

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN ARLENE BECKER**, on April 1, 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)

Members Excused: Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)

Members Absent: None.

Staff Present: Mary Gay Wells, 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:
Executive Action: SJ 15 Tied; SB 33 Be Concurred In
SB 46 Be Concurred In
SB 481 Be Concurred In As Amended
SB 328 Be Concurred In As Amended
SB 154 Be Concurred In As Amended
SB 324 Be Concurred In As Amended

EXECUTIVE ACTION ON SB 324

Motion: REP. ROBERTS moved that SB 324 BE CONCURRED IN.

Motion: REP. ROBERTS moved that SB 324 BE AMENDED.

EXHIBIT (huh69a01)

Discussion:

REP. ROBERTS explained that the amendment was a consensus amendment with the pharmaceuticals, the Governor's Office, and SEN. TESTER.

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

Motion: REP. ROBERTS moved that SB 324 BE AMENDED.

EXHIBIT (huh69a02)

Discussion:

Ms. Fox explained that the amendment is a concept that is applied to all the different I-149 designations either in Appropriations or HB 2. The coordination instruction applies to SB 324 and HB 667. It is intended to create that sustainability reserve. She continued to explain and read each section.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.0}

REP. ROBERTS read a portion of a letter from Budget Director Ewer.

EXHIBIT (huh69a03)

{Tape: 1; Side: A; Approx. Time Counter: 6 - 8.8}

REP. WARDEN asked if the language was the same as used in the bill for the Small Business Health Insurance Assistance Plan.

Ms. Fox answered, "Yes, for the most part, but there have been some slight changes. The December trigger is new language. Other than that, the concept is the same."

REP. WARDEN said that there are two bills that have a \$25 million floor before certain things happen. He asked if there were two \$25 million bills. Ms. Fox said, "No, it is the same \$25 million."

REP. MCALPIN supported the amendment. The revenues have turned around. The Budget Office is comfortable with the projected revenue figures. The bill states that Montana will not spend money that is not available.

REP. ROBERTS said that once the program starts and prescriptions are being filled, the drug companies will give a rebate back to the State. This will help sustain the availability of revenue.

REP. STOKER said that he had seen a different set of numbers. He gave statistics that showed a large drop in volume. People are either giving up cigarettes or a lot of contraband is going on which includes a great deal of buying that is not going through the tax system. He was in favor of the bill, but would only vote for the bill if there was only the \$25 million and no shifting of General Funds to pick up the slack.

{Tape: 1; Side: A; Approx. Time Counter: 8.8 - 15.1}

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

Motion: **REP. ROBERTS** moved that SB 324 BE CONCEPTUALLY AMENDED TO MOVE A SECTION OF THE BILL ON PAGE 2, LINES 5-13 AND PUT IT ON PAGE 5, LINE 10.

Discussion:

REP. ROBERTS explained that an amendment made by the Senate had been put into the wrong section of the bill.

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

Motion: **REP. MCGILLVRAY** moved that SB 324 BE CONCEPTUALLY AMENDED TO CHANGE THE FPL ON PAGE 1, LINE 22 FROM 200% TO 150%; ON PAGE 3, LINE 27 FROM 250% TO 150%; ON PAGE 4, LINE 27 FROM 250% TO 150%; AND ON PAGE 5, LINE 14 FROM 250% TO 150%.

Discussion:

REP. MCGILLVRAY felt that prescription drug costs are a major problem for needy seniors in Montana. SB 324 is creating an entitlement for a much broader class of citizens than the most needy. By making the benefits go up to 250% of FPL, the poverty level is no longer being talked about. The poverty level of 250% for a family with three children is nearly \$57,000 a year. This creates financial dependence and an entitlement mentality. In the long run, it creates more, not less, dependence on government.

{Tape: 1; Side: A; Approx. Time Counter: 15.1 - 19.6}

REP. ROBERTS offered some research that he had done. He read the results. Hawaii uses 350% of FPL. Most people with a higher

level of income are not going to get involved in the program. With unique cases, that kind of income can disappear quickly with high-cost medications. The State will have the ability to assist them. He further reminded the Committee that this is a rebate program. He read some further results.

EXHIBIT (huh69a04)

{Tape: 1; Side: A; Approx. Time Counter: 19.6 - 23.6}

Vote: Motion failed 7-9 by roll call vote with REP. HENDRICK, REP. JONES, REP. MCGILLVRAY, REP. MILBURN, REP. STOKER, REP. WAGMAN, and REP. WARDEN voting aye. REP. WAGMAN and REP. WINDY BOY voted by proxy.

Motion: REP. ROBERTS moved that SB 324 BE CONCURRED IN AS AMENDED.

