB 315; SB 309

HEARING ON SB 324

Sponsor: SEN. DAN HARRINGTON, SD 19, Butte

Proponents: Kristi Blazer, Rimrock Foundation

Opponents: None

Opening Statement by Sponsor:

SEN. DAN HARRINGTON, SD 19, Butte introduced SB 324. He said this bill is an act providing that medical malpractice claims against licensed chemical dependency facilities are subject to the Montana Medical Legal Panel Act. This bill is a result of the 1997 Legislature, it is intended to put back what was removed. He passed out copies of the minutes from 1997 **EXHIBIT (phs37a01)**, which describe what occurred.

Proponents' Testimony:

Kristi Blazer, Rimrock Foundation said there was a removal of licensed chemical dependency facilities from the Medical Legal Panel Act after 1997. This bill is simply to put them back in the act.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. ROYAL JOHNSON said he was unclear about the wording of this bill and he wanted to make sure they were adding these facilities back into the law. **Ms. Fox** said they were.

EXECUTIVE ACTION ON SB 324

Motion: **SEN. JOHNSON** moved that SB 324 DO PASS.

Discussion:

Substitute Motion: **SEN. O'NEIL** moved TO STRIKE SECTION 2B FROM SB 324.

SEN. O'NEIL explained his motion by saying this bill is giving protection from being sued.

SEN. CHRIS CHRISTIAENS said **SEN. O'NEIL'S** amended motion is doing the opposite of what he thinks it is doing. He said he would oppose this motion.

Vote: Substitute Motion failed 1-6 with O'Neil voting aye.

Vote: Motion that SB 324 DO PASS carried 7-0.

HEARING ON SB 338

Sponsor: SEN. DALE BERRY, SD 30, HAMILTON

Proponents: Mary Dalton, DPHHS

Susan Witte, BlueCross BlueShield
Briana Kerstein, Montana People's Action
Mary McKeon, Montana Dental Association
Alan Strange, Montana Primary Care Association
Melissa Sundberg, Ravalli County
Betty Whiting, Montana Association of Churches
Steve Yeakel, Montana Council of Maternal and Child
Health
Jani McCall, Deaconess Billings Clinic
Patti Keebler, AFL-CIO
Claudia Clifford, State Auditor's Office
John Flink, Montana Hospital Association
Vernon Bertelsen, Montana Senior Citizen Association

Opponents: Brian Cameron, League of Women's Voters

Opening Statement by Sponsor:

SEN. DALE BERRY, SD 30, HAMILTON introduced SB 388. This bill is an act to revise the eligibility cap for the state Children's Health Insurance Program (CHIP) to 200 percent of the federal poverty level. Presently it is 150 percent, but he has an amendment to raise the cap to 175 percent **EXHIBIT (phs37a02)** not the 200 percent.

Proponents' Testimony:

Mary Dalton, DPHHS, presented a copy of her testimony **EXHIBIT (phs37a03)**.

Susan Witte, BlueCross BlueShield submitted a copy of amendments **EXHIBIT (phs37a04)**. She said they can support this bill with these amendments.

Briana Kerstein, Montana People's Action said she represents 5,000 low income families across the state. She passed out a copy of state income eligibility guidelines **EXHIBIT (phs37a05)**.

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Mary McKeon, Montana Dental Association said they are in support of the bill, but they are opposed to the amendments from BCBS.

They asked that you retain the dental benefit on the "fee for service" basis.

Alan Strange, Montana Primary Care Association said they are in full support of this bill.

Melissa Sundberg, Ravalli County submitted a copy of her testimony and statistics **EXHIBIT (phs37a06)**.

Betty Whiting, Montana Association of Churches said this bill is prevention, if you take care of children's eyes and teeth, they will grow up healthy.

Steve Yeakel, Montana Council of Maternal and Child Health said he was here in strong support of the bill.

Jani McCall, Deaconess Billings Clinic said they are in support of the bill with the amendment from BCBS.

Patti Keebler, AFL-CIO said they are in support of this bill.

Claudia Clifford, State Auditor's Office said they are in support of this bill. She passed out testimony from **Joan Miles EXHIBIT (phs37a07)**.

John Flink, Montana Hospital Association said they are in support of this legislation along with the amendments from BCBS.

Vernon Bertelsen, Montana Senior Citizen Association said they think this is one of the best ways to spend your money.

Beth Sirr, submitted a witness statement **EXHIBIT (phs37a08)**.

Opponents' Testimony:

Brian Cameron, League of Women's Voters said in the past they have supported CHIP legislation. They are concerned that SB 338 undermines the scope of quality and consistency of services that would be provided to these families. He urged the committee to reject this bill as written and offer a more dependable CHIP expansion.

Questions from Committee Members and Responses:

SEN. ROYAL JOHNSON asked about the cap of the poverty level at which the DPHHS will be able to fund this program. **Ms. Dalton** said the cap could be removed and they would be governed by the amount of money they would receive.

