

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN ARLENE BECKER**, on February 7, 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. Pat Wagman (R)
Rep. Bill Warden (R)
Rep. Jonathan Windy Boy (D)

Members Excused: None.

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:

Executive Action: HB 60, Do Pass As Amended
HB 452, Do Pass As Amended
HB 358, Tabled
HB 462, Tie Vote

EXECUTIVE ACTION ON HB 60

Motion: REP. NOONAN moved that HB 60 DO PASS.

Discussion:

REP. NOONAN reported on the subcommittee for HB 60. They had come up with a solution. REP. HARRIS provided a list of amendments that solved both the question from the realtors and solved the question of which department should be in charge of methamphetamine cleanup. The Department of Environmental Quality (DEQ) was the best department to be in charge. REP. STOKER also had a couple of amendments.

Motion: REP. NOONAN moved that HB 60 BE AMENDED.

EXHIBIT(huh30a01)

Discussion:

Ms. Fox, Legislative Staffer, explained the amendments.

Amendment Number 2 stated that DEQ would replace the Department of Health and Human Services (DPHHS). Amendment Number 3 and 4 gave the Department rule-making authority. It also allowed the Department to adopt standards for pre-cursors for methamphetamine. Amendment Number 5 reinforced the statement that once the property had been removed from the contaminated list, there would be no requirement to disclose past contamination.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6}

REP. PAT WAGMAN wanted to know the reasoning behind changing the responsibility from DPHHS to DEQ. REP. NOONAN explained DEQ was reluctant to take the position because they don't handle situations inside buildings. After discussions between the agencies and the Governor, it was determined that DEQ was the place for rule-making and they could handle this type of cleanup.

REP. PAT WAGMAN further inquired if this was new ground for DEQ.

REP. NOONAN believed that it was new. They are not specifically prohibited from going inside a structure, but this specific authority would allow them to do so.

{Tape: 1; Side: A; Approx. Time Counter: 6 - 8.1}

REP. JONATHAN WINDY BOY spoke to the amendment. Their local law enforcement had a problem in how to deal with cleanup and what standards they had to meet. He was in favor of the bill.

{Tape: 1; Side: A; Approx. Time Counter: 8.1 - 9.6}

REP. TERESA HENRY asked the subcommittee if real estate people were satisfied with the amendments. **REP. NOONAN** replied that between the two sets of amendments, everyone was satisfied.

Vote: Motion carried unanimously by voice vote 16-0.

Motion: **REP. STOKER** moved that HB 60 BE AMENDED.
EXHIBIT (huh30a02)

Discussion:

Ms. Fox explained that amendments Numbers 1 and 2 go together. A subsection was being added as shown in Number 2.

REP. STOKER said that in real estate contracts, clauses are built into the contracts that make the realtor aware of Megan's Law, weeds, lead paint, etc. If the realtor has first-hand knowledge, they must disclose it to the buyer. The amendment, (Exhibit 1) from **REP. HARRIS**, ends that responsibility at the time the decontaminated home is removed from the public list. That was one of the objectives of the amendments. In the future, the fact that a piece of property had been contaminated and cleaned up would no longer be public knowledge and would not have to be disclosed. On Page 3, Line 6, (Exhibit 2), the words, "...an owner's agent" would refer to a realtor.

REP. STOKER explained Number 3. The objective was to have DEQ maintain a website listing places that were contaminated. Realtors could go online and verify that the property was listed or had been taken off the list.

{Tape: 1; Side: A; Approx. Time Counter: 9.6 - 16.4}

REP. NOONAN concurred with the amendments. He felt the amendments were concise and established a balance.

REP. ROBERTS reiterated that once the property had been cleaned up to set standards, it would come off the website and would be as if the property had never been contaminated. **REP. STOKER** said that was his understanding, but in the "real world" that can be a scary set of circumstances. This amendment does not relieve the responsibility of the property owner to follow through from the first declaration of clandestine meth lab residue until it is cleaned up and removed from the list. The state would not be responsible for the cleanup on private property.

{Tape: 1; Side: A; Approx. Time Counter: 16.4 - 20}

REP. GORDON HENDRICK inquired how the property owner would be protected from having his property listed if no methamphetamine residue was found. **REP. STOKER** explained the levels of residue

that would have to be found on the property before it could be listed as contaminated.

{Tape: 1; Side: A; Approx. Time Counter: 20 - 22.8}

CHAIRMAN BECKER asked what kind of testing would be done to determine if the property had been contaminated. **REP. STOKER** replied that if a meth lab had been discovered on a property, the assumption would be that the property had been contaminated. The agency would then report it to the local department of health.

REP. WAGMAN, being a volunteer fireman, explained that if they saw a meth lab, they would back out and bring in the hazardous materials (HazMat) people. They would make the decision of whether the property had been contaminated or not.

{Tape: 1; Side: A; Approx. Time Counter: 22.8 - 27.3}

REP. HENDRICK said that in small communities they would not have the right people to make those decisions and would call in HazMat as well.

Vote: Motion carried unanimously by voice vote 16-0.

