MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Call to Order: By **CHAIRMAN EDITH CLARK**, on January 22, 2003 at 8;00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:
Rep. Edith Clark, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Dick Haines (R)
Rep. Joey Jayne (D)
Sen. Emily Stonington (D)

Members Excused: Sen. Bob Keenan (R)

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Lois Steinbeck, Legislative Branch
Sydney Taber, Committee Secretary

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

Committee Business Summary:
Hearing(s) & Date(s) Posted: Senior and Long Term Care Division
Executive Action: None.

{Tape: 1; Side: A; Approx. Time Counter: 1.4 - 2.8}
Lois Steinbeck, Legislative Fiscal Division (LFD), distributed a summary of action taken on agency general fund budgets and said that the Subcommittee has added $10 million in general fund back into the budget.

EXHIBIT(jhh13a01)

{Tape: 1; Side: A; Approx. Time Counter: 2.8 - 3.7}
SEN. COBB distributed options for the restoration of services using the unallocated tobacco special revenue.

EXHIBIT(jhh13a02)

HEARING ON SENIOR AND LONG TERM CARE

{Tape: 1; Side: A; Approx. Time Counter: 3.7 - 31.5}
Kelly Williams, Administrator of Senior and Long Term Care (SLTC) Division, referred to Exhibit 3 and reviewed the division history, its purpose, and services provided. She introduced her key staff and went over the organization, staffing and staff distribution, and the unit functions. **Ms. Williams** then went over the breakdowns of expenditures and funding sources within the division. In FY02, the expenditures in SLTC were $175 million funded from federal funds, general funds, and state special revenue (SRR).

EXHIBIT(jhh13a03)EXHIBIT(jhh13a04)

Ms. Williams stated that they have entitlement and discretionary programs. In entitlement programs, individuals meeting the Medicaid-eligibility criteria receive services. She cited nursing facilities as examples of entitlement services. Discretionary programs are those for which people are eligible, but do not automatically receive services. An example of such a service would be the home and community-based waiver program which limits service through funding limitations.

Reading from and referring to Exhibit 3, **Ms. Williams** went over: 1)services within the Nursing Facility Services program; 2)programs within the Community Services program; 3)programs within the Aging Services Program; and 4)the Veterans' Homes in greater detail. She touched on program eligibility, demographic information, expenditures, services, distribution of facilities and services across the state, programs slated for reduction and elimination, and program appropriations. She also reviewed the intergovernmental transfer(IGT)mechanism imposed on nursing homes to fund other Medicaid programs.

{Tape: 1; Side: A; Approx. Time Counter: 31.5 - 49.5}
Responding to questions for clarification on the cost shift involved in elimination of the hospice program, she said that the shift would be about $30,000 per individual to nursing homes. **Ms. Williams** said that under hospice the costs of a nursing home are not included. Hospice is an optional Medicaid program that involves palliative care for dying individuals. Many of the individuals that receive the hospice benefit under Medicaid have maximized their Medicare dates and are not Medicare-eligible. **Ms. Williams** also stated that there is no funding for the End Stage Renal Disease Program.

Responding to Subcommittee questions regarding APS, **Rick Bartos, APS Bureau Chief**, said that they do occasionally experience disagreement when they intervene in cases, but the complaints are fewer than in Child Protective Services (CPS). About 70 percent of exploiters of the elderly are family members, but the unit does work closely with family members to try to keep families together. APS receives about six serious complaints in a year, several of which are continuous. He said that they have 25 full-time equivalents(FTE)to handle 2,500 referrals. Of those 2,500 referrals, 35 to 40 percent go on to law enforcement.

{Tape: 1; Side: B; Approx. Time Counter: 0.9 - 3}
Mr. Bartos said that the bureau works closely with the Department of Justice Medicaid Fraud Control Unit and the United States Attorney's Office.

{Tape: 1; Side: B; Approx. Time Counter: 3 - 17.5}
Referring to Exhibit 3, **Ms. Williams** continued her review of the Adult Protective Services and Aging Services Programs. She addressed the contract cancellation and dissolution of the area VII service delivery system to Native Americans. As a result of the dissolution, tribal aging programs are now contracting directly for the services. As part of the redesignation of the Older Americans Act, programs within tribes and reservations will be able to decide from which contiguous area agency they will receive services.

Ms. Williams reviewed the Ombudsman Program, and moved on to the Veterans' Services Program. She provided information on occupancy, staffing, services, and the cost of care within the two facilities. **Ms. Williams** then reviewed the supplemental payment program which provides payments to patients eligible for Supplemental Security Income (SSI).

