MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN ARLENE BECKER**, on February 4, 2005 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:
Rep. Arlene Becker, Chairman (D)
Rep. Tom Facey, Vice Chairman (D)
Rep. Don Roberts, Vice Chairman (R)
Rep. Mary Caferro (D)
Rep. Emelie Eaton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. William J. Jones (R)
Rep. Dave McAlpin (D)
Rep. Tom McGillvray (R)
Rep. Mike Milburn (R)
Rep. Art Noonan (D)
Rep. Ron Stoker (R)
Rep. Bill Warden (R)
Rep. Jonathan Windy Boy (D)

Members Excused: Rep. Pat Wagman (R)

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Mary Gay Wells, Committee Secretary

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

Committee Business Summary:
Hearing & Date Posted: HB 452, 1/31/2005
HB 462, 1/31/2005
Executive Action: HB 64, Do Pass As Amended
HB 117, Tabled
HB 294, Tabled

HEARING ON HB 452

Sponsor: **REP. JONATHAN WINDY BOY, HD 32, BOX ELDER**

Opening Statement by Sponsor:

REP. JONATHAN WINDY BOY opened the hearing on **HB 452.** The bill implements the recommendations of the Medicaid Redesign concerning health programs for Indians. He first gave a short background of HB 452. The state had returned $5.4 million to the Federal Government under CHIP because Montana could not come up with a match. CHIP is funded by 70% of federal dollars and 30% of state dollars. Through Medicaid, $18 million federal dollars come to the state. Of that amount, 100% is a pass through. Many Indians live off the reservation and those people cannot receive services because of how the funding is mandated. This bill would have DPHHS and Indian Health Service (IHS) work together to identify which program would best fit the individual whether it be tribal or non-tribal. Identifying individuals who could be eligible under Medicaid would free up more money in CHIP which would in turn, enable more children to come under this program.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 8.8}

Proponents' Testimony:

John Chappius, Deputy Director, DPHHS, explained there was a redesign committee and a tribal subcommittee. About 27% of Medicaid recipients are native American. The bill would protect both IHS and tribal health care from cost shifts that would relate to DPHHS changing the Medicaid state plan. Under federal law, that pass through money goes to tribal facilities or IHS. If DPHHS changes the Medicaid state plan, which they did in 2002-2003, that affects the tribes' ability to tap those funds. That was an unintended consequence. Prescriptions and the availability of prescription drugs on reservations was another issue. DPHHS would like to extend the 100% pass through money to CHIP. That would enhance health care on the reservation. He mentioned that there would be an amendment coming from the sponsor.
{Tape: 1; Side: A; Approx. Time Counter: 8.8 - 13.4}

Harris Himes, Montana Family Coalition, stood in support of HB 452.

Alex Ward, Associate State Director, AARP, Montana, supported the intent of HB 452.
{Tape: 1; Side: A; Approx. Time Counter: 13.4 - 14.2}

John Johnson, Self Governance Coordinator and Health Planner, Rocky Boy, Chippewa-Cree Tribe, discussed some of the provisions in HB 452 which advance the health status of the American Indian. He welcomed the partnership of DPHHS and IHS to implement CHIP and the increased participation of Indian children. A very important part of the bill was for DPHHS to work with Indian tribes to improve the provision of Medicaid services to Indians through the application process.
{Tape: 1; Side: A; Approx. Time Counter: 14.2 - 19.2}

Nadine Sullivan, Representing the Fort Belknap Assiniboine and Gros Venture Tribes, stood in support of HB 452. They had experienced a shortfall in the contract health service budget for many years. Subsequently, there are not enough funds to cover the health care needs of all their patients. Due to the mandatory medical priority rating system, many patient referrals do not meet the emergency criteria for corrective care. The medical conditions of these patients then turns into terminal illness that requires long-term, high-cost treatment. She urged support for the bill.
{Tape: 1; Side: A; Approx. Time Counter: 19.2 - 20.9}

Judy Edwards, Executive Director, Montana Consensus Council (MCC), informed the committee that MCC conducted the Medicaid Redesign efforts. She urged the passage of HB 452. The bill represents the work of the task force of tribal members and the IHS who diligently reviewed the suggestions of DPHHS. Sections 1, 2 and 4 speak directly to the issue of federal trust responsibility to provide health care to eligible American Indians. The Federal Department of Health and Human Services has repeatedly acknowledged this obligation as well as the Supreme Court. She further explained the provisions of the bill.
{Tape: 1; Side: A; Approx. Time Counter: 20.9 - 24.9}