Motion: REP. STOKER moved that HB 60 DO PASS AS AMENDED.

Discussion:

REP. ROBERTS informed the committee that because of Section 7 on Page 3, it will need a two-thirds vote on the House floor because of the change in liability immunity.

REP. WINDY BOY recommended that the bill be sent to David Ewer, the Governor's budget director and have the change made from DPHHS to Department of Environmental Quality.

Vote: Motion carried unanimously by voice vote 16-0.

{Tape: 1; Side: A; Approx. Time Counter: 27.3 - 31}

EXECUTIVE ACTION ON HB 358

Motion: REP. ROBERTS moved that HB 358 DO PASS.

Discussion:

REP. FACEY felt that counselors for problem gamblers were already available.

REP. MCGILLVRAY asked if there was money already set aside from gambling revenue for counseling and gambling addiction rehabilitation.

Rich Miller, Executive Director, Gaming Industry Association (GA) and Board Member, Montana Council on Problem Gambling, told the committee that at this time there is no state money expended for the treatment of problem gamblers in Montana. All funds expended are through GA which is an organization supported largely by donations and other help comes from the Montana Council on Problem Gambling which is supported by donations from the industry.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 4.2}

REP. MILBURN said the original intent of the bill was to recognize the addiction of gambling. The bill needed much work and the fiscal note was too large.

REP. HENRY recalled that DPHHS was required to define a pathological gambler and make policy that addiction to gambling was a problem in Montana.

{Tape: 1; Side: B; Approx. Time Counter: 4.2 - 6.7}

REP. NOONAN felt the fiscal note was not accurate.

REP. FACEY gave his opinion of the fiscal note and said that the intention of the bill was to make it possible to have addiction counselors covered under Indian Health Services.

{Tape: 1; Side: B; Approx. Time Counter: 6.7 - 9.2}

CHAIRMAN BECKER asked if there was a certification program for counselors of problem gamblers. **REP. FACEY** replied there were certification programs in social work programs, in psychiatric programs and other programs.

REP. STOKER read a portion from the Montana Psychological Association: "There is no evidence that gambling treatments are special or different from techniques that are provided in masters' and doctors' curriculum...." He continued that the training hours for certification for problem gambling counselors as specified in the bill, at minimum, would not provide the level of diagnostic proficiency nor require internship or supervision which other mental health professionals have achieved. Additionally, it would be unreasonable to require the psychologist to receive an additional 60 hours of training in order to treat problem gamblers.

{Tape: 1; Side: B; Approx. Time Counter: 9.2 - 11.3}

REP. MCGILLVRAY felt the request of \$1.2 million for a problem that the state makes no effort to curb would not be wise. The state promotes gambling and this requests money from the state to "fix" the problem. He would not support this bill or a bill that would expand gambling.

{Tape: 1; Side: B; Approx. Time Counter: 11.3 - 12.8}

REP. MCALPIN supported the bill. He wanted to do something to address the problem.

Vote: Motion failed 5-11 by roll call vote with REPS. BECKER, CAFERRO, MCALPIN, NOONAN, and WINDY BOY voting aye.

Motion/Vote: REP. FACEY moved that HB 358 BE TABLED AND THE VOTE REVERSED. Motion carried 11-5 by voice vote with REPS. BECKER, CAFERRO, MCALPIN, NOONAN, and WINDY BOY voting no.

{Tape: 1; Side: B; Approx. Time Counter: 12.8 - 15.1}

EXECUTIVE ACTION ON HB 452

Motion: REP. WINDY BOY moved that HB 452 DO PASS.

Motion: REP. WINDY BOY moved that HB 452 BE AMENDED.
[EXHIBIT](#) (huh30a03)

Discussion:

REP. WINDY BOY said the department had input into the amendments. He asked Ms. Fox to explain.

Ms. Fox explained that in two places "full reimbursement" was replaced by "federal financial participation." This keeps the intent, but the new language was more consistent with federal language. Amendment Number 6 aimed to prevent cost shift if the state reduced Medicaid services. She further explained some cleanup and/or clarifying language.

{Tape: 1; Side: B; Approx. Time Counter: 15.1 - 21}

REP. WINDY BOY offered that the bill basically shifts some numbers around for some of the tribal members who might be eligible for Medicaid and who are currently in the CHIP program. If they are eligible for Medicaid at the 100% reimbursement rate, those people would be shifted out of CHIP into Medicaid which would allow more children to participate in CHIP.

{Tape: 1; Side: B; Approx. Time Counter: 21 - 22.5}

Vote: Motion carried unanimously by voice vote 16-0.

Motion: REP. STOKER moved that HB 452 DO PASS AS AMENDED.

Discussion:

REP. MCGILLVRAY asked for clarification of what the bill would be accomplishing.

REP. WINDY BOY explained that \$18 million federal dollars come to Montana. This is in statute and is used for tribal health care. He explained some background and how the money was divided between the tribes to cover health care. There were problems for Indians who lived off the reservation and needed health care that was unavailable to them. This bill would help those people.

