

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON HUMAN SERVICES**

**Call to Order:** By **CHAIRMAN BILL THOMAS**, on March 24, 2003 at  
3:00 P.M., in Room 172 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Bill Thomas, Chairman (R)  
Rep. Arlene Becker, Vice Chairman (D)  
Rep. Mark Noennig, Vice Chairman (R)  
Rep. Tom Facey (D)  
Rep. Steven Gallus (D)  
Rep. Ray Hawk (R)  
Rep. Daniel S. Hurwitz (R)  
Rep. Larry Jent (D)  
Rep. Penny Morgan (R)  
Rep. Holly Raser (D)  
Rep. Don Roberts (R)  
Rep. Ron Stoker (R)  
Rep. Jonathan Windy Boy (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** CJ Johnson, Committee Secretary  
Susan Fox, Legislative Branch

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

**Committee Business Summary:**

Hearing & Date Posted: SB 347, SB 348, 3/21/2003  
Executive Action: SB 105, SB 113

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 9.4}*

EXECUTIVE ACTION ON SB 105

Motion: REP. MORGAN moved that SB 105 BE CONCURRED IN.

Motion: REP. NOENNIG moved that SB 105 BE AMENDED (SB010501).

**EXHIBIT** (huh62a01)

Discussion:

Susan Fox, Legislative Services, explained the amendment.

Vote: Motion carried unanimously.

Motion/Vote: REP. MORGAN moved that SB 105 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

SB 105 was moved to the consent calendar without objection.

REP. ROBERTS will carry the bill.

EXECUTIVE ACTION ON SB 113

Motion: REP. MORGAN moved that SB 113 BE CONCURRED IN.

Motion: REP. BECKER moved that SB 113 BE AMENDED (SB011301.asb).

**EXHIBIT** (huh62a02)

Discussion:

Susan Fox, Legislative Services, explained the amendments.

Mary Dalton further explained the language in the amendments.

Vote: Motion carried unanimously.

Motion/Vote: REP. FACEY moved that SB 113 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

SB 105 was moved to the consent calendar without objection.

REP. BECKER will carry the bill.

*{Tape: 1; Side: A; Approx. Time Counter: 9.4 - 15.9}*

**HEARING ON SB 348**

**Sponsor: SEN. BOB KEENAN, SD 38**

**Opening Statement by Sponsor:**

**SEN KEENAN** explained that SB 348 comes at the request of the DPHHS, specifically the Addictive and Mental Disabilities Division (AMDD), and is a bill which is included in HB 2. It would provide an alternative to commitments to Montana State hospital (MSH). **SEN. KEENAN** deferred to **Dan Anderson, Administrator of Addictive and Mental Disabilities Division**, for further explanation.

**Proponents' Testimony:**

**Mr. Anderson** told the Committee that HB 348 is an attempt to meet the obligation to provide community-based services whenever possible and to reserve the use of State institutional resources only when a psychiatric patient cannot be appropriately served in the community. The bill authorizes alternative treatment whenever possible for nonforensic individuals with serious mental illness who require involuntary treatment.

**Mr. Anderson** explained that the bill does three things: 1) It defines a new type of facility called a "Behavioral Inpatient Facility" (BIF); 2) It allows the Department to set standards for BIFs, including location and size. It provides a preference to using BIFs rather than the State hospital. This means that upon involuntary commitment, if a BIF bed is available, the individual will go to the BIF first; 3) It provides the authority to transfer the person needing longer-term or more specialized care to MSH.

BIF's must be equipped to deal with acutely mentally ill individuals. A BIF can be part of a psychiatric ward in a hospital or a free-standing facility. Either way, it is a small facility, having 16 beds or less.

**Mr. Anderson** said that HB 2 now includes funding for one BIF. If it proves to be successful, the Department will come back to the next legislature seeking funding to create more facilities. Demographic studies reveal rapid acceleration of the seriously mentally ill population, which will soon require either expansion of MHS or the use of more creative alternatives such as BIFs.

*{Tape: 1; Side: A; Approx. Time Counter: 15.9 - 26.5}*

**Ed Amberg, Director of Montana State hospital (MSH), Warm Springs**, expressed his opinion that consumers should be treated closer to home whenever possible. He stated that this bill represents the next logical step and is the right thing to do.