Garfield Little Light, Member, Redesign Committee, said that the word "redesign" was taken literally. The Medicaid program contained complexities in relationship to the native American population. This was a tremendous opportunity for them to bring awareness of some of the barriers and obstacles that did not allow native Americans to access the Medicaid program. The bill allows for a continued dialogue. These obstacles are not isolated to Indians but affect other minorities as well.
{Tape: 1; Side: A; Approx. Time Counter: 24.9 - 29.1}

Rose Hughes, Executive Director, Montana Health Care Association, said that she had been on the Medicaid Redesign. She was happy to see that the recommendations of the committee had come forward. She was very supportive of HB 452.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 1.4}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. WILLIAM JONES asked for the definition of "pass through." **Mr. Chappius** first spoke of Title 19 which is Medicaid federal money coming into the state. There are two types. One is matched approximately 70% federal and 30% state. There is a special provision which is a pass through; meaning, it is not matched. It is 100% federal money. It has the same provisions as the matched money.
{Tape: 1; Side: B; Approx. Time Counter: 1.4 - 2.8}

CHAIRMAN ARLENE BECKER inquired about how eligibility was determined and if there was a difference between general Medicaid recipients and American Indian recipients. **Mr. Chappius** said, "No, in terms of eligibility for individuals." There are certain categories of eligibility; i.e., children, under 100% of poverty, ages 7-18 are eligible; infants to six years old at 133% of poverty are eligible; the disabled and senior citizens over 65 years; etc. Those standards apply to the entire population. What is different is access to care, how the care is given and pass through money. That is a funding priority rather than some other demographic characteristic.
{Tape: 1; Side: B; Approx. Time Counter: 2.8 - 5.5}

REP. TOM FACEY asked if Medicaid Redesign was comprehensive or just a portion of Medicaid. **Mr. Chappius** stated that, in terms of Medicaid, it is a dynamic program which goes through changes constantly. This overall study of Medicaid had not been done in the last twenty-five years. It was done at this time in light of the reductions in 2002 and 2003.
{Tape: 1; Side: B; Approx. Time Counter: 5.5 - 7}

Closing by Sponsor:

REP. WINDY BOY brought forth his amendments. He thanked the committee for a good hearing.
EXHIBIT(huh28a01)

HEARING ON HB 462

Sponsor: **REP. ROSALIE BUZZAS, HD 93, MISSOULA**

Opening Statement by Sponsor:

REP. ROSALIE (ROSIE) BUZZAS opened the hearing on **HB 462.** This bill would appropriate funds to DPHHS to establish and manage a school readiness program that would provide coordination, training and grants to childcare providers, families, care givers, and early childhood educators around the state. Those in the program would help to make certain every child would enter kindergarten ready to learn and be successful. The fiscal note allocates $350,000 per year over the next biennium and would be spent in the following manner. Ninety-five percent or $333,362 would be paid to teachers for training incentives and employment retention stipends. Five percent or $16,638 would be used for staff and operating expenses in administering the program.
{Tape: 1; Side: B; Approx. Time Counter: 7 - 11.7}

Proponents' Testimony:

Janet Bush, Director, Montana Childcare Resource Center Referral Network, the Montana Association for the Education of Young Children, and the Montana Head Start Association, encouraged the passage of this bill so that the $700,000 would implement a statewide childcare training initiative that would focus on the needs of three and four years old. Parents want to put their children in childcare centers with a focus on education. Care givers would be trained in the skill areas that these children need. In Montana there are over 3,600 care givers as well as the legally unlicensed providers who work with kids of all ages. Three and four year olds make up about 26 percent of the kids in the state-paid childcare programs. Montana has not addressed Pre-K formally in an effort to make children ready for kindergarten. Guidelines have already been prepared and there is a curriculum. She handed out the Survey on the Workforce at Childcare Centers. She handed out an agenda from Montana Advocates for Children and a paper on the Montana Early Childhood School-Readiness Initiative.
EXHIBIT(huh28a02)
EXHIBIT(huh28a03)
EXHIBIT(huh28a04)
{Tape: 1; Side: B; Approx. Time Counter: 11.7 - 17.5}

Libby Hancock, Director, Montana's Early Care and Education Career Development Program, MSU, stood in support of HB 426 and submitted her written testimony.
EXHIBIT(huh28a05)
{Tape: 1; Side: B; Approx. Time Counter: 17.5 - 24.8}

