

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **CHAIRMAN TIM CALLAHAN**, on January 19, 2005 at
8:00 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Rep. Tim Callahan, Chairman (D)
Sen. Trudi Schmidt, Vice Chairman (D)
Sen. Keith Bales (R)
Sen. Steven Gallus (D)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)
Rep. John E. Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Brent Doig, OBPP
Harry Freebourn, Legislative Branch
Shannon Scow, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: HB 2; Department of Corrections,
Board of Pardons and Youth Services
Executive Action: None

Mr. Freebourn distributed Exhibits 1, 2, 3, 4, and 5, which are information requested by the committee from the Department of Corrections (DOC). He informed the committee that Exhibit 3, Page 41 is the beginning of addendums to the Schweitzer budget that relate to this subcommittee.

[EXHIBIT\(jch14a01\)](#)

[EXHIBIT\(jch14a02\)](#)

[EXHIBIT\(jch14a03\)](#)

[EXHIBIT\(jch14a04\)](#)

[EXHIBIT\(jch14a05\)](#)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 30; Comments: Craig Thomas}

Craig Thomas, Director of the Montana Board of Pardons and Parole, introduced the board, which is closely associated with Community Corrections. The Board of Pardons and Parole is autonomous, although administratively attached to the Department of Corrections (DOC). He noted that they "review offenders, the products of the system." He stated that their main duty is to interview candidates for pre-release, probation and parole.

The parole board is made up of seven volunteer citizen members, whom meet approximately 77 days a year. There is a present law adjustment request for increased fees used to compensate board members for their travel. This is a zero-based item. It is DP 18 found on D-80 of the LFD Budget Analysis.

He distributed Exhibit 6, which is the Board of Pardons and Parole Biennial Report. This report will give the committee an idea of how and why parole decisions are made.

[EXHIBIT\(jch14a06\)](#)

He then outlined the objectives and history of the Board, which begins on Exhibit 6, Page 3. The current members are Ken Peterson, Margaret Hall, Don Hargrove, and Mark Fournier. Three other positions are pending approval. **Mr. Thomas** emphasized the hard work these members do in terms of travel obligations and training.

The Parole Board takes into account programming, health status, a support structure and victims in the parole decision. The Board has the ability to grant medical parole; although the current language under this statute is very limited so the Board has not yet been able to release many of this classification of inmates. **Mr. Thomas** noted that the Board takes victim and community

notification very seriously. He then distributed Exhibits 7 and 8, a Risk Assessment Scale used by the Board and a hearings schedule.

[EXHIBIT\(jch14a07\)](#)

[EXHIBIT\(jch14a08\)](#)

Mr. Thomas concluded by directing the committee to the figures in the back of Exhibit 6. These charts show caseload, the correctional population eligible for parole and time spent on probation and parole.

Discussion:

CHAIRMAN CALLAHAN asked if the Board has kept track of reasons parole was denied, inquiring if it was due to a lack of programming. **Mr. Thomas** pointed to Figure 5 and Figure 18 in the back of Exhibit 6, which outline the reasons for denial.

Montana Correctional Enterprises

{Tape: 1; Side: B; Approx. Time Counter: 6.1 - 16; Comments: Gayle Lambert}

Gayle Lambert, Administrator of Montana Correctional Enterprises, introduced the directors of the various Montana Correctional Enterprises (MCE) programs, commending their hard work and program awareness. She then distributed Exhibit 9 to outline her presentation.

[EXHIBIT\(jch14a09\)](#)

Ms. Lambert explained the mission statement and goals of MCE from Exhibit 9, Pages 2 and 3, emphasizing inmate accountability through work and training. She informed the committee that no general fund money is used to support MCE; the money comes from a proprietary fund. The programs within MCE are vocational education, the license plate factory, industries, dairy, ranch, and accounting and support. These programs are explained in Exhibit 9, Pages 5 through Page 22.

{Tape: 1; Side: B; Approx. Time Counter: 16 - 26; Comments: Programs within MCE}

Ms. Lambert pointed to Page D-102-104 of the LFD Budget Analysis for MCE Present Law Adjustments, which are also outlined on Exhibit 9, Pages 22 through 24. The largest appropriation request is for DP 3, delivery and production costs for a license

plate re-issue. She noted that Vocational Education Payroll is the only other item from the general fund, and is zero-based. The rest of the MCE appropriation requests are for proprietary programs. Exhibit 10 was distributed to explain Decision Packages (DP's) not in the Legislative Budget Analysis. These DP's are for the Montana State Prison food factory and the Ranch and Industries program. The benefits of the program begin on Exhibit 9, Page 24, and include both inmate training and local taxpayer benefits.