LFD Issue with Regard to SSI

{Tape: 1; Side: B; Approx. Time Counter: 17.5 - 22.1}
Ms. Steinbeck commented that the Subcommittee had approved an appropriation for SSI in the Addictive and Mental Disorders Division (AMDD). The division estimated that there were additional savings for the transfer of 30 to 35 individuals out of the nursing care center, and those additional savings were reduced for the payments in this program. If the estimates are accurate, there should be funding there.

Referring to Exhibit 3, **Ms. Williams** read a statement of the philosophy by which the SLTC program has been run, which says that rather than expansion of programs or eligibility, they will work to ensure quality of those services offered. She then reviewed the steps the program has taken to implement that philosophy.

{Tape: 1; Side: B; Approx. Time Counter: 22.1 - 31.5}
Ms. Williams asked Joyce DeCunzo, SLTC, to review examples of the philosophy in action and the savings generated as a result of the changes in the way they did business. Referring to Exhibit 4, **Ms. DeCunzo** went over the information on controlling the growth of entitlement programs, service utilization decisions, and targeted expansion in the nonentitlement program. She explained how they had contracted with Mountain Pacific Quality Health Foundation to control growth in service utilization and inconsistencies in application of the rules. As a result of the savings that were generated, they were able to pay the contract and invest in personal assistance wage increases. She reviewed the issues involved in the services utilization decisions, the reductions they made in the program, and the resultant savings. She then reviewed the targeted expansion of the nonentitlement program which involves a waiting list. This was done with expansion funds designated by the legislature, and the transfer of nursing home residents to the community.

{Tape: 1; Side: B; Approx. Time Counter: 31.5 - 49.5}
Responding to questions from **SEN. STONINGTON** about the contract with the Mountain Pacific Quality Health Foundation and how they knew about them, **Ms. DeCunzo** replied that they had contracted with them before, but entered into this contract in July 2000. There is a federal designation that is applied, and with that designation, there is a higher match rate. Because they already had a number of contracts with the foundation, they felt comfortable in offering the contract to them. They were allowed to deal directly with the foundation because the contract was for administration of the program. They were able to get a higher match rate than they would have received had they gone with some

other company. The company specializes in aging populations and does all of the preadmissions screening for the nursing facilities and the home and community-based waiver, so it has been involved in long-term care for a long time.

{Tape: 2; Side: A; Approx. Time Counter: 0.5 - 4.6}
Referring to page 9 of Exhibit 3, **Ms. Williams** touched on the overview of the actions taken in the 2003 biennium to address the projected deficit in the state budget. In discussion of the personal attendant wage increases with **SEN. COBB, Ms. DeCunzo** explained that personal care attendants still receive the 60 cent increase that the division was able to give with savings from reductions in 2000. In 2002, they were able to give the increase appropriated by the 2001 legislature, but it has been withheld in 2003 due to budget cuts.

{Tape: 2; Side: A; Approx. Time Counter: 4.6 - 10.8}
Ms. Williams remarked that the division has a history of managing its programs within the funding levels appropriated and reverting money to other programs in the Department. In response to observations by **SEN. COBB** with respect to former Administrator Mike Hanshew, **Ms. Williams** said that the division has continued to follow his precepts and works hard to maintain a good relationship with providers despite the cuts that it makes to programs. Because they keep providers informed and solicit input and feedback from them, it has allowed a measure of trust and some flexibility.

{Tape: 2; Side: A; Approx. Time Counter: 10.8 - 12}
REP. JAYNE said that SLTC had diverted $1.25 million to other divisions within the Department. She asked where the money had come from and whether there was any more unanticipated revenue. **Ms. Williams** explained that in 2002 there were utilization changes resulting in a reduction in caseload. They also made changes in the Personal Assistance Program to control growth, which resulted in Medicaid savings. Those Medicaid funds were redirected to other Medicaid funded activities within the Department.

LFD Issue with Regard to Different Management Approaches

{Tape: 2; Side: A; Approx. Time Counter: 12 - 15.5}
Ms. Steinbeck commented that the Subcommittee can consider the different approaches that were taken to management of division budgets within the Department. It is an issue which staff has frequently addressed. This division had savings that it was not allowed to reinvest within the division, but Developmental Disabilities(DD) had savings which it was allowed to reinvest. Mental Health Services(MHS)had huge projected cost overruns which

it was told to manage within its budgets. In the MHS hearings, it was difficult to determine the guiding principles, but here there are clearly articulated guiding principles on how to do the targets, how to make the policy trade-offs, and how to evaluate the impact of decisions. This division was once allowed to reinvest in its own services. Department-wide the direct care wage increase for DD workers went through, and many of the issues in SLTC are the same as in DD; here the wage increase was withheld for FY03 as part of the savings that had to be reinvested in other cost overruns. Oly DD was allowed to come forward with a supplemental.