**Dr. Donald Harr, Montana Psychiatric Association, Montana Medical Association, Billings**, remarked that his organizations are very much in favor of this approach and that it is in the best interest of patients.

**Anita Roessmann, Montana Advocacy Program**, spoke in favor of the bill. She commented that treatment in the least restrictive environment possible is a positive thing, as well as a money-saving approach.

**Al Davis, Montana Mental Health Association (MMHA)**, urged the Committee's support.

**Mike McLaughlin, Executive Director of Golden Triangle Community Mental Health Center, Montana Council of Community Mental Health Centers**, commented that the "BIF Bill" is progressive and expressed his support.

**Jani McCall, Deaconess Billings Clinic**, stood in strong support of HB 348. She pointed out that consumers being treated closer to family and friends avoid the confusion and intimidation of being transferred to the state institution. In addition, transition back into the community is easier for these individuals.

*{Tape: 1; Side: A; Approx. Time Counter: 26.5 - 30.6}*

**Chris Christiaens, Montana Licensed Social Workers, Montana Chapter of National Association of Social Workers**, rose in support of the bill. He stressed that full funding is crucial to the success of this program.

**Carol Brooker, MACo**, urged the Committee to support this bill.

**Gene Haire, Executive Director of the Mental Disabilities Board of Visitors**, stated his support for this bill.

**Bonnie Adee, Mental Health Ombudsman**, commented that, while she supports the bill, she has questions pertaining to the details. She remarked that beginning with one BIF in the state will surely help to work out many of these details over the next two years.

**Jeff Folsom, AWARE, Inc.,** rose in support of HB 348.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. STOKER** asked **SEN. KEENAN** how a BIF can be funded through HB 2 when it is not yet a reality. Referencing the fiscal note, **SEN KEENAN** replied that the BIF will be funded out of existing appropriations.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 14.6}*

**REP. BECKER** discussed with **Mr. Anderson** the provision for detention of a mentally ill person, detailed in Section 4, Page 5 of the bill. The bill will not change the financial responsibility for the county or the state, but would save the expense of patient transportation to MSH.

**REP. NOENNIG** asked where the first BIF will be located and whether it will be in a hospital or free-standing. **Mr. Anderson** replied that location is still to be decided; however, interest has been expressed by Billings (as part of Deaconess Medical Center) and Bozeman (as a free-standing facility). Any BIF must meet hospital licensing standards.

**REP. NOENNIG** queried Mr. Anderson regarding language on Page 8, Lines 14-16 of the bill. Mr. Anderson explained that BIFs are for short-term stays; if a patient needs a long-term commitment (over six months), the State hospital is the appropriate placement.

**REP. HURWITZ** asked Mr. Anderson if the Eastmont facility could be used as a BIF. **Mr. Anderson** replied that it has been considered; however, distance is a factor. Nevertheless, any community in Montana is invited to submit a proposal.

**REP. MORGAN** asked **SEN. KEENAN** how much the start-up costs will be and what was the line-item amount budgeted in HB 2 for this. At **SEN. KENNAN'S** request, **Mr. Anderson** answered that \$2.3 million has been allocated to be rearranged from other programs. It is not new money added to the budget, but a different use of money in the mental health budget. The provider will be responsible for start-up costs. In nearly all cases, Medicaid does not pay for patients at MHS; however, there will be federal reimbursement in the smaller facilities.

**REP. FACEY** asked why this program proposal has been reduced from three BIFs to only one BIF. **Mr. Anderson** explained the planning phases developed for this program.

**Closing by Sponsor:**

**SEN. KENNAN** closed on SB 348.

**HEARING ON SB 347**

*{Tape: 1; Side: B; Approx. Time Counter: 14.6 - 27.5}*

**Sponsor:** **SEN. BOB KEENAN, SD 38**

**Opening Statement by Sponsor:**

**SEN. KEENAN** said that this bill is being brought because of a "broken mental health system." There is a need to revise laws relating to the state's mental health services.

**SEN. KEENAN** gave a brief history of the mental health system, stating that in 1954, there were 2000 in MSH; in 1974, there were 700. At present, there are approximately 180. The federal government started a move toward deinstitutionalization about 1962. Our existing statutes in Part 2 of 53-21 of the "Montana Code Annotated" are about 28 years old, and are absolutely dysfunctional. **SEN. KENNAN** referenced a packet which he handed out to the Committee.