EXHIBIT(jch14a10)

Discussion:

{Tape: 2; Side: A; Approx. Time Counter: 6 - 25.9}

REP. WITT asked about the Ranch Dam Compliance authority, PL 6 on Exhibit 10, Page 2. He asked, "Is there anything in long range planning for the interim?" **Ms. Lambert** replied that there is still \$80,000 left from the grant received last interim, which will be used for the finishing work of the project.

SEN. BALES referred to a comment made by Ms. Lambert that indicated that inmates help in all aspects of the food factory except for food preparation. He asked, "What jobs are available besides food preparation?" **Ms. Lambert** responded that food factory inmates are employed for clean-up, lifting, and warehousing food. **Mr. Mahoney** added that trays are cleaned and reused every day. Inmates are not used in food preparation.

SEN. BALES inquired if there is a grant from Department of Health and Human Services for the food bank. **Mr. Lambert** replied that there is no authorization for the cannery in this budget. A federal grant of \$395,000 funded the food bank last year. She does not know of any authority for this year. **SEN. BALES** asked, "If there is no request for the \$395,000 this year, wouldn't the budget be short this amount?" **Ms. Lambert** stated that grants for the food bank will have continued funding from grants outside of the DOC. He clarified that there are two separate operations; the food factory supplies food for all the prisons, while the food bank is the prison cannery.

SEN. BALES asked, "What is the status of the cannery?" **Ms. Lambert** replied that the cannery is a day-to-day operation as long as funding is available; there is currently \$180,000 in federal funding still available. A bill is now being circulated to make this operation self-supporting.

SEN. SCHMIDT inquired about how many inmates participate in MCE programs. **Ms. Lambert** responded that 64% of inmates do some sort of work at MSP. She does not have the statistics specifically for MCE.

SEN. SCHMIDT asked, "What is the procedure to make an inmate qualified for this work program?" **Ms. Lambert** replied that all prisoners apply for the program and are approved by the unit manager. There is high-side work for high security inmates and low-side work for lower security inmates.

REP. HAWK inquired about the difference between the low and high side inmates. **Mike Mahoney, Warden at Montana State Prison**, explained that there are three compounds at MSP that are divided up by classification of maximum, medium and low security inmates.

SEN. SCHMIDT commented that when she toured the MCE facility she was impressed with the pride the inmates had in their work. She expressed concern that regional prisons have no such programs. **Ms. Lambert** replied that the DOC is looking at putting a program into the regional prisons, but self-supporting programs are hard to relocate.

SEN. SCHMIDT inquired about who is responsible for getting more programs at the regional prison. She wondered why there are so many at MSP and not at the Regional Prison. **Warden Mahoney** first noted that there are different types of programming; vocational education and anger management treatment are different types of programs. Since 80 percent of inmates have a chemical dependency issue, these programs are at all facilities. While the DOC is continually looking for new vocational programs, there needs to be a delicate balance because the operations provide for the community but they should not put community members out of work. Ultimately, the DOC needs programs that will give the inmates life skills so they will not return to prison.

SEN. SCHMIDT commented that volunteers should be utilized. **Mr. Mahoney** agreed that volunteers are important especially with the cutting of programs coinciding with the current per diem rate.

Legislative Fiscal Division (LFD) Issues

Mr. Freebourn distributed Exhibit 11 which explains the DP's for proprietary funds, which will not be voted on by the committee. Instead, the committee will have to approve rates that those activities charge. The LFD issues on other DP's are on Pages D-102 through D-104 of the Legislative Budget Analysis. He recommended that the committee make the license plate reissue

one-time-only (OTO). He also voiced concern that this program is a producer of license plates for the Department of Justice (DOJ). He suggested moving this appropriation to the Department of Justice so they are more careful about production requests.

EXHIBIT(jch14a11)

SEN. SCHMIDT inquired about why this appropriation is not with the Department of Motor Vehicles under the Department of Justice. **Ross Swanson, Deputy Warden of Montana State Prison**, replied that at one time the license plates were funded by the special revenue fund to reimburse the DOC for the costs of license plate production and delivery. Recently, the cost projection has resulted in a sufficient appropriation with additional funds returned to the general fund. However, he did concur that the DOC is at the mercy of the DOJ request.