{Tape: 2; Side: A; Approx. Time Counter: 15.5 - 20.8}
SEN. STONINGTON commented that she is impressed with the management of SLTC and the consistency and fairness in their program reductions. When she sees that kind of management, she is inclined to give more latitude to management options. Conversely, when consistency and fairness are not evident, she is inclined to want to put more in statute and be more directive.

Gail Gray, Director of the Department of Public Health and Human Services (DPHHS), commented that SLTC is a division with very good management at all levels, but it was also just plain lucky. They have had more flexibility because nursing home bed occupancy has gone down. When looking at expenses in other divisions, such as the increase in hospital stays and resultant costs, it is not poor management, but a response to the need of the community. She stated that it is not fair to generalize this over the Department. While this division is well-managed, other divisions have had unexpected cost increases.

SEN. STONINGTON said that the point is well taken; however, management needs to be able to foresee trends, understand budget limitations, and develop principles that reflect a philosophy of fairness and consistency. **Director Gray** concurred and said that the Medicaid program needs to be redesigned from the ground up. **John Chappuis, Deputy Director of DPHHS,** said that they have brought together the divisions and certain policy groups to review Medicaid programs and share policies and best practices within the divisions, and they will continue to meet to make improvements.

{Tape: 2; Side: A; Approx. Time Counter: 22.4 - 25.8}
Ms. Steinbeck said that the difficulty in this area is allowing freedom and flexibility to best manage programs, while also establishing guiding principles for all divisions. If it is good to fund direct worker wage increases in one division and if there are similar workers in another division, there must be a rational basis for allowing wage increases in one and not the other. In

looking at the policy decisions embodied in the DPHHS budget, it is difficult to articulate common threads among similar programs. DPHHS is trying to maintain the basic core services for the most needy individuals, but those basic core services are being trimmed much more in some divisions than others.

{Tape: 2; Side: A; Approx. Time Counter: 25.8 - 36.7}
SEN. STONINGTON requested clarification on the way provider rate increases were decided among the divisions. **Director Gray** said that the division management teams met and discussed provider rates, the impact that reductions or increases would have on the industry, where the industry growth was, and access. The bigger cuts were taken in areas where there has been the largest growth. **SEN. STONINGTON** asked why DD was given a provider rate increase, but SLTC was not. **Mr. Chappuis** said that DD thought that they had controlled their costs so decided to give the direct worker rate increase. As it turned out, costs did not stabilize. The division had already done cuts, and they needed the provider rate increases. **Director Gray** said that she and Mr. Chappuis made the decisions, but they did not do it in isolation. The divisions got together and discussed the advantages and disadvantages.

SEN. STONINGTON reiterated that with respect to the decision-making process, she would like to know the overriding philosophy and criteria involved because it helps the Subcommittee in its decision to allocate funds. **Director Gray** said that she can put it into writing, but it would basically be what she has already said. She added that another issue discussed during the management group sessions was the impact of litigation. There is substantial litigation in DD, and the Department felt that if it did not give the provider rate increase, it would lose access and would be unable to continue the move toward deinstitutionalization. If the situation became bad enough for providers, there may even have been a trend of reinstitutionalization.

SEN. STONINGTON agreed that it is apparent that litigation, deinstitutionalization, and noncompliance are driving factors behind the budget. **Director Gray** mentioned that the Centers for Medicare and Medicaid Services (CMS) is right now visiting the Montana Developmental Center(MDC), although they do say it is not in response to a complaint. She then reiterated that their decisions have not been made in a vacuum and added that the Subcommittee may not agree with the Department decisions. She emphasized that the Department wants the Subcommittee to establish policies and priorities, which the Department will follow and carry out. They made the best decisions they could in a very difficult time; and they lived within their budget as best they could.

{Tape: 2; Side: A; Approx. Time Counter: 36.7 - 49.2}
Responding to a series of questions from **REP. JAYNE**, **Ms. Williams** confirmed that although the division did have the authority to reinvest within the division, it did not. Certainly they could have spent the money and reinvested within the program in waiver expansion or services; however, not all Medicaid programs are equal, and, as one division among many, they diverted to a program that perhaps had a greater need. **Director Gray** reiterated that she and **Mr. Chappuis** made the decision.

{Tape: 2; Side: B; Approx. Time Counter: 0.5 - 2.7}
REP. JAYNE said that she was wondering if the legislature had not given them too much money, if they had enough to give to another division. **Ms. Steinbeck** returned to the issue of consistency and explained that reductions were made in this division to help free up funds in order to address budget shortfalls in other divisions. Conversely, in DD there was a $1.8 million general fund savings which could have been freed up to offset the supplemental and directed back, but it was used for expansion and moving people to communities instead.