{Tape: 1; Side: B; Approx. Time Counter: 22.5 - 30.2}

REP. FACEY stated that legislation such as HB 452 is good because it instructs the department and tells them what the legislature wants the department to do. On Page 1, Line 22, the bill is requesting the department to seek to protect tribal and Indian Health Services. He further pointed out portions of instructions that were being given to the department on how they should work for and with the tribes.

{Tape: 1; Side: B; Approx. Time Counter: 30.2 - 32}

REP. EMELIE EATON concurred with REP. FACEY and pointed out that there was no cost to the state.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 1.4}

REP. MARY CAFERRO supported the bill. She explained there was a great deal of work put into Medicaid Redesign and there had been input from the Native American Subcommittee. This bill was a combination from both committees.

REP. ROBERTS asked if the bill had been endorsed by Medicaid Redesign. **REP. CAFERRO** said that it had been endorsed by the full committee.

{Tape: 2; Side: A; Approx. Time Counter: 1.4 - 2.6}

Vote: Motion carried unanimously by voice vote.

{Tape: 2; Side: A; Approx. Time Counter: 2.6 - 3.3}

EXECUTIVE ACTION ON HB 462

Motion: REP. FACEY moved that HB 462 DO PASS.

Discussion:

CHAIRMAN BECKER inquired if the program had been included in any budget. Section 2 suggested that it would be an appropriation from the general fund. **REP. ROBERTS** replied that the fiscal note, on Page 2, Item 6 and Item 7, states that grants would be available under the program and would come from the general fund.
{Tape: 2; Side: A; Approx. Time Counter: 3.3 - 6.2}

REP. TERESA HENRY said that she had many e-mails saying not to vote for the bill, but no reasons were given.

REP. EATON followed up on a rumor that some of these people were general objectors. These people were objecting to several different bills but she did not know what their cause was.
{Tape: 2; Side: A; Approx. Time Counter: 6.2 - 8.5}

REP. CAFERRO had also followed up on the e-mails and had learned they had a philosophical difference and were opposed to three- and four-year olds being engaged in structured activities leading to kindergarten readiness. They felt these children should have unstructured playtime, naps, etc.
{Tape: 2; Side: A; Approx. Time Counter: 8.5 - 9.4}

REP. ART NOONAN concurred with REP. CAFERRO because he had heard the same from Butte people. They somehow felt that it was promoting forced kindergarten.

REP. MIKE MILBURN had trouble with the bill. It may be good in theory. The bill would train daycare workers, parents, etc. in order to provide a need for children of this age. He did not feel it would work.

REP. ROBERTS understood the problem and the concerns for those children in daycare. Ideally, families should be involved. In theory, the bill may be good, but he could not support it.
{Tape: 2; Side: A; Approx. Time Counter: 9.4 - 13.2}

REP. NOONAN felt Head Start was successful and nothing was mandatory in this bill. This would make information available to people who want it. He supported the bill.

REP. STOKER commented that DPHHS had indicated this bill was a side issue of early childhood development out of No Child Left

Behind. They had complied with that. He saw this bill as a big handout with no strings attached. He was against the bill.

REP. HENRY said that in her community, many have their children in child care. She was in favor of the bill.

{Tape: 2; Side: A; Approx. Time Counter: 13.2 - 17.6}

REP. EATON pointed out that if childcare workers are better trained on what a young child needs, they would not ignore the children or leave them on their own. She was going to support the bill.

REP. FACEY supported the bill. Science and research have come up with better ways to help kids read at an earlier age. In order to get this information out to childcare workers, etc. it was important to support the bill.

{Tape: 2; Side: A; Approx. Time Counter: 17.6 - 20.1}

REP. MCGILLVRAY commented that the purpose of the bill was to train childcare workers so they, in turn, could educate three- and four-year olds to be ready for kindergarten. This bill would be subsidizing the childcare industry. They should be willing to pay for their own training. Legislators need to look out for the taxpayer.

REP. FACEY informed the committee that teachers are expected to pay for their own education. However, assistants and childcare providers earn so much less; it would be good if the state would help those people gain more education.

{Tape: 2; Side: A; Approx. Time Counter: 20.1 - 25}

REP. GORDON HENDRICK said that in his community, there are already training programs for parenting, child care, etc. and it is unbelievable how these system are not being used. He had given a class and waited for people to come. One couple came. He did not feel that more money would be helpful.

CHAIRMAN BECKER believed there is a major education problem and early childhood education is part of that problem. She supported the bill.

{Tape: 2; Side: A; Approx. Time Counter: 25 - 27.9}

Vote: Motion failed 8-8 by roll call vote with **REPS. FACEY, EATON, HENRY, MCALPIN, NOONAN, WARDEN, WINDY BOY, and BECKER** voting aye.

{Tape: 2; Side: A; Approx. Time Counter: 27.9 - 30.4}

ADJOURNMENT

Adjournment: 5:30 P.M.

REP. ARLENE BECKER, Chairman

MARY GAY WELLS, Secretary

AB/mw

Additional Exhibits:

EXHIBIT ([huh30aad0.PDF](#))