SEN. BALES asked where the fee goes that is charged for new license plates. **Ms. Lambert** replied that \$5 goes to the general fund and \$3 to the county. **SEN. BALES** suggested that the revenue from license plate sales return to a different fund rather than being put back in the general fund. **CHAIRMAN CALLAHAN** hypothesized that the special revenue account was likely dissolved because more revenue went into the account than was needed for the production and distribution of plates. **Mr. Swanson** responded that the account was a special revenue fund from 1982 to 1988, and after was returned to the general fund for the reasons stated by **CHAIRMAN CALLAHAN**.

Mr. Freebourn returned to D-105 of the Legislative Budget Analysis to continue the explanation of DP's. He noted that the proprietary rates for MCE have not increased from the last biennium.

Juvenile Corrections

{Tape: 2; Side: B; Approx. Time Counter: 12.8 - 29.5}{Tape: 3; Side: A; Approx. Time Counter: 0 - 15.5; Comments: Youth Services}

Bill Slaughter, Director of Department of Corrections, stated that how they deal with youth is most important in creating a strong system. He added that the youth sex-offender program in Montana is nationally recognized.

Steve Gibson, Administrator of Youth Services, explained that youth services encompasses various levels of youth offenders. There are two secure facilities, Riverside for females and Pine

Hills for males. In addition there is a transition center and probation and parole. He distributed Exhibit 12 for information regarding youth services.

EXHIBIT(jch14a12)

He emphasized that prevention is the number one key. He noted that only 7% of youth that were admitted and discharged from Pine Hills later went to MSP. Accreditations, recidivism rate and programs are listed in Exhibit 12. Exhibit 13 was distributed to give an admissions history for Pine Hills.

EXHIBIT(jch14a13)

Community members are active in youth prevention programs. There are approximately 22 guide homes in the state, multiple mentor programs, two aftercare programs, and faith-based healing if the family or child chooses to participate. He noted that Riverside is full, with 20 female offenders. Pine Hills currently has 104 male offenders. There are currently 12 youth probation and parole officers.

The general fund cost per day for youth services is currently \$159. If the system is at capacity the cost per day is lower. However, he is glad the system is not full because it means that the system is working. However, the methamphetamine problem is affecting our youth, so programs that address this issue need to be kept at full force. He noted that last biennium youth services gave back \$1.5 million to the general fund. They have never had to approach the legislature for supplemental appropriations.

Mr. Gibson's concerns for the future are with the small population that can be taken at Riverside, with the high cost of mental health cases, with a unit that has been closed at Pine Hills, and the Juvenile Database System which still has discontinuities.

Discussion:

SEN. SCHMIDT inquired about the mentoring program that was mentioned, noting that it is run by a private corporation. She asked which corporation runs this program. **Mr. Gibson** replied that Mountain Peaks administers this program. Currently more than 20 kids are part of the program, available at all facilities on a need basis.

SEN. SCHMIDT referred to the five Registered Nurses employed by Youth Services, inquiring about their location. **Mr. Gibson**

responded that these nurses are located in Billings, Miles City, Great Falls, Helena, and Missoula.

{Tape: 3; Side: A; Approx. Time Counter: 20.5 - 30; Comments: Decision Packages}

Mr. Gibson informed the committee that appropriation increases in Juvenile Services are zero-based and mostly federally funded. He stated that the only LFD issue with Juvenile Services DP's is that overtime may be over-funded.

Mr. Freebourn explained the DP's, which begin on D-109. He confirmed **Mr. Gibson's** statement on funding source and LFD issues. On Page D-118 under Present Law Adjustments, **Mr. Freebourn** explained the juvenile placement funds. He stated that every district has a youth placement Board, which screens offenders and makes recommendations to the youth court. **Mr. Gibson** added that most kids go under juvenile probation and are not placed in a program or group home.

SEN. SCHMIDT asked, "How many kids are sent out of state for placement?" **Mr. Gibson** did not have specific numbers, but stated that very few youth are placed out of state.

CHAIRMAN CALLAHAN explained that the youth placement funding started at \$9.2 million, including funds set aside for Alternative Youth Adventures (AYA). He inquired, "What happened to lower these funds to the current level?" **Mr. Gibson** explained that the original \$9.2 million included a one-time allocation for a sex offender program before the transition facility was reopened; this allocation has now been transferred. The actual fund was \$7.5 million. In 2004 the Juvenile Placement fund saved \$1.5 million, which was distributed to other programs. This funding has not been reallocated to the Juvenile Placement Program. **Mr. Williams** added that money was also moved to adult corrections to offset their supplemental.