**EXHIBIT (huh62a03)**

**EXHIBIT (huh62a04)**

**EXHIBIT (huh62a05)**

**EXHIBIT (huh62a06)**

In 1995, a plan was designed for a \$400 million, five-year private managed care contract. The contract went into effect in 1997 with Magellan. Through a lack of contract compliance and a lack of enforcement, services were insufficient. Eventually the state went to a fee-for-services plan, which was a poor management tool. During the 1999 session, **SEN. KENNAN** reported, he became involved in a study with the goal of designing a mental health system which would work (HJR 35 Committee). A contract was made a with Technical Assistance Collaborative, Inc. (TAC).

**SEN. KEENAN** said that the system as it is has no credibility. Cost containment, lack of management, and lack of trust are all major problems.

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 19.4}***

**SEN. KEENAN** walked the Committee through the statutes in "Montana Code Annotated 2001" (Exhibit 3). He expressed his conviction that these statutes, being 28 years old, are archaic, and no longer make sense. This is a section of law which needs urgent attention. He proposed to the Committee that SB 347 is the solution to many of the problems. It is the responsibility of the legislature to lead and to develop a foundation for a mental health system which works.

***{Tape: 2; Side: A; Approx. Time Counter: 19.4 - 28.5}***

**Proponents' Testimony:**

**Dan Anderson, DPHHS**, reported that the three prime directives in the mental health system are to: 1) meet the needs of low-income people with serious mental health needs; 2) serve individuals in the least restrictive environment; and 3) manage the program within appropriated levels.

**Mr. Anderson** commended the providers, reported on the success of shifting from institutional services to community-based services, and acknowledged the greatest challenge of paying for a successful system. DPHHS is trying to develop a grass-roots based service system instead of a large managed care contract approach. There have been 39 cuts in provider rates, eligibility, and services in the past year.

SB 347 directs DPHHS to establish Service Area Authorities (SAAs), delegating certain mental health program management duties to the SAAs over a four-year transition period.

**Mr. Anderson** said that he has given some proposed amendments to SEN. KEENAN, and his hope is that in the end there will be a bill which the entire mental health system can stand behind.

***{Tape: 2; Side: B; Approx. Time Counter: 0 - 17.3}***

**Joan L. McFadden, Great Falls Mental Health Advisory Council**, said that she supports this bill, yet urged the Committee to not repeal 53-21-204 in haste.

**Jeff Folsom, AWARE, Inc.**, rose in support of SB 347, saying that it provides choice.

**EXHIBIT (huh62a07)**

**Anita Roessmann, Montana Advocacy Program**, distributed her written testimony to the Committee, saying that SB 347 is an essential blueprint for mental health services in Montana.

**EXHIBIT (huh62a08)**

**Donna Zook, Private Practitioner, Licensed Psychologist in Great Falls, Chair of the Legislative Committee for the Montana Psychological Association (MPA)**, spoke in support of SB 347. She distributed four "friendly amendments" to the Committee.

**EXHIBIT (huh62a09)**

**Jani McCall, Montana Children's Initiative**, urged the Committee to pay close attention to Page 5, Section 7, which provides protection to community mental health centers.

**Bonnie Adee, Mental Health Ombudsman**, spoke in favor of the bill and distributed her written testimony.

**EXHIBIT (huh62a10)**

*{Tape: 2; Side: B; Approx. Time Counter: 17.3 - 25.9}*

**Gene Haire, Executive Director of the Mental Disabilities Board of Visitors**, stated that the Board supports the bill with some reservations concerning Section 13, which involves the repeal of Parts 201 and 204.

**William McCausland, Central Service Area Authority and NAMI**, expressed support for the bill, asking that consumers, family members, and Native Americans be represented on the task force.

**Aart Dolman, Citizen from Great Falls**, stated that he is in favor of SB 347, creating the Service Area Authority. He did, however, express concerns which were outlined on his written testimony to the Committee.

**EXHIBIT (huh62a11)**

**Al Davis, Montana Mental Health Association (MMHA)**, rose in support of SB 347. He expressed concern about funding, the internal conflict which needs to be resolved, and the reality that one in five citizens in Montana are mentally ill.