Darrel Rud, Executive Director, School Administrators of Montana, stood in support of HB 462 and said it was an integral part of the association's platform in advocating for children to have quality preschool programs. There would be a higher likelihood of success as they enter school. He urged support for the bill.
{Tape: 1; Side: B; Approx. Time Counter: 24.8 - 26.3}

Mary Bolick, Director, Associated Students of Montana State University Daycare at MSU. She read the testimony of Kerry Williams of Bozeman who facilitated the creation of Montana's Early Learning Guidelines.
EXHIBIT(huh28a06)
{Tape: 1; Side: B; Approx. Time Counter: 26.3 - 32}

Christy Hill-Larson, Early Care and Education, concurred with the above witnesses. She urged passage of HB 462.
{Tape: 2; Side: A; Approx. Time Counter: 0 - 2.3}

Mary Ann George, President, Helena Childcare Organization, said the money being requested in HB 462 would put tools and knowledge into the hands of the people who educate and care for the children at the most critical time of their lives--birth to five years. This would be an investment in something you cannot see, but the investment would bring good results. She concurred with the prior witnesses. DPHHS has raised the standard of professionalism in the early care and education field. Programs like provider grants, merit pay, stipends, and scholarships are some of the many programs in place to encourage and reward early childhood professionals to continue their education and in turn make a commitment to early childhood care.
{Tape: 2; Side: A; Approx. Time Counter: 2.3 - 8.5}

Steve Yeakel, Montana Advocates for Children, gave committee members the Montana's Early Learning Guidelines, 2004. His wife did not have the opportunity to stay at home with their children at the beginning of their lives. They had good childcare givers and this bill provides an opportunity for more parents to have confidence in the care their children receive. He asked the committee to pass the bill because he was sure there would be money somewhere for this program.
{Tape: 2; Side: A; Approx. Time Counter: 8.5 - 11.4}
EXHIBIT(huh28a07)

Arlee Anderson, Representing Herself, was supportive of HB 462. Children learn quickly and they need care givers who are educated themselves and know what and how to teach three and four year olds.
{Tape: 2; Side: A; Approx. Time Counter: 11.4 - 13.9}

Terry Minow, Montana Education Association/Montana Federation of Teachers, rose in strong support of HB 462. The bill made good, common sense. High quality, early childhood education is one of the most effective and cost-effective ways to positively impact a child's ability to learn and be a success in school.
{Tape: 2; Side: A; Approx. Time Counter: 13.9 - 14.9}

Opponents' Testimony: None

Informational Testimony:

Hank Hudson, DPHHS, said that he was available for any questions.

Questions from Committee Members and Responses:

REP. JONATHAN WINDY BOY inquired if there was a connection between Head Start and HB 462. **Ms. Hill-Larson** said that Head Start had an unfunded mandate to have all their teachers have an AA degree and 50% of them to have a BA degree. Combining resources would further both Head Start and the childcare training.
{Tape: 2; Side: A; Approx. Time Counter: 14.9 - 17.1}

REP. ART NOONAN wanted HB 462 to cover children starting with newborns. He asked if the bill only covered three- and four-year olds. **REP. BUZZAS** replied that the bill targets three- and four-year olds. She was not prepared to address younger children.

REP. EMELIE EATON asked if this bill came about because of the No Child Left Behind (NCLB) program. **Ms. Bush** replied that it was her understanding the state was required to draft early learning guidelines to meet the requirements of NCLB.

REP. EATON inquired if there was other funding from another source. **Ms. Bush** replied, "No."

REP. EATON asked if this program would be mandatory for all children. **REP. BUZZAS** replied, "No." She explained that it would be a grant process for the childcare provider for which they would apply.

REP. EATON wondered if this would be available for parents who home school. **Linda Fillinger, Bureau Chief, Early Childhood Services Bureau, DPHHS,** explained that this program would provide incentive payments for childcare givers who were receiving education and training to improve their skills with young children. It would be on a competitive basis. There would not be enough money to serve everyone and would not be mandated for anyone.

REP. EATON asked how this would impact those parents who choose to home school. **Ms. Fillinger** did not really have an answer for that question. Currently, they work with earmarked funds for infants and toddlers. A portion of their childcare and development block grant funds come from the federal DPHHS. Four percent of these funds are set aside to improve the quality of childcare. Additionally, there are earmarked programs for serving infants and toddlers and others are earmarked for resource and referral programs. Typically, home schooling does not fall within this scope. Parents who care for their own children are not whom they serve. They serve care givers in childcare settings or in Head Start programs.