Discussion:

REP. MILBURN questioned if the eligibility rules on Page 5, Line 12 apply to those who do have insurance and have a high deductible and thus provide them with coverage. **REP. ROBERTS** responded that the program will not be expended. This is for those who are truly needy. This is for those who are too rich for Medicaid and too poor for insurance.

REP. MILBURN wondered, "If a family of five with \$30,000 has a policy with a high deductible, would they be able to get coverage?" **REP. ROBERTS** said that if they had high-cost prescriptions, they could get coverage but if they can take care of it on their own, that would be good.

REP. MILBURN read from the bill that a family would not be able to have prescription drug coverage in order to be eligible or they would have to provide documentation that they had exceeded the coverage of the individual drug benefits. **Claudia Clifford, AARP**, said that REP. MILBURN was correct. This bill, as written, would not cover someone with a high deductible plan. What is available for the uninsured is a discount card. It is not coverage of any sort. It is just a discount with what the State can arrange through the program which would make the drug somewhat affordable. The bill could be improved to insert language to say that if someone had a \$5,000 deductible or higher, they could qualify for the discount card. The whole purpose of the discount card is to get as many people in the pool as possible, so when the State is negotiating the rebates with the drug companies, the State would get the best possible deal.

REP. MILBURN thought the bill was a good idea, but needs some work. He did not feel that the really needy people would get as much as they could with such a high percent of FPL. The bill seems to be punishing those who are being responsible and seems to be an incentive to not buy health insurance.

REP. ROBERTS inquired about what **REP. MILBURN** had been talking about. His research indicated that the prescription drug program would not cause people to drop insurance coverage or even discourage them from getting coverage if they can afford it. The discounts will be 15% to 40% which would leave the consumer paying 85% to 60% of the cost. Insurance coverage is a far better deal for two reasons: 1) the out-of-pocket expense is less, and 2) so is insurance for the patient when they need many expensive drugs. He felt there was more incentive to get and keep insurance coverage.

{Tape: 1; Side: A; Approx. Time Counter: 23.6 - 31.5. REP. WAGMAN had returned to the hearing and made his motion at this point and continued onto Tape: 1, Side: B.}

Motion: **REP. WAGMAN** moved that SB 324 BE AMENDED.
[EXHIBIT](#) (huh69a05)

Discussion:

REP. WAGMAN explained that he had asked **SEN. TESTER** if he would be agreeable to amend the bill.

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

REP. MCALPIN asked if **SEN. TESTER** had seen the amendment. **REP. WAGMAN** said that he had just seen the amendment. **SEN. TESTER** may have seen the amendment because it is similar to an amendment that was placed on SB 667.

Ms. Fox explained that the language was parallel to the language put in SB 667. Technically, the hands of future legislators cannot be bound, but the language says, "Don't expect this to be automatically funded." It would have to have a specific line item in the general appropriations bill. It does leave it open if future legislators choose to do that, but it does give a warning that there is no expectation that just because this is on the books, it will be funded. She had spoken to **SEN. TESTER** about this issue and he was not concerned about this amendment.

REP. FACEY asked the Budget Director to comment on the amendment. **Director David Ewer, Budget Director**, said that the amendment states that if there is not enough money from the tobacco tax, this program would not be considered under present law and the

appropriations process would have to have a line item to fund the program.

Vote: Motion to amend carried 13-3 by roll call vote with REP. CAFERRO, REP. MCALPIN, and REP. NOONAN voting no. REP. WINDY BOY voted by proxy.

REP. NOONAN addressed REP. MILBURN's concerns about encouraging people to be responsible of which he was in agreement. He felt that since needy people are covered by different programs, it helps to pay for prevention rather than paying to pick up the pieces.

REP. CAFERRO said that many people do have insurance and they don't have access to many of these programs. She felt that it was too bad they were going to be excluded from this program.
{Tape: 1; Side: B; Approx. Time Counter: 1 - 6.1. REP. WAGMAN left the hearing.}

REP. HENDRICK said that many are caught in that situation. He has a costly insurance premium, but would rather pay that than have someone else not able to get in this program.

Vote: Motion to BE CONCURRED IN AS AMENDED carried 15-1 by roll call vote with REP. MILBURN voting no. REP. WAGMAN and REP. WINDY BOY voted by proxy.

REP. ROBERTS will carry the bill.

{Tape: 1; Side: B; Approx. Time Counter: 6.1 - 8.4. REP. WAGMAN returned to the hearing.}

EXECUTIVE ACTION ON SB 481

Motion: REP. FACEY moved that SB 481 BE CONCURRED IN.