{Tape: 2; Side: B; Approx. Time Counter: 2.7 - 8.6}
In added discussion of this issue, **Mr. Chappuis** said that during the Medicaid caseload growth meeting that they held, **SEN. COBB** even asked if they had enough money, and he said that he believed they did. But the Department was wrong in its estimate. In February, limited available data is used to project the personal care, primary care, nursing home, and other caseloads for the next biennium. This is how statistics are done. Sometimes it is an overestimate, sometimes an underestimate. At the time, the Department thought it had enough, but the estimate was $15 to $20 million short over the biennium. **Director Gray** added that the estimates are made on a small percentage of the total claims of the current year and are projected two years out. It is very difficult to do and be accurate.

Ms. Steinbeck reminded the Subcommittee that the division had made required reductions in response to 17-7-140 when the general fund balance was going to be too low. It is not a matter of an appropriation level in that instance, but a statutory requirement regarding ending fund balances.

Nursing Facilities Decision Packages

{Tape: 2; Side: B; Approx. Time Counter: 8.6 - 15.9}
Referring to page 10 of Exhibit 3, **Ms. Williams** reviewed DP 106, a present law adjustment that would increase total funds in FY04 by $7,393,378 and in FY05 $7,879,955. She moved on to DP 992, provider rate reductions of $2,253,464 in FY04 and $2,352,924 in

FY05. **SEN. COBB** asked about the nursing home rate increases that may affect the provider rate reduction. **Rose Hughes, Montana Healthcare Association,** said that the nursing homes are working to pull together an IGT and a provider bed tax to deal with increases to the nursing facilities. She said that **REP. CLARK** has put in a bill draft request for a provider bed tax increase. Nursing homes do not want to raise the bed tax by more than necessary to get the job done; they do not want to raise it to backfill cuts. They want the IGT funds currently diverted to other programs to come back to the nursing home program to backfill cuts; they would use the provider tax, with whatever additional IGT may be available, to move forward.

{Tape: 2; Side: B; Approx. Time Counter: 15.9 - 41.5}
Referring to page 10 of Exhibit 3, **Ms. Williams** explained DP 103, an IGT present law adjustment which would increase total funds by $2,198,155 in FY04 and $2,198,155 in FY05. DP 104 is an additional IGT, and would increase total funds by $5,162,379 in FY04 and $8,954,827 in FY05. **SEN. STONINGTON** asked if the plan was to reduce provider rates and replace it with a lump sum payment to nursing homes through an IGT. **Ms. Williams** said that nursing homes already have a $2.80 a day per bed occupancy assessment, and there is a piece of legislation that will increase that provider tax to provide additional funding. They have been using IGT to leverage additional Medicaid payments in order to provide add-on payments to county nursing homes in a lump sum. A smaller portion goes to the noncounty nursing homes. In conjunction with that IGT, $2 million is redirected to fund mental health programs and other areas each year of the biennium. In addition, the division would have the regular base budget general fund for nursing homes. The provider tax is funded to them as general fund since there is no longer an SSR account which captures that money. The nursing homes wish to be made whole, but the source of funding for that would be up to the Subcommittee.

LFD Issues with Regard to IGT

Ms. Steinbeck said the IGT provides the Subcommittee with numerous policy decisions. In 2001, the Subcommittee took $2 million annually of the nursing home IGT and used it as Medicaid match to offset general fund Medicaid match in mental health. It can continue the practice or expand it in the next biennium. The 1.87 percent rate reductions are in every program for Medicaid providers. The Subcommittee can choose that some providers would get higher rate increases, or it can choose to not give rate increases. The bed tax can go right into the general fund as it currently does and become a general fund revenue source without adding any additional payments to nursing homes.

SEN. COBB referred to Exhibit 2 and said that **REP. LEWIS** is pulling that $2 million out of AMDD and putting it back in the nursing homes so instead of being $9 million short each year, mental health will now be $11 million short. **CHAIRMAN CLARK** reported that there is still no movement on the bed tax.

Ms. Steinbeck said that the state nursing home in Lewistown does not have a bed tax imposed on it; and if one were imposed, it would free up money to be used on mental health programs or anything else that they might be looking at. It may also be possible to extend the bed tax to the veterans' nursing homes, but it would require a great deal more discussion. **Ms. Williams** inserted that the veterans' homes are part of the nursing home class and are already paying the bed tax. Only Boulder, Eastmont, and the Montana Mental Health Nursing Home are excluded. The veterans' homes use little Medicaid; however, to the extent that rates go up, it would be additional revenue to the facility and would potentially offset some of the cigarette tax funding in the facility.

Responding to comments by **Bob Andersen, Office of Budget and Program Planning (OBPP), Ms. Steinbeck** said that the IGT is an SSR. She agreed with him that if the money is taken out and not backfilled, it is a $2 million annual Medicaid reduction in mental health. **SEN. STONINGTON** asked if **REP. LEWIS** is making the move to take it out in HB 2 or separate legislation. **Ms. Hughes** said that they have not discussed this. She assumed that this Subcommittee would make the decision about it, but originally, it was in HB 2. **Ms. Steinbeck** noted that it was an appropriation decision made in the Subcommittee in 2001.