CHAIRMAN CALLAHAN asked, "What amount had been removed from the base since the program started in 2001?" **Mr. Gibson** stated that for the last biennium, the program is at \$1.9 million less than the original appropriation. **Mr. Doig** recalled that \$1 million was taken out by the governor's budget, which was most likely carried forward.

CHAIRMAN CALLAHAN referred to the 15 % from the Juvenile Placement Division that was diverted to the transition center, noting that the fund should now be restored to the \$9.2 million minus this 15 %. **Mr. Williams** stated that one reason for the

decrease is due to this 15 %. One million dollars disappeared with budget cuts and \$1 million was also put into cost containment. These cuts have not been a huge concern to the DOC because the youth placement budget has still ended in surplus.

CHAIRMAN CALLAHAN proclaimed that it is one thing to remove a surplus one time, but another to take it from the base.

Mr. Gibson stated that he is willing to look at reducing the probation and parole budget by the 15% their budget has been reduced if the numbers in that system continue to decrease.

CHAIRMAN CALLAHAN replied that if the 15% is not currently in the budget then there is nothing for probation and parole to give.

CHAIRMAN CALLAHAN informed the committee that he will propose a DP to reinstate the juvenile placement fund to what is needed.

{Tape: 3; Side: B; Approx. Time Counter: 15.6 - 20}

Richard Meeker, Montana Juvenile Probation Officer's Association, is speaking for the court probation officers. He asked the committee to consider an increase in the juvenile placement funds. More money is needed for prevention programs in cities to keep kids out of the juvenile system and out of more expensive adult correctional beds in the future. He noted that most large districts now have no extra funds for programming; in fact, the cost containment fund was nearly depleted in the last fiscal year. If the budget remains the same there will no longer be funds for low budget placement. He emphasized that investing in kids is important to prevent them from entering the adult system.

SEN. SCHMIDT asked, "Why was the fund cut?" **Mr. Williams** reiterated that an amount was reduced through the transfer of funds to the youth transition center. Also, the looming financial crisis in 2001 caused a transfer of supplemental juvenile placement funds into the adult secure care program. In addition, the AYA budget was made available for programs and was not fully utilized and therefore was reduced. Ultimately, there was a series of budget steps that reduced the fund and were not recovered. To save the budget from further transferring of funds, the appropriations should be line itemed and restricted.

SEN. SCHMIDT inquired about what the cuts have done to the programs. **Mr. Meeker** stated approximately \$90,000 has been lost. It has resulted in increased placement of youth into juvenile correctional facilities, as well as retaining kids in their communities longer.

SEN. SCHMIDT expressed concern that the kids are being placed in correctional facilities at triple the cost. **Mr. Meeker** clarified that the number of youth placed in correctional facilities has tripled. This is a result of retaining kids in the community longer where appropriate treatment programs are not available.

SEN. SCHMIDT asked about how many go on to the adult system. **Mr. Gibson** referred to Exhibit 12, which shows that approximately 7% go on to MSP.

SEN. BALES stated that there is a disconnect between cutting juvenile placement funds, and then having more offenders in adult correctional facilities in the long run. **Mr. Gibson** added that of the 22 district-allocated funds, 11 of the districts had a surplus. He surmised that all districts are different, and although not all the funding is used, it is needed desperately in other areas of the state.

Mike Wingard, Legislative Audit Division, informed the committee that an audit has recently been done on the juvenile placement program. The results are not yet complete, but will be available in the next two to three months depending on pending legislation.

Pre-Release Expansion Options

{Tape: 4; Side: A; Approx. Time Counter: 4.5 - 11.7; Comments: Pre-release Expansion Options}

Mike Ferriter, Administrator of Community Corrections, responded to a question posed by the committee on the expansion of pre-release centers. He distributed Exhibit 14 to show how many beds could be made available at various sites, with a total of 631 beds. Forty beds could be made available as early as February. He added that a female only pre-release center is already in the planning stage in Billings, which would be a 60 bed facility. He believes pre-release centers provide effective treatment and he is enthusiastic about their expansion.

EXHIBIT(jch14a14)

CHAIRMAN CALLAHAN referred to the prisoner classification issue, reminding the committee that the DOC is looking to expand secure beds. He asked, "Would pre-release expansion affect the secure beds needed?" **Mr. Ferriter** replied that there is already a waiting line for pre-release beds. Correctional beds are helpful to low risk offenders because lack of offender treatment is often a road block to Community Corrections. Community Corrections

cannot serve all types of offenders, such as high risk and high need offenders.