Motion: REP. FACEY moved that SB 481 BE AMENDED.
[EXHIBIT](#) (huh69a06)

Discussion:

REP. FACEY explained the amendments. The insurers, trial lawyers, etc. concurred.

Vote: Motion carried 16-0 by voice vote. REP. WINDY BOY voted by proxy.

Motion: REP. FACEY moved that SB 481 BE CONCURRED IN AS AMENDED.

Discussion:

REP. MCGILLVRAY asked what happens if the bill doesn't pass.

REP. FACEY said that nothing would happen, but the bill is merely condensing law to make an injury and an illness to be handled in the same way. This is a self-administered law where a lay person could read the law and understand what their rights are in terms of getting care, etc.

{Tape: 1; Side: B; Approx. Time Counter: 8.4 - 11.9}

Vote: Motion carried unanimously by roll call vote 16-0. REP. WINDY BOY voted by proxy.

REP. MCNUTT will carry the bill.

{Tape: 1; Side: B; Approx. Time Counter: 11.9 - 14.4}

EXECUTIVE ACTION ON SB 33

Motion/Vote: REP. HENDRICK moved that SB 33 BE CONCURRED IN. Motion carried 15-1 by voice vote with REP. JONES voting no. REP. WINDY BOY voted by proxy.

REP. MCALPIN will carry the bill.

{Tape: 1; Side: B; Approx. Time Counter: 14.4 - 16.5. REP. MILBURN left the hearing.}

EXECUTIVE ACTION ON SB 46

Motion: REP. HENRY moved that SB 46 BE CONCURRED IN.

Discussion:

REP. STOKER said that the ombudsman would now be a source of information in the process under Child Protective Services. As such, she will get from DPHHS the chronological events on complaints.

Ms. Fox explained that this bill came first and then SB 81 was drafted which added the family ombudsman concept on top of the mental health ombudsman. The duties in the second bill confined the new duties related to the child and family ombudsman and to a more narrow scope than the mental health ombudsman. The bills do work mechanically together.

REP. HENRY asked if both bills were needed. Ms. Fox said, "Yes."

REP. STOKER said that the ombudsman has been able to be a resource for people so they know where to go to get help. The new duties would be expanded beyond that source of information. The confidentiality of HIPPA was a major concern and this bill had requested written authorization from the client to the ombudsman. If the Committee wants to expand the file information from DPHHS to the ombudsman, this is the bill to pass.

{Tape: 1; Side: B; Approx. Time Counter: 16.5 - 24}

REP. MCGILLVRAY felt that the bureaucracy just keeps growing even though he thought the bill was necessary.

Vote: Motion carried 15-1 by roll call vote with REP. ROBERTS voting no. REP. WINDY BOY and REP. MILBURN voted by proxy.

REP. HENRY will carry the bill.

{Tape: 1; Side: B; Approx. Time Counter: 23.3 - 28.3}

EXECUTIVE ACTION ON SB 154

REP. FACEY asked the Committee to hear the Subcommittee's discussion before taking executive action.

REP. FACEY proposed some amendments.

Ms. Fox explained that the amendments had been proposed by Chuck Hunter, DPHHS, and that at the original hearing, he said they need more work in order to reach a consensus. She read the amendments and explained each one to the Committee.

{Tape: 1; Side: B; Approx. Time Counter: 28.3 - 32; Comments: Ms. Fox continues on Tape: 2; Side A. REP. WINDY BOY and REP. MILBURN return to the hearing.}

REP. CAFERRO supported the amendments.

REP. STOKER felt that the bill micro-managed the Department too much.

REP. CAFERRO replied that Federal law states the administrative costs must be capped at 10%. It does not distinguish between the way CHIP is administered now or if it would be handled by the Department. A letter from Mr. Bilodeau was handed out to the Committee.

EXHIBIT (huh69a07)

REP. MCGILLVRAY felt that staying under 10% was reasonable.

Motion: REP. MCGILLVRAY moved that SB 154 BE CONCURRED IN.

Motion: REP. MCGILLVRAY moved that SB 154 BE AMENDED.

EXHIBIT (huh69a08)

Vote: Motion carried unanimously by roll call vote 16-0.

Motion/Vote: REP. CAFERRO moved that SB 154 BE CONCURRED IN AS AMENDED. Motion carried unanimously by voice vote 16-0.

REP. FACEY will carry the bill.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 10. REP. FACEY left the hearing.}

EXECUTIVE ACTION ON SJ 15

Motion: REP. WAGMAN moved that SJ 15 BE CONCURRED IN.

Motion: REP. MCALPIN moved that SJ 15 BE AMENDED.

EXHIBIT (huh69a09)

Discussion:

REP. MCALPIN explained the amendment. It would change the polybromides to include all rather than separating the DECAs from the OCTAs and PENTAs. This would take off the Senate amendments which had made it more specific to particulars.