{Tape: 2; Side: B; Approx. Time Counter: 41.5 - 49.8}
Ms. Williams continued with decision packages on page 11 of Exhibit 3. DP 996 changes the Medicaid eligibility standards and will result in reductions of $2,186,619 in FY04 and $2,859,177 in FY05 in total funds. With respect to DP 996, **Ms. Steinbeck** asked for clarification regarding redetermination of eligibility if those already receiving services are found to possess nonexcludable assets. She asked whether individuals would lose services or whether they would have to sell their assets. This change in nursing home eligibility would affect about 511 people a month.

Responding to a process question from **SEN. STONINGTON, Ms. Steinbeck** said that if they were going to change services, it would require separate legislation, but it is unclear that changes in eligibility standards would require separate legislation.

{Tape: 3; Side: A; Approx. Time Counter: 0.6 - 5.2}
Ms. Steinbeck continued that legal staff had addressed the issue of services and concluded that legislation would be required, but she did not ask for an opinion on eligibility standards. **Director Gray** responded that the Department legal counsel disagreed with the LFD legal counsel analysis, but the Subcommittee may as well make the changes through statute since the legislature is in session.

Ms. Williams added that the eligibility changes are already allowed in federal eligibility statutes so it would just be changing how the division deals with it. She then reviewed the contract-for-deed changes and said that it would require that since there is an income source an individual would need to pay more toward the cost of care. **Mr. Chappuis** added that at present, the contract-for-deed would be liquidated within six months. With the change, an individual would pay more toward care and retain the property.

Ms. Steinbeck said that it is unclear to her whether the "stop excluding the nonhome real property" or "limit the exclusion of home property upon the intent to return" changes would render someone ineligible to receive nursing home services. If the individuals become ineligible, it is an impact that is not clearly defined. **Ms. Williams** explained that there is no grandfather clause, so they could lose their eligibility for a period of time; however, it is more likely to impact new individuals coming into the program.

{Tape: 3; Side: A; Approx. Time Counter: 5.2 - 10.6}
SEN. STONINGTON requested an explanation of the life estates change, and **Ms. Williams** explained that life estates would be excluded when the life estate is producing income and meets the exclusion requirements. Available income would be assumed to count toward the contribution for cost of care. This change would have a limited impact since it is estimated that there are only 60 recipients who have an income-producing life estate that would be counted. If the individual chose to not have the income counted, it would be treated as an asset transfer, and the individual would go into a period of ineligibility. The purpose of the change is to assess what individuals can contribute to their own care.

REP. JAYNE asked if the change in Medicaid eligibility standards would require a change in federal Medicaid eligibility to include these. **Ms. Williams** explained that federal eligibility guidelines allow states the option to be more or less restrictive in certain areas.

{Tape: 3; Side: A; Approx. Time Counter: 10.6 - 17.5}
Ms. Williams continued her explanation of decision packages on page 11 of Exhibit 3 with DP 999, a change in lien and estate recovery expenditures. In the past, these funds have been used to expand nursing home and waiver programs services directed at respite care and quality of life issues. In the special session, the legislature made a decision to fund the base program through a funding switch between SSR and general fund. This is applicable to the nursing facility base and is a general fund switch of $162,000 to SSR each year of the biennium.

DP 109 is a state supplemental caseload growth and processing fee increase. It is a general fund increase of $51,000 in FY04 and $109,000 in FY05. It projects a caseload increase in SLTC of 45 new individuals per year. The processing fee will go from $9 to $9.50 in FY04 and $10 in FY05. It does not include the individuals that would be coming out of AMDD.

Ms. Steinbeck reviewed a minor LFD issue with regard to this proposal. The DP does not separate the growth into a new proposal. Had the budget not been so compressed within the Department, she would have expected the decision package to include AMDD. In that case it would not have been a new proposal, but present law. It is a new proposal, and all of the DD expansion that is newly proposed is reflected here as if it were current law. She said that she did not know if this is important to the Subcommittee, but suggested that they may wish to break these down. It would help when they are trying to show what it would take to maintain existing services, and what it would take to expand it. She said that the Subcommittee may wish to break it into two pieces and include the mental health group home expansion for the nursing care center here as well. It would be a matter of transferring the funds from AMDD to here and would be no net general fund increase. **Ms. Williams** offered to provide information on the new individuals and the current caseload in that sub-budget.