REP. EATON inquired if this program actively excludes home schoolers. **Ms. Fillinger** did not know how home schoolers would fit into the program.
{Tape: 2; Side: A; Approx. Time Counter: 17.1 - 25.3}

REP. TOM FACEY asked how the grants, stipends, etc., would be given out. **Ms. Bush** replied that the program is being modeled on the infant and toddler program which gives incentives depending on the length of the training. Currently, $300 is given for 50 hours of training; $400 for 60 hours; $750 for six credits if they are enrolled in a early-childhood degree program. The money is paid in stages of six months, twelve months and eighteen months. One would not get the full amount unless they stayed in their job for eighteen months.

REP. FACEY wondered if they could go to a workshop given in the community and would the workshops be open to family members, teachers and teachers' aides. **Ms. Bush** replied it was correct that workshops are open to anyone.
{Tape: 2; Side: A; Approx. Time Counter: 25.3 - 27.6}

REP. RON STOKER inquired how many childcare centers are licensed in Montana. **Ms. DeCunzo** said there are approximately 1,200 registered or licensed childcare facilities. There are family homes, family group homes and childcare centers. Family and family group homes are registered.

REP. STOKER asked what the medium salaries are for these licensed childcare providers. **Ms. DeCunzo** believed that answer could be found in the handout (Exhibit 2).

REP. STOKER inquired about the projected salary for the person coordinating the program. **REP. BUZZAS** said the salary is listed at $8,378.
{Tape: 2; Side: A; Approx. Time Counter: 27.6 - 30.8}

REP. BILL WARDEN wondered if the intent of the bill was to make it overly broad and cover childcare providers, whomever they may be. **REP. BUZZAS** felt the bill was fairly specific. It was aimed at people who provide childcare for children.
{Tape: 2; Side: A; Approx. Time Counter: 30.8 - 32.4}

REP. TOM MILBURN thought the handouts were addressing what children need from their families. He wondered what the connection was with childcare providers. **REP. BUZZAS** pointed out that social skills, as well as mental skills, are necessary.
{Tape: 2; Side: B; Approx. Time Counter: 0 - 2}

REP. MILBURN asked exactly what would be taught to childcare providers. **REP. BUZZAS** did not have the curriculum; broadly, they are being made aware of how children learn, etc.

REP. TOM FACEY inquired about the training that would be given in the workshops. **Ms. Hancock** explained there is a system of training and education in Montana for early childhood caregivers, educators and families. The curriculum is well-developed and has been fully implemented since 1998 from the Early Childhood Project.
{Tape: 2; Side: B; Approx. Time Counter: 2 - 5.5}

REP. JONATHAN WINDY BOY asked if the requirements upon Montana from NCLB were an unfunded mandate. **Ms. Bush** replied that NCLB required Montana to develop early learning guidelines and that was funded. Montana now has the opportunity to use these guidelines to train the folks who are childcare providers. That was not mandated by NCLB.

REP. WINDY BOY wondered if $8,378 was a correct figure in the fiscal note. **REP. BUZZAS** responded that is the correct figure and is for the staff support position to coordinate and administer the program. It is an annual figure. **Mr. Hudson** offered additional information. His department calculated the work would be a part of one Full Time Equivalent (FTE). Someone

would have this job and one or more other jobs, allowing them to make a decent wage.
{Tape: 2; Side: B; Approx. Time Counter: 5.5 - 9}

Closing by Sponsor:

The Sponsor closed.
{Tape: 2; Side: B; Approx. Time Counter: 9 - 11.9}

EXECUTIVE ACTION ON HB 64

HB 64 had partial executive action on 2-2-05. The bill had been moved by REP. ROBERTS for a do pass.

An amendment (HB006402.asb) had been moved by REP. FACEY. The amendment was to make the effective date July 1, 2005. The motion had carried unanimously by voice vote 16-0. REP. JONES voted by proxy. The Motion carried unanimously by voice vote, 16-0. REP. JONES voted by proxy.

REP. ROBERTS had moved that HB 64 BE AMENDED (HB006401.asb). After much discussion on this amendment, REP. ROBERTS recommended the committee wait till Ms. Fox had time to draft the official amendment. The committee agreed to take action on February 4, 2005.