**Chris Christiaens, Montana Chapter of National Association of Social Workers**, stated that the fee-for-service program will

never provide enough money to support the needed services. He expressed support for SB 347.

**Mike Barrett, Citizen**, spoke to the issue.

*{Tape: 2; Side: B; Approx. Time Counter: 25.9 - 30}*

*{Tape: 3; Side: A; Approx. Time Counter: 0 - 14.5}*

**Opponents' Testimony:**

**Mike McLaughlin, Executive Director of Golden Triangle Community Mental Health Center, Montana Council of Community Mental Health Centers**, provided his written testimony and spoke in opposition to the bill because of the proposed repeal of 53-21-204.

**EXHIBIT** (huh62a12)

**Jay Bell, Yellowstone County Undersheriff, Montana Sheriffs' and Peace Officers' Association**, read his written testimony.

**EXHIBIT** (huh62a13)

*{Tape: 3; Side: A; Approx. Time Counter: 14.5 - 30}*

**Kathy McGowen, Executive Director of Montana Council of Community Mental Health Centers**, distributed MCCMHC newsletters to the Committee, and expressed her concerns about the bill limiting rather than expanding consumer choice.

**EXHIBIT** (huh62a14)

**Carol Brooker, President of MACo, Sanders County Commissioner, Vice Chair of Northwestern Regional Mental Center Board of Directors**, expressed her concerns regarding mentally ill individuals who are incarcerated, and provided her written testimony to the Committee.

**EXHIBIT** (huh62a15)

**Carl Seilstad, Fergus County Commissioner, Governing Board Member of Southcentral Mental Health Center in Billings, Advisory Board Member of Mental Health Center in Lewistown, Fergus County**, offered his written testimony and stood in opposition to SB 347.

**EXHIBIT** (huh62a16)

**Art Kleinjan, Blaine County Commissioner, Chairman of Golden Triangle Community Mental Health Board**, commended those working in the mental health system, thanked SEN. KEENAN for his hard work, and stood in opposition to SB 347.

**Gordon Morris, MACo**, challenged the repeal of current statute, and opposed SB 347.

**Doug Kaercher, MACo, Vice Chair of Golden Triangle Mental Health Center**, rose in opposition to SB 347.

**Mike Murray, Lewis and Clark County Commissioner**, stood in opposition to the bill.

**Earl Martin, Western Montana Mental Health Board**, opposed the bill.

*{Tape: 3; Side: B; Approx. Time Counter: 0 - 6.3}*

**Willie Duffield, Eastern Montana Mental Health Center**, passed out a letter from the Eastern Montana Community Mental Health Center.

**EXHIBIT (huh62a17)**

**Elaine Mann, Broadwater County Commissioner**, spoke to the financial hardship this bill would potentially bring to her county.

**Bob Ross, Director of Southcentral Mental Health Center in Billings**, rose in strong opposition to this bill. He cautioned the Committee to not dismantle our present system hastily.

**Informational Testimony:**

**Dr. Donald Harr, Billings, Montana Psychiatric Association, Montana Medical Association**, urged the Committee to exercise a very careful approach as far as patient care is concerned.

**Mona Jamison, Gallatin County**, stated support for the SAAs, but related that some Gallatin County citizens are asking for clarification pertaining to Section 2, Line 10 and Section 3, Line 5e. She urged the Committee to not move too fast, but to take care that children and adults receive the services they need.

**{Tape: 3; Side: B; Approx. Time Counter: 6.3 - 17.7}**

**Questions from Committee Members and Responses:**

**REP. NOENNIG** asked if the repeal of 53-21-204 actually dismantles community mental health centers. He stated that he has been hearing witnesses testify that this bill would eliminate community mental health centers, something which is confusing to him. **Mr. McLaughlin** responded by reading portions of 53-21-204 (Exhibit 3), explaining that some changes in the language are necessary. Mr. McLaughlin stated that, in the creation of SAAS, it is very important that 53-21-204 be amended in order to reflect the function of community mental health centers as providers, not as SAAS.

**{Tape: 3; Side: B; Approx. Time Counter: 17.7 - 23.7}**

**REP. WINDY BOY**, asked **Jay Bell** about the procedure for dealing with individuals involved in methamphetamine use. He expressed concern about those individuals who fall through the cracks who are needing help.