Aging Services Decision Packages

{Tape: 3; Side: A; Approx. Time Counter: 17.5 - 27}
Ms. Williams reviewed the decision packages on page 12 of Exhibit 3. She said that DP 120, the family caregiver and ombudsman Title III grant increase, provides additional spending authority of $198,000 each year of the biennium for increases in those grants. DP 994 reduces the Aging Services base budget general fund $257,000 each year of the biennium. The majority of these funds are in the congregate and home-delivered meals, so the most significant impact will be with meals. The reduction would mean that 67,000 fewer meals would be served if the total reduction

were attributed to meals. **SEN. COBB** asked how it is decided who does not get meals. **Ms. Williams** replied that the Department does not make this decision. The funds are allocated to area agencies on aging, so this would be a reduction in funds to the area agencies; the agencies would make the decision on where the reductions would be made.

Charles Rehbein, Aging Services Bureau Chief, explained that he asked area agencies to decide where they would make the cuts. On the information that he received from four of the agencies, 21,000 meals per year would be cut and 1,119 rides per year would be cut. There would end up being a waiting list for the meals and transportation. **REP. JAYNE** asked for clarification on how it is currently decided who will or will not receive meals and the potential impact of the new measure. **Mr. Rehbein** explained that the eligibility criteria is an age of 60 and older, but it does not guarantee services because it is not an eligibility program. Those who sign up for the meals receive them on a regular basis but new people coming in may not receive meals. It is the communities that make the decision. The bureau is currently going through a statewide planning process and communities have been asked to review the services that they would like to provide with the funding that they will receive over the next four years.

{Tape: 3; Side: A; Approx. Time Counter: 27 - 31}
In response to a series of questions from **SEN. STONINGTON, Mr. Rehbein** explained that the seniors who participate in the meals programs contribute almost $3 million a year to the programs. It does not matter if individuals contribute or not. It is locally decided, and they must look at total cost. Just because someone can pay, it does not mean that their need is greater than someone else's. There are criteria to determine if the person needs a home-delivered meal, and they view it from the standpoint of need.

{Tape: 3; Side: A; Approx. Time Counter: 31 - 34.4}
CHAIRMAN CLARK asked if the statewide planning process will provide guidelines to area agencies. **Mr. Rehbein** replied that they want the agencies to look at the needs for the future within their own communities. The last four-year plan addressed the need for more ombudsmen across the state. He believes that the next issues will be respite care and the use of ombudsmen to monitor in-home service programs.

{Tape: 3; Side: A; Approx. Time Counter: 34.4 - 46.1}
REP. JAYNE mentioned that the LFD issue says that "long term does not intend to specify how providers allocate funding reductions". She asked how it is done. **Mr. Rehbein** said that in Aging Services; they do not tell providers how to make cuts, it is a

local decision. For example, the Lake County Council and the Confederated Salish and Kootenai Tribe, would look at the allocated funding and decide what services will be provided or reduced. There are two programs on the reservation, one is Title III of the Older Americans Act, which is the funding that they are reviewing here. The other program is Title VI, direct funding from the federal government to each of the reservations in Montana. It provides similar services which are more limited in scope. On the Confederated Salish and Kootenai reservation, there is a Title III program and a Title VI program. Title VI is restricted to Native American elderly and their spouses, but the Title III program is for everyone. **REP. JAYNE** commented that with the reduction there will be potentially fewer of the nonIndian senior citizens receiving services than the Indian senior citizens, which may cause some hard feelings. **Mr. Rehbein** said that the decision is made locally. He added that some of the reservations are trying to coordinate the activities between the two programs. Programs under Title III are eligible for commodities so reservations are reviewing enhancement of Title III funding to Title VI programs. **REP. JAYNE** commented that it is not really a local decision if they are being told what they can and can not do. **Mr. Rehbein** added that the federal funding is not going to change, but the $200,000 budget reduction in state general fund will mean reductions. Since it is spread out statewide, the communities will not see a great drop in funding in individual programs.

LFD Issue Associate with the Aging Program

{Tape: 3; Side: A; Approx. Time Counter: 46.1 - 48.3}
Ms. Steinbeck said that the only issue LFD raised in this program is the characterization of the reduction as an impact to Meals-on-Wheels. While there may be reductions to Meals-on-Wheels or congregate meals, it is not mandated. There are also increases in other federal grants in the program. If some of the local programs are spending general fund for some of the services for which they receive increases in federal funds, there may not be a reduction in services. There just may not be an expansion of services which might have occurred had there not been a general fund decline.

{Tape: 3; Side: B; Approx. Time Counter: 1.4 - 2}
Ms. Williams reviewed the final Aging Services division package, DP 125, the older workers program grant. It is a request for $1.12 million in federal spending authority for the Older American and Community Service Employment program for the grant funds to be designated to SLTC.