Executive action on HB 64 was resumed.

Motion: REP. ROBERTS moved HB 64 BE AMENDED (HB006401.asb, dated February 4, 2005).
EXHIBIT(huh28a08)

Discussion:

Ms. Fox explained Number 5 of the amendment. She had worked with Mr. Pat Melby and Mr. Al Smith. They both agreed with the language as stated in the amendment.

Mr. Melby, Montana Medical Association, explained they deleted language on Lines 28-30 through Subsection (1)(b). The language was redundant with all of Subsection 1. They added new language as shown in the amendment. He gave an example: If a medical malpractice suit had been brought against a doctor of internal medicine who was also a pulmonologist, the expert would also have to have a sub-specialty in pulmonology. However, a doctor of internal medicine can treat many things. The expert would not

have to be a pulmonologist if the subject matter of the lawsuit was unrelated to pulmonology.

Vote: Motion carried unanimously by voice vote 16-0. REP. WAGMAN voted by proxy.

Motion/Vote: REP. ROBERTS moved that HB 64 DO PASS AS AMENDED. Motion carried unanimously by voice vote 16-0. REP. WAGMAN voted by proxy.

EXECUTIVE ACTION ON HB 294

Motion: REP. FACEY moved that HB 294 DO PASS.

Discussion:

REP. FACEY wanted the committee to hear the definition of a community mental health center. He thought there had been conflicting testimony on who would be affected by this bill. He asked Ms. Fox to give the definition.

Ms. Fox commented that in the last session there was a bill that created Service Area Authorities (SAA). The formal definition of community mental health center had been re-defined and moved to a different part of statute. Effective July 1, 2005, community mental health center means a licensed mental health center that provides comprehensive public mental health services in a multi-county region under contract with the Department, counties or one or more SAA's. There are four regional community mental health centers.

REP. FACEY said that in HB 294, he did not want it to impact other private, nonprofit mental health care centers.

Motion/Vote: REP. FACEY moved that HB 294 BE AMENDED (029401.ASB).
EXHIBIT(huh28a09)

Discussion: REP. FACEY explained the amendment. He did not want the bill to sound punitive. He only wanted the bill to help legislators to gain some knowledge in the field of mental health.

Vote: Motion carried unanimously by voice vote 16-0. REP. WAGMAN voted by proxy.
Motion: REP. FACEY moved that HB 294 BE AMENDED (029402.ASB.
EXHIBIT(huh28a10)

Discussion:

REP. FACEY explained that two legislative positions might be difficult to fill. He, therefore, changed the number to one legislator to sit on the board. The "ex officio, nonvoting members" language had been taken out. This would allow the boards to make their own rule as to whether or not the legislative member would have voting privileges.

Vote: **Motion carried 15-1 by voice vote with REP. WINDY BOY voting no. REP. WAGMAN voted aye by proxy.**

Motion: **REP. FACEY moved that HB 294 DO PASS AS AMENDED.**

Discussion:

REP. FACEY informed the committee the bill did not address a rate of pay for the legislator. As he did not expect that person to work for nothing, an amendment would be put on later.

REP. DAVE MCALPIN asked if a legislator had ever requested to sit on a board and was denied that opportunity. He did not see the necessity for the bill. **REP. FACEY** replied that legislators have not asked. Legislators have lost their oversight on accountability and they should take an active part.

REP. STOKER inquired if these four mental health community centers were private, nonprofits and were under contract to the State of Montana. **REP. FACEY** thought that was correct.

REP. ART NOONAN said that he did not sit on the board of AWARE (a mental health center). He only does fund raising for their foundation. He rose in opposition to the bill. He recognized the need for the legislature to have knowledge of this complex issue. The problem is in how the system had developed. In 1960, the Federal Government mandated some mental health centers; that was when the four community mental health centers were started. They were quasi-governmental private entities. When these centers were privatized under Governor Racicot, many new providers showed up that did not have that quasi-governmental position.
{Tape: 2; Side: B; Approx. Time Counter: 11.9 - 32.4. The next tape was started in the middle of his statement.}

With new providers, there were more choices for clients and competition increased. He felt that these new providers should be covered under this bill because this bill re-establishes the governmental involvement with community mental health centers and sets them apart with at least a seemingly better advantage. He

also warned the committee that these boards have a lot of liability and wondered what might happen to a legislator. He could not support the bill.
{Tape: 3; Side: A; Approx. Time Counter: 0 - 3.6}

Ms. Fox appreciated the history of the mental health community. Community mental health centers still have a different status, though not statutorily as they did in the past. DPHHS, through certain rules, treat community mental health centers differently in some ways. SB 294 did tell the Department they had to do a Request For Proposal (RFP) and use the procurement system. Community mental health centers don't really put out an RFP. To some extent, the fiction is still being perpetrated.
{Tape: 3; Side: A; Approx. Time Counter: 3.6 - 5.6}

REP. FACEY appreciated what REP. NOONAN had to say. He reiterated the reasons that he was still in favor of the bill.