SEN. SCHMIDT noted that all pre-release centers are present except Great Falls, inquiring if they are also able to expand. **Mr. Ferriter** responded that Missoula, Butte and Great Falls will be able to handle the Methamphetamine Treatment Program beds. Bozeman is waiting to build their center. Billings was the only center listed on Exhibit 14 because it is the obvious site for a female facility.

General Questions on Department of Corrections

{Tape: 4; Side: A; Approx. Time Counter: 16.1 - 30}{Tape: 4; Side: B; Approx. Time Counter: 0 - 28; Comments: Department of Corrections Hearing Wrap-Up}

Mr. Freebourn wanted to make sure the committee had all it needed for Executive Action tomorrow. He shared with the committee calculations he had done concerning the new Offender Tracking (O-Track) system; his estimates show that the new system would cost \$174,574 less over the 2007 biennium.

SEN. SCHMIDT inquired about why the cost of Connections Corrections is higher than other pre-release centers. **Mr. Williams** replied that it is a small 40 bed program, but the turn-around and results are better because it is a 60-day intensive treatment program.

Mr. Freebourn pointed to Exhibit 2 to show the committee what they have been provided so they know what information is available to make an informed decision in the Executive Action.

Rhonda Schaffer, Fiscal Bureau Chief, explained that in response to missing item number three on Exhibit 2, costs and programs between the two facilities are hard to compare because they are so different. **Mr. Swanson** added that in the current mix and match system where prisoners are moved frequently to best suit their needs, the comparison is hard to complete in this short of a time frame. **Mr. Mahoney** stated that another reason this comparison is difficult is because 28% of the population at MSP is high risk offenders. Operational costs are controlled by keeping these prisoners in one facility. **Mr. Williams** stated that if the committee wished a measure of public versus private facilities it could be completed and reported to an interim committee.

SEN. SCHMIDT explained that she wanted a basic snapshot of what programs are offered at the facilities on a daily basis.

CHAIRMAN CALLAHAN added that he would like to know how many prisoners are involved in the programs that are listed for the facilities, which will be provided by the DOC.

Mr. Freebourn then pointed to the other missing items on Exhibit 2, some of which will be supplied tomorrow. **Mr. Williams** answered the request on Exhibit 2 for information on the cost to expand regional prisons. He estimated that construction would be approximately \$6.5 million and the operational cost would be approximately \$54 a day. He noted that this is higher than the current per diem, but it is in line for what the DOC currently pays for county jail beds.

Mr. Freebourn distributed Exhibit 15, which shows an example of an action plan for Cascade Regional Prison. He also distributed Exhibit 16, which shows all the DP's for the DOC, and Exhibit 17, which shows the issues raised for the DP's.

[EXHIBIT\(jch14a15\)](#)

[EXHIBIT\(jch14a16\)](#)

[EXHIBIT\(jch14a17\)](#)

Mr. Williams added that within program three the DOC is not requesting a per diem increase, but rather an appropriation for additional inmates.

Director Slaughter stressed that the department will be available for more information relating to program three, contract beds expansion. Bottom-line is that the DOC needs beds. However, he emphasized that the committee has been handed a philosophical decision on the future of the DOC; he asked them to make sure they are fully aware of the options available.

SEN. BALES asked, "If the committee were to adopt the DP as presented, a 500 bed expansion at Shelby would be approved?" **Mr. Freebourn** explained that spending authority would be approved and unless it is restricted to the Shelby facility the DOC could allocate the funds to any DOC activity.

Director Slaughter said that if there is expansion at Shelby, infrastructure is already in place. If the committee decides to add to MSP, they are making a decision on the direction of the DOC.

SEN. BALES stated that an MSP expansion will take longer than two years, plus the legislation. He asked, "Is that a viable

alternative?" **Director Slaughter** replied that it is viable with the adoption of the presentation given by Mr. Ferriter. Ultimately, the committee needs to create a real long range plan.

SEN. SCHMIDT commented that she is having a hard time being comfortable with Shelby and she wondered about what other options may be available.

The committee will reconvene tomorrow for the DOC executive action.

ADJOURNMENT

Adjournment: 12:10 A.M.

REP. TIM CALLAHAN, Chairman

SHANNON SCOW, Secretary

TC/ss

Additional Exhibits:

EXHIBIT ([jch14aad0.PDF](#))