Community Services Decision Packages

{Tape: 3; Side: B; Approx. Time Counter: 2 - 9.7}
Ms. Williams touched on DP 101, the home and community-based waiver caseload adjustment providing a total fund increase of $945,634 in FY04 and $944,975 in FY05. DP 992 is a 1.87 percent provider rate reduction which impacts the home and community-based waiver for a reduction of $450,000 in FY04 and $470,585 in FY05. DP 105 is a home-based caseload and services increase, which funds caseload growth within the programs. There is a total fund increase in FY04 of $3.8 million and in FY05 of $7.2 million. There is an average caseload growth over the biennium of two percent. Responding to questions from **SEN. COBB** about the two percent caseload growth, **Ms. Williams** said that it is an aggregate percentage of the home health and personal assistance program, and she believes it is a reasonable projection since personal assistance caseloads are declining. To the extent that it is not two percent, the division would need to readdress the amount of services that it can provide within the funding. It is a conservative estimate of program growth in that area and will require concerted management effort to ensure that they do not exceed caseload growth. **Norm Rostocki, Bureau Chief of Central Services for SLTC**, said that there are changes in the date, and he would like to defer until they have projections based on January data.

{Tape: 3; Side: B; Approx. Time Counter: 9.7 - 11.4}
Referring to page 13 of Exhibit 3, **Ms. Williams** reviewed DP 993, a total fund reduction of $125,369 in FY04 and of $123,322 in FY05 for home health therapy benefits.

LFD Issue Associated with Home Health Benefit Reductions

{Tape: 3; Side: B; Approx. Time Counter: 11.4 - 17.7}
Ms. Steinbeck said that the therapies are available in other settings to be paid by another division. The Executive Budget does not account for potential cost shifts. The overall savings would be predicated on those receiving the services not accessing outpatient services in a clinic or hospital services. Such services must be medically necessary, so the net savings would be realized if transportation were not covered and a person did not make the effort to receive services in another setting. It is total savings, not net savings. **Director Gray** commented that they would be eliminating optional services, so there may not be a place for these individuals to go. **Ms. Steinbeck** said that there is a $250,000 general fund reduction in Health Policy Services that administers the primary care Medicaid program. Currently, if optional services are eliminated in an outpatient setting, people can still receive the service as part of a

hospital service unrelated to an inpatient stay. The Department has requested a determination from CMS whether elimination of optional services would allow the services to also be eliminated as a hospital service, unless related to an inpatient stay. She does not know if the Department has received word on this. Unless utilization of the services actually declines, there will be cost shifts to other levels of services. If inpatient settings are the most expensive, utilization has to decline more than the cost of the service in order to realize a net general fund cost savings due to this. **Ms. Williams** noted that individuals impacted by this would shift to therapy services within the community which would be a quarter of the cost of service under the home health benefit. Responding to a question from **CHAIRMAN CLARK, Ms. Williams** said that transportation costs could be factored into this.

{Tape: 3; Side: B; Approx. Time Counter: 18.9 - 22.8}
Ms. Williams next reviewed DP 995, elimination of the hospice program for a reduction in total fund of $645,453 in FY04 and $709,998 in FY05. There would be a potential cost shift of individuals to nursing home settings.

LFD Issue Associated with Elimination of Hospice

Ms. Steinbeck offered that the cost shift to hospital care is not included in the proposal. The cost shift would potentially be $64,000 general fund cost not factored into this proposal.

Adult Protective Services Decision Packages

{Tape: 3; Side: B; Approx. Time Counter: 24.4 - 31.1}
Ms. Williams continued that DP 998, removes $50,000 in general fund each year of the biennium in Adult Protective Service Abuse Prevention funds.

REP. JAYNE asked what the $50,000 in general fund paid for, and **Rick Bartos** explained that it is money that was used as seed money for local chapters for the prevention of elder abuse. Local nonprofit organizations have established chapters for prevention of elder abuse using this money for training, personal care attendants, extreme emergency cases, and the guardianship program. The reduction will create an impact on the services that can be provided, but they will have to make do with the $50,000 base appropriated by the Subcommittee.

LFD Issue on Expenditure of APS Funds

{Tape: 3; Side: B; Approx. Time Counter: 29.3 - 43.5}
Ms. Steinbeck addressed the issue in which half of the $100,000 in the base budget was expended in the last week of the fiscal year on contract renegotiations and addenda for a broad array of services. **Ms. Williams** explained that some of the contracts were renegotiated so that the funds could pass through to the chapters. It is funding that would help to offset some of the costs of chapters through the year. Although the contracts and payments were at the end of the year, the services had been provided throughout the year within the contract period.

Mr. Rostocki further explained that an accrual was done for APS; however, the accrual entry was not for the contingency funds, but for payroll. To the extent that there is money left at the end of the year, the division tries to get it to the local chapters. Another accrual and the contract addenda within the last couple of weeks of the year, was a pass-through of funds to a chapter for reimbursement for a specific project.