REP. ROBERTS wondered if a report to the legislative body would be as effective as having a legislator on a board. **REP. NOONAN** supported any idea that would level the playing field between all mental health centers.

REP. ROBERTS asked if DPHHS had expended monies (as promised) to facilitate both the community centers and the practitioners on a more personal level. **REP. NOONAN** replied that he thought they had tried. Many providers would say, "No, that has not happened." As the agency has become threatened by the private market place, they have attempted to pull the control back into the agency. They have tried, but they have an institutional bias against it.
{Tape: 3; Side: A; Approx. Time Counter: 5.6 - 9.4}

REP. ROBERTS felt that one of the reasons for the restructure was to reduce cost and have this directed to the person on a more personal level. He wondered if that had taken effect. **REP. NOONAN** replied that in the services where people are competing, there have been cost savings. When some providers have an elevated position, it becomes locked down and becomes an entitlement.
{Tape: 3; Side: A; Approx. Time Counter: 9.4 - 10.8}

REP. EMELIE EATON questioned REP. NOONAN on whether HB 294 would hinder the availability of centralized access for mental health. **REP. NOONAN** felt that it might hinder it in the sense that people would be limited in the system. The ideal would be for every community to have a crisis center. Counties should have this

responsibility because crisis intervention at the earliest possible stage would be the most effective.
{Tape: 3; Side: A; Approx. Time Counter: 10.8 - 14.6}

REP. MCALPIN had a philosophical problem with the bill by forcing a center to have a legislator on their board. He could not support the bill.

REP. STOKER reminded the committee that they heard, in another hearing, that secure beds were the biggest issue. He did not believe this bill would do the right thing.
{Tape: 3; Side: A; Approx. Time Counter: 14.6 - 16}

Vote: Motion failed 4-12 by roll call vote with REPS. BECKER, CAFERRO, FACEY, and WINDY BOY voting aye. REP. WAGMAN voted no by proxy.

Motion/Vote: REP. FACEY moved that HB 294 BE TABLED AND THE VOTE REVERSED. Motion carried 12-4 with REPS. BECKER, CAFERRO, FACEY, and WINDY BOY voting no. REP. WAGMAN voted aye by proxy.
{Tape: 3; Side: A; Approx. Time Counter: 16 - 18.2}

EXECUTIVE ACTION ON HB 117

Motion: REP. MCGILLVRAY moved that HB 117 DO PASS.

Discussion:

REP. MIKE MILBURN thought the process addressed in the bill had become standard practice to cheat the system. People can get insurance for long-term care and that would be the right way. He was going to support the bill.

REP. DON ROBERTS asked REP. MCGILLVRAY if he had received any more information in support of HB 117. **REP. MCGILLVRAY** had received more information. He spoke about a website, MedicaidHelp.com. This website helps people cheat the system and get away with it. They advertised that they have helped families save thousands of dollars while qualifying them for public assistance. He learned that the State of Virginia had just passed a similar law but their look back will be six years. Secretary Leavitt, Department of Health and Human Services, has encouraged states to look at these kinds of waivers which would save the Medicaid system $4.5 billion a year. These abuses must be stopped.
{Tape: 3; Side: A; Approx. Time Counter: 18.2 - 23.1}

REP. MARY CAFERRO asked about the eligibility level for senior citizens who apply for Medicaid. **Mr. Hank Hudson, Administrator, Human and Community Services Division**, said the income level is 75% of poverty.