Vote: Motion carried 15-1 by voice vote with REP. JONES voting no. REP. FACEY voted by proxy.

REP. WAGMAN spoke about asking for comments from people who had not had the opportunity to speak for or against the bill. He had received an e-mail which he handed out to the Committee. He explained the rate of heat for different materials. The use of flame retardants had become necessary to slow down the rate of burning. If flame retardants are taken out of materials, more fire deaths will result. The best situation would be non-combustible buildings and fill them with non-combustible materials. But he knew that would not happen.

EXHIBIT (huh69a10)

Motion: REP. WAGMAN moved that SJ 15 BE AMENDED.

EXHIBIT (huh69a11)

REP. WAGMAN explained that the amendment targets all the other materials that have been identified as carcinogen and leaves the DECA's.

Ms. Fox also explained the amendments. It eliminates the use of two polybrominated diphenyl ethers (PBDE), the PENTAs and OCTAs that had been spoken about. It also removes one of the "Whereas" clauses.

REP. WARDEN resisted the amendment.

REP. MCALPIN said that this amendment would undo the amendment that had just been passed.

REP. WAGMAN withdrew his amendments without objection.

Motion/Vote: **REP. MILBURN** moved that SJ 15 BE TABLED. Motion failed 8-8 by roll call vote with **REP. HENDRICK**, **REP. JONES**, **REP. MCGILLVRAY**, **REP. MILBURN**, **REP. ROBERTS**, **REP. STOKER**, **REP. WAGMAN**, and **REP. WARDEN** voting aye. **REP. FACEY** voted by proxy.

Motion/Vote: **REP. HENRY** moved that SJ 15 BE CONCURRED IN AS AMENDED. Motion failed 8-8 by roll call vote with **REP. BECKER**, **REP. CAFERRO**, **REP. EATON**, **REP. FACEY**, **REP. HENRY**, **REP. MCALPIN**, **REP. NOONAN**, and **REP. WINDY BOY** voting aye. **REP. FACEY** voted by proxy.

{Tape: 2; Side: A; Approx. Time Counter: 10 - 23.8}

EXECUTIVE ACTION ON SB 328

Motion: **REP. WINDY BOY** moved that SB 328 BE CONCURRED IN.

Motion: **REP. HENRY** moved that SB 328 BE AMENDED.

[EXHIBIT](#) (huh69a12)

{REP. FACEY returned to the hearing.}

Discussion:

REP. HENRY explained that in Section 1, Line 18, add "(f) cervical cancer survivor." On Line 21, after Additional members, delete "with a specific expertise." On Line 25, after cervical cancer, delete the rest of the sentence. On Line 28, after new technologies, delete "including any newly introduced vaccines." She was not necessarily in favor of the amendment on Line 13, (2) add after five members, "not more than 10."

REP. WARDEN asked about the additional members.

CHAIRMAN BECKER said that she felt this task force would be a subdivision of the Montana Comprehensive Cancer Control Planning Group.

REP. MCALPIN had spoken to **SEN. SQUIRES** and she told him that this group would not do its work to the detriment of the broader group.

REP. HENRY said that she felt it best to leave the number of members at five; otherwise, there could be some doubling up of members.

REP. WINDY BOY asked if there would be people who had specific expertise. **REP. HENRY** said that a member did not have to be a scientist or doctor. They could be a survivor or a general healthcare provider.

REP. HENDRICK wondered why another study group was needed. **REP. HENRY** said there was new information on a vaccination for one of the significant risk factors. Since Montana does not have a great history on immunization, this could be very important to educate women about new ways to handle cervical cancer.

Vote: Motion to amend carried 14-2 by voice vote with REP. JONES and REP. MCGILLVRAY voting no.

Motion: REP. HENRY moved that SB 328 BE CONCURRED IN AS AMENDED.

Discussion:

REP. NOONAN wanted to make a conceptual amendment to put the task force under the Montana Comprehensive Cancer Control Planning Group.

REP. STOKER believed that with a zero fiscal note, a change to put the task force under another group might generate a fiscal note.

REP. MCALPIN said that the funding is a Federal grant with the exception of the services of DPHHS employee, Sue Miller.

Vote: Motion carried 13-3 by voice vote with REP. JONES, REP. MCGILLVRAY, and REP. MILBURN voting no.

REP. BECKER will carry the bill.

ADJOURNMENT

Adjournment: 5:15 P.M.

REP. ARLENE BECKER, Chairman

MARY GAY WELLS, Secretary

AB/mw

Additional Exhibits:

EXHIBIT ([huh69aad0.PDF](#))