Referring to **REP. JAYNE's** previous question, **Ms. Steinbeck** said that the level of services represents about half of the expenditures, and the remainder went to a special project. **Ms. Williams** said that to the extent that the $50,000 reduction is there, the ability to augment services will be impacted at the local level.

{Tape: 3; Side: B; Approx. Time Counter: 43.5 - 49.8}
Ms. Williams next touched on DP 121, Medicaid spending authority. The Department requested authority to pursue Medicaid funding for a portion of the APS program related to Medicaid-eligible activity. They will withdraw this decision package since they have received a reply from CMS that they may not do this. The Subcommittee said that it would take no action on this decision package.

FTE Decision Packages

{Tape: 4; Side: A; Approx. Time Counter: 0.1 - 7.8}
Ms. Williams reviewed DP 99, APS lien and estate annualization. This request asks that the Subcommittee reconsider funding two FTE APS workers for an SSR increase of $771,821 in FY04 and $71,593 in FY05. DP 117 is a request for an increase of $54,858 in FY04 and $54,896 in FY05 for 1.4 FTE additional staff at the Montana Veterans' Home (MVH). It would be an additional SSR request to fund the 1.4 FTE, which would be new staff at the facility.

DP 284 reduces 1.50 FTE for a general fund savings of $81,090 and federal fund savings of $34,642 over the biennium. There was discussion of the one FTE APS field staff and .5 FTE food service worker positions. The one FTE has been filled, but the .5 FTE has never been filled. **Ms. Steinbeck** pointed out that the .5 FTE that is being held open at MVH was funded with general fund in the base budget, but in this decision package it is general fund and federal funds. It is not a reduction to SSR even though the slot has been transferred to MVH.

Administrative Decision Packages

Ms. Williams went over DP 113, which requests additional federal spending authority of $1 million federal each year of the biennium to allow SLTC to pursue additional federal funding in lieu of general funds.

LFD Issue on Language and Hollow Authority

{Tape: 4; Side: A; Approx. Time Counter: 7.8 - 12.4}
Ms. Steinbeck said that the issue with regard to this language is the refinancing issue. Statute says that agencies must use nongeneral first, and OBPP would reduce the general fund appropriation and increase the federal appropriation to accommodate an increase in federal authority for this. If the Subcommittee wishes to centralize and appropriate all refinancing authority under the Refinancing Unit, it may require a subcommittee bill to amend statute. If the authority is added, it negates the statute, but this is a policy decision that the Subcommitte can make.

{Tape: 4; Side: A; Approx. Time Counter: 12.4 - 22.3}
Ms. Williams continued with a review of DP 102, Traumatic Brain Injury(TBI) grant spending authority. It is a $125,000 federal authority request for each year of the biennium. There is an FTE which is in the request as well. She concluded her overview with a review of DP 113, a request for Aging and Human and Community Services Bureau(HCSB)conference spending authority of $59,000 SSR in FY04 and $63,000 SSR in FY05. The bureaus put on two conferences during the year; and they receive fees and donations which go into an SSR to pay for it. This request would allow them to charge registration, solicit donations, and receive the funds to pay for them. It is a way to bring the accounting into state government and have the funds appropriated for this use.

{Tape: 4; Side: A; Approx. Time Counter: 22.3 - 25}
REP. JAYNE noted that there were two DP 992s, and Ms. Steinbeck said that it is the same policy issue. The Department creates one decision package and they allocate the DP to the sub-

programs. It is a tracking mechanism, but is the same DP number. It appears three times within the budget.

LFD Issue on Nursing Home Caseload

Ms. Steinbeck referred the Subcommittee to B-144 of the Budget Analysis and pointed out that the general fund is $800,000 lower in the division's 2003 biennium budget compared to the 2005 biennium budget. She then referred the Subcommittee to B-149 of the Budget Analysis, the LFD issue is where to establish the nursing home appropriation. The utilization of nursing home bed days has been gradually declining. The actual number of Medicaid days of care has declined since 1997, and the most recent data shows a decline of .7 percent. It is this .7 percent on which the LFD caseload estimate is based. The Executive Budget has very slight increases of .5 percent and .25 percent; and depending on different events, this is a small margin of error. If the Subcommittee accepts the LFD estimates, it could save about $850,000 general fund over the biennium.

EXHIBIT(jhh13a05)

A letter and report from Bonnie Adee the Mental Health Ombudsman were submitted for the public record.

EXHIBIT(jhh13a06)

ADJOURNMENT

Adjournment: 11.25 A.M.

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REP. EDITH CLARK, Chairman

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SYDNEY TABER, Secretary

EC/ST

EXHIBIT(jhh13aad)