REP. CAFERRO did not believe the bill would be effective. The website advertisements on how to become eligible for Medicaid, while transferring assets, is very sophisticated. She felt that people who know how to get away with it, will do so one way or another.
{Tape: 3; Side: A; Approx. Time Counter: 23.1 - 26.9}

REP. MCGILLVRAY explained that under Section 1, (2) "A period of ineligibility for medical assistance may not be imposed upon an applicant or recipient under this section to the extent that the department determines, in accordance with procedures specified by department rule, that the denial of eligibility would cause an undue hardship as defined by department rule." If someone had transferred assets and the assets are no longer available, that person would have the opportunity to apply for undue hardship. Anyone who needs Medicaid would not be hurt by the bill. This practice is pervasive; it is not complex; it is simple. The argument that people are going to go around it is a fallacious argument. This bill protects the poor in that it saves money for those who need it.
{Tape: 3; Side: A; Approx. Time Counter: 26.9 - 29.1}

REP. TERESA HENRY agreed with the concept of the bill, but felt that it would end up punishing the wrong people.

REP. FACEY asked if a person's home would be counted as an asset. **REP. MCGILLVRAY** replied that if the person is married, that person has the right to keep their home.
{Tape: 3; Side: A; Approx. Time Counter: 29.1 - 32}

REP. FACEY redirected his question to Mr. Hudson. **Mr. Hudson** explained that if a person goes into a nursing home and has a spouse, their house is exempt, no matter what its value. They divide their assets up to about $60,000. If the person is a widow or widower, then a process is used, known as "the lien and estate recovery process." When the person does pass away, the state has the right to file a lien on their estate.
{Tape: 3; Side: B; Approx. Time Counter: 0 - 1.1}

REP. FACEY talked about his father who had passed away last September after a fall. He had long-term care insurance. The average stay in a nursing home is quite short because of the rehabilitation done at these homes. He was concerned that if the

rehabilitation is long, the person might lose assets, etc. They might end up on the street. He was uncomfortable with the bill.

REP. RON STOKER had problems with the three-year look back going to a five-year look back. He did not want Montana to be one of the first states to implement this policy. Montana has such a high percentage of retirees, both coming to the state and those already living in the state. The assets of the 74 people surveyed saved a total of $50,000 each. After the state had just gotten out of a bad reputation with a 13.9% capital gains tax, he did not want to discourage retirees from coming to Montana. He was not going to vote for the bill.
{Tape: 3; Side: B; Approx. Time Counter: 1.1 - 3.5}

REP. BILL WARDEN complimented the sponsor for bring forth such a bill that addresses fairness and doing what's right. He will support the bill.

REP. ART NOONAN informed the committee that he was not in committee when the bill was heard. He asked about the penalty spoken of in the bill. **REP. MCGILLVRAY** said that was no penalty, per se. There is a "penalty period." Currently, if someone transferred $50,000 one year ago and then applied for Medicaid, they would look back, see the transfer and the penalty period would start on the date of the transfer. The $50,000 would be divided by the monthly, long-term care cost. The cost would be $5,000. The penalty period would be ten months. The person would then be immediately eligible for Medicaid. HB 117 would change that penalty period. The penalty period would start at the date of application. The person would then have to pay for ten months of long-term care.

REP. NOONAN inquired about the possibility of long-term care insurance and wondered if the bill would encourage people to get that kind of insurance. **REP. MCGILLVRAY** informed him there is a bill in the Senate addressing that issue called, "The Partnership Bill." If an individual purchased a long-term care insurance for $50,000, that insurance would pay the $50,000 and they would keep their $50,000.

CHAIRMAN BECKER was concerned with what would happen if someone in the hospital needed to go into a nursing home and there was a waiting period. **REP. MCGILLVRAY** replied that he had talked with Mike Follett, Chief Financial Officer, for St. John's Nursing Home in Billings. Mr. Follette told him if a person goes from the hospital to the nursing home, they apply for Medicaid after the transfer. Right now St. John's has two patients for whom no one is paying.

Vote: Motion failed 7-9 by roll call vote with REPS. HENDRICK, JONES, MCGILLVRAY, MILBURN, ROBERTS, WAGMAN, and WARDEN voting aye.

Motion/Vote: REP. JONES moved that HB 117 BE TABLED AND THE VOTE REVERSED. Motion carried 9-7 by voice vote with REPS. HENDRICK, JONES, MCGILLVRAY, MILBURN, ROBERTS, WAGMAN, and WARDEN voting no.
{Tape: 3; Side: B; Approx. Time Counter: 3.5 - 10.7}

ADJOURNMENT

Adjournment: 5:30 P.M.

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REP. ARLENE BECKER, Chairman

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MARY GAY WELLS, Secretary

AB/mw

Additional Exhibits:

EXHIBIT(huh28aad0.PDF)