**{Tape: 3; Side: B; Approx. Time Counter: 23.7 - 30}**

**REP. GALLUS**, addressing his comments to Jeff Folsom, asked whether he sees this bill as fixing something that is broken or improving something we already have. Further, he asked if it is fixing something broken, what he sees as broken. **Mr. Folsom** answered that it is a mixture of both; we have a system in place but not all systems work together well. Whether scarcity of revenue or need for greater community involvement, there is a need to get input regarding services from consumers.

**REP. GALLUS** asked SEN. KEENAN which proposed amendments were helpful to the bill.

**SEN. KEENAN** replied that he will make himself available to work through these kinds of details in executive action on this bill. He stated that he found no unfriendly amendments, but that several of them were redundant.

**EXHIBIT (huh62a18)**

**{Tape: 4; Side: A; Approx. Time Counter: 0 - 11.2}**

**REP. FACEY** asked **Mr. Anderson** who the "gatekeeper" is now for Medicaid-eligible or Medicaid-ineligible and involuntary versus voluntary commitments for the state. **Mr. Anderson** stated that

the current system does not have a single point of entry. Patients may enter the system through any variety of service providers around the state. Many enter through MSH, which is the point of entry he would like to see eliminated. Under the proposed changes, for the non-Medicaid adult, the point of entry would be the community mental health program. For the non-Medicaid patient, it is wide open. If SB 347 were to pass and the SAA system brought to maturity, which is projected for July 2008, then the point of entry would be the SAA.

**REP. FACEY** asked Mr. Anderson if provider rates and the scope of services have been drastically cut in recent years. **Mr. Anderson** answered in the affirmative.

**REP. ROBERTS**, addressing Ms. McGowan, asked her what she was most uncomfortable with in regard to this bill. **Ms. McGowan** expressed her opinion that there has not been sufficient opportunity for all of those involved to air their respective concerns. She would like to see an impartial group of people, including law enforcement, county commissioners, and mental health workers who could confer and come forth to the next legislature with revisions on those parts of the statute which are now being repealed.

**REP. WINDY BOY**, asked SEN. KEENAN how SEN. COBB's SB 160 will coordinate with SB 347.

**SEN. KEENAN** replied that his concern is that SEN. COBB's bill generally is another chore that the bureaucracy has to accomplish, rather than taking care of the task at hand.

*{Tape: 4; Side: A; Approx. Time Counter: 11.2 - 19}*

**Closing by Sponsor:**

**SEN. KEENAN**, referring to the time line handout (Exhibit 4), said that it is a key piece. He called attention to the blue bill, Page 13, Section 12, which answers questions which were raised by several opponents. **SEN. KEENAN** declared that he has no interest in dismantling the community mental health centers. There seemed to be a lot of confusion expressed on this point. Addressing concerns that this is hasty, he recounted four years of meetings and a mandate to rebuild this system. He expressed conviction that the legislature must establish the foundation.

*{Tape: 4; Side: A; Approx. Time Counter: 19 - 25}*

**CHAIRMAN THOMAS** announced that he is appointing a subcommittee. Representatives asked to serve on this subcommittee are: REP. NOENNIG (will chair the subcommittee), REP. ROBERTS, REP. FACEY, and REP. GALLUS. **CHAIRMAN THOMAS** also asked for a representative from the county commissioners, a representative from law enforcement, Dan Anderson of DPHHS, Jeff Folsom of AWARE, Inc., and Mona Jamison to serve on the subcommittee.

An objection was raised by **REP. NOENNIG** that a subcommittee must be comprised of legislators. **CHAIRMAN THOMAS** explained that the representatives will be the voting members, but as the others are the stakeholders, their input is vital.

An objection was raised by an unidentified person that both REP GALLUS and Jeff Folsom are involved with AWARE, Inc., constituting a conflict of interest. **REP. GALLUS** spoke to the issue, stating that he was offended by that, and will serve on the subcommittee representing his constituents in HD 35, not as a emissary of AWARE, Inc.

**CHAIRMAN THOMAS** emphasized that the paramount focus of this subcommittee must be the patients and their needs. He thanked everyone for their participation.

ADJOURNMENT

Adjournment: 6:45 P.M.

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REP. BILL THOMAS, Chairman

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CJ JOHNSON, Secretary

BT/CJ

***EXHIBIT (huh62aad)***