SEN. CHRIS CHRISTIAENS had a question about the fiscal note where it says if this was done during a base budget year, the funding would become a permanent part of the base budget for the CHIP program. **Ms. Dalton** explained that language was written because the expansion of Governor Martz budget will not be until 2003.

SEN. CHRISTIAENS asked how often the income level is reviewed, once an individual is enrolled in CHIP. **Ms. Dalton** said there is an annual re-enrollment period.

SEN. FRANKLIN wanted more information about the insurance package that is being offered. **Ms. Clifford** said she thinks BCBS is concerned the department may pick and chose the benefits they want to offer, and they could be left with a strange insurance package.

Closing by Sponsor:

SEN. BERRY thanked the committee for a good hearing. He said this has been a good program. He said he would like to see the bill pass without the amendments from BCBS.

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HEARING ON SB 420

Sponsor: SEN. MIGNON WATERMAN, SD 26, HELENA

Proponents: Denzel Davis, DPHHS
Brian Cameron, League of Women's Voters
Rose Hughes, Montana Health Care Association

Opponents: None

Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, SD 26, HELENA introduced SB 420. This bill is an act requiring the DPHHS to provide standardized forms and educational materials to personal care facilities and to health care professionals. She said this bill came from the Human Service Subcommittee. She urged the committee to support SB 420.

Proponents' Testimony:

Denzel Davis, DPHHS, said the department is in support of this bill. He wanted to point out that this is the fastest growing provider type.

Brian Cameron, League of Women's Voters said they strongly support education of outreach related to mental health care. He urged the committee to support this bill.

Rose Hughes, Montana Health Care Association said they support this legislation.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. EMILY STONINGTON said you are asking the department to do a fairly extensive review. Did she hear you correctly that you have appropriated money for this review. **SEN. WATERMAN** said they have appropriated some funds from the Lien and Estate Recovery Program for the education of the outreach component. The rest of the study should not incur any great expenditure.

SEN. STONINGTON said she did not understand how this could be done without any expenditures. **SEN. WATERMAN** said \$58,000 had been allocated for this study.

SEN. DON HARGROVE asked if there was a fiscal note. **SEN. WATERMAN** said there was a fiscal note that showed no cost.

SEN. ROYAL JOHNSON asked how the \$58,000 is allocated between programs. **Mr. Davis** they will have \$58,000 for each year of the biennium to deal with personal care issues. An additional \$20,000 will be used for education for the first year, \$10,000 the second year for education. He said that 75% of the \$58,000 will be allocated for the program and all of the education money will go to this program.

SEN. CHRIS CHRISTIAENS said he did not understand where the money was coming from. **SEN. WATERMAN** said it was from the Lien and Recovery Act.

SEN. JOHNSON asked if the Finance and Claims Subcommittee had looked at the budget for this program. **SEN. WATERMAN** said they had looked at it this morning and she would get him some information about the Lien and Recovery Act expenditures **EXHIBIT (phs37a09)**.

Closing by Sponsor:

SEN. WATERMAN said this is a next step in the demand for the personal care facilities. It is time for the state to look at the services we encourage and discourage.

EXECUTIVE ACTION ON SB 310

Motion/Vote: **SEN. CHRISTIAENS** moved that **SB 310 DO PASS. Motion carried 9-0.**

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EXECUTIVE ACTION ON SB 361

Motion/Vote: **SEN. CHRISTIAENS** moved that **SB 361 BE AMENDED. Motion carried 9-1 with Franklin voting no.**

Motion: **SEN. CHRISTIAENS** moved that **SB 361 DO PASS AS AMENDED.**

Discussion:

SEN. EMILY STONINGTON said she is very concerned about this bill. She said this bill would make sure the attorney gets their share, the hospitals get their share and claimant gets the leftovers. She did not think that was right.

SEN. CHRIS CHRISTIAENS said his understanding was if the hospital provides the services and an attorney takes this case. The attorney's fee is paid, then the hospitals and other providers get their share at less of what the attorney has taken.

SEN. ROYAL JOHNSON asked if what is happening is the hospitals get a lesser lien for what was provided. It seemed to him the hospitals should be entitled to what they are owed.

SEN. AL BISHOP said he was with **SEN. JOHNSON** on that issue.

SEN. DON HARGROVE read a quote from the sponsor's closing that stated "the providers should not have to pay attorney's fees."

SEN. EVE FRANKLIN said the committee is trying to get some fairness about something that is entirely unfair.

SEN. JOHNSON asked **Ms. Fox** to explain the amendments. **Ms. Fox** said the amendment has nothing to do with common fund or current law. All it is doing is adding someone else to the list of who gets paid.

Substitute Motion/Vote: SEN. CHRISTIAENS made a substitute motion that SB 361 BE TABLED. Substitute motion carried 7-2 with Bishop and Hargrove voting no.

EXECUTIVE ACTION ON SB 207

Motion: SEN. CHRISTIAENS moved that SB 207 BE AMENDED EXHIBIT (phs37a10) SB020701.asf.

Discussion:

SEN. CHRISTIANS explained the amendments. He said they explained the purpose for which the Xanthopoulos Building could be used.

SEN. DAN HARRINGTON said that is almost a brand new building and he hoped it would not be mothballed. He wondered what would happen to this building if this bill is not funded.

SEN. EVE FRANKLIN said there are currently 13 people being housed in this building.

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SEN. JOHNSON said he was opposed to a long term lease on this building.

Vote: Motion that SB 207 BE AMENDED carried 10-0.

Motion/Vote: SEN. CHRISTIAENS moved that SB 207 DO PASS AS AMENDED. Motion carried 10-0.

SEN. GRIMES said he appreciated all the long and hard work the committee did on this bill.

EXECUTIVE ACTION ON SB 315

Motion: SEN. GRIMES moved that SB 315 BE AMENDED EXHIBIT (phs37a11) SB031501.asf.

Discussion:

SEN. GRIMES said he was uncomfortable about the change in the approach to MCHA. The reason being, we create entitlements and benefits, that people come to expect. He is concerned about what happens when the money runs out.

SEN. EVE FRANKLIN said it was not the intention of the board to make it an entitlement.

Claudia Clifford, State Auditor's Office, said it is their intent to manage this program within its means and not their intent to shift the burden to those currently enrolled in the program.

SEN. GRIMES asked if the reversions of the funds would be used to operate this low income program. **Ms. Myhre** said she wished she could look into the future, but with different plants closing down the funds may be used to insure people coming off of their insurance. She said it is really hard to say what may lie ahead.

Mr. Butler said that while they did not use the appropriations from the last biennium, he believes those funds will have to be used for the existing program; based on how fast the program is growing. The odds of using the funds for the new program are 50/50. The traditional plan for the MCHA was for the uninsured. The affordability plan was established by the 1995 Legislature, in response to Kassabaum-Kennedy Act. Which required states had to provide an affordable health plan for people coming off group plans, the COBRA plan or were terminated from their jobs.

Vote: Motion that **SB 315 BE AMENDED carried 9-1 with Stonington voting no.**

Motion: **SEN. GRIMES** moved that **SB 315 DO PASS AS AMENDED.**

Discussion:

SEN. STONINGTON said she wants to make it clear that the limitations that have been put on the reversion money cannot be used for the low income program.

SEN. CHRISTIAENS said he did not think that is what the amendments meant.

SEN. STONINGTON said that is what **SEN. GRIMES** thinks it says, and that is what he intends it to say.

SEN. GRIMES said it limits participation to available funding.

Ms. Fox said if you look at the language on page three. Whatever the source is, this funding is for this program and the program can only be as big as the funding allows. The other language in the bill still allows any appropriation to the MCHS may be expended to subsidize reduced premiums for qualified low income persons.

SEN. GRIMES said with the amendment, it doesn't do what he wants it to do, but it does satisfy some of the concerns of the committee.

SEN. O'NEIL said he was against the bill because it is on the road to socialized medicine.

SEN. FRANKLIN said she disagrees with **SEN. O'NEIL**.

Vote: Motion that **SD 315 DO PASS AS AMENDED** carried 9-1 with O'Neil voting no.

EXECUTIVE ACTION ON SB 309

Motion: **SEN. FRANKLIN** moved that **SB 309 BE AMENDED EXHIBIT** (phs37a12) sb0309.asf.

Discussion:

SEN. FRANKLIN explained the amendments, saying that **SEN. HALLIGAN** agreed to change the time to 24 hours for ambulatory surgery centers.

Vote: Motion that **SB 309 BE AMENDED** carried 9-0.

Motion: **SEN. FRANKLIN** moved that **SB 309 DO PASS AS AMENDED**.

Discussion:

SEN. FRANKLIN said she believes 24 hours is reasonable. She said that anything we do should be patient centered not institution centered.

SEN. CHRISTIAENS asked what is in current law for the ambulatory surgery centers. **Mr. Davis** said currently there is no law, there is only policy that says you cannot go beyond 24 hours.

Vote: Motion that **SB 309 DO PASS AS AMENDED** carried 6-3 with **Hargrove, Johnson, and O'Neil** voting no. **SEN. GRIMES** voted by proxy.

SEN. GRIMES said he has taken SB 221 - Certificate of Need - to heart. He said we need to leave it in place for the developmentally disabled folks and the long term facilities. He said he would vote for the bill if the only thing it does is eliminate CON for home health and ambulatory care.

ADJOURNMENT

Adjournment: 5:50 P.M.

SEN. AL BISHOP, Chairman

JEANNE FORRESTER, Secretary

AB/JF

EXHIBIT (phs37aad)