



Children, Families, Health, and Human Services Interim Committee

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

58th Montana Legislature

SENATE MEMBERS

JOHN ESP
JERRY O'NEIL
GERALD PEASE
TRUDI SCHMIDT

HOUSE MEMBERS

EVE FRANKLIN--Vice Chair
DON ROBERTS--Chair
EDITH CLARK
CAROL GIBSON

COMMITTEE STAFF

SUSAN FOX, Research Analyst
GREG PETESCH, Staff Attorney
DAWN FIELD, Secretary

MINUTES

April 29, 2004

Room 102, State Capitol
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

REP. EVE FRANKLIN, Vice Chair, Presiding

SEN. JOHN ESP
SEN. JERRY O'NEIL
SEN. GERALD PEASE

REP. EDITH CLARK
REP. CAROL GIBSON

COMMITTEE MEMBERS EXCUSED

REP. DON ROBERTS
SEN. TRUDI SCHMIDT

STAFF PRESENT

SUSAN FOX, Research Analyst
GREG PETESCH, Staff Attorney
DAWN FIELD, Secretary

AGENDA & VISITORS' LIST

Agenda, Attachment #1.
Visitors' list, Attachment #2.

COMMITTEE ACTION

- approved the January 22 and 23, 2004, minutes as written;
- approved Committee bill draft request on TANF and felony drug offenders;
- approved preparation of draft legislation for consideration on statewide coordinated leadership: one proposal regarding the Montana Board of Crime Control and one proposal regarding the ICC.

CALL TO ORDER AND ROLL CALL

REP. FRANKLIN presided as Chair in REP. ROBERT'S absence and called the meeting to order at 8:33 a.m. The secretary noted the roll, SEN. SCHMIDT and REP. ROBERTS were excused (Attachment #3). The minutes from the January 22 and 23, 2004, meeting were approved as written.

SJR 11 STUDY ON DRUG AND ALCOHOL POLICY: PREVENTION, INTERVENTION, TREATMENT, AND INCARCERATION

Allison Colker, National Conference of State Legislatures (NCSL)

The request for technical assistance from NCSL, as made to Ms. Colker by Ms. Fox on the behalf of the Committee, included the following three topics: drug court, co-occurring disorders, and funding. Ms. Colker stated the panelists presenting information at today's meeting were considered national experts and gave a brief background on the professional expertise of each panelist.

Co-Occurring Disorders -- A.J. Ernst, Ph.D., Co-Occurring Disorders Program Manager, State of Texas, oversees both the Texas Department of Mental Health and Mental Retardation (TDMHMR) and the Texas Commission on Alcohol and Drug Abuse (TCADA). He reviewed the history, evolution, and components of the Texas model (*What Works: Financing Strategies and Benefit Structures to Treat Co-Occurring Disorders* - Power Point presentation, EXHIBIT #1).

Dr. Ernst's discussion included information on the following:

- Co-Occurring Service Delivery History and Significant Factors;
- 1996 Dual TDMHMR and TCADA Disorders Initiative Funding and Outcomes;
- System Changes - "No Wrong Door" Mainstream Integrated Services;
- Texas Co-Occurring Psychiatric and Substance Abuse Disorders Services (COPSD) Features; and
- Things to Come: Performance Partnerships and Integrated Initiatives.

Dr. Ernst provided copies of the Texas Administrative Code: Standards For Services To Persons With Co-Occurring Psychiatric and Substance Use Disorders, Chapter 411, Subchapter N, (EXHIBIT #2). These standards mandate that all individuals have access to

services and that mental illness or addiction cannot be used to refuse services or to cut services. It also identifies specific competencies that every provider in Texas has to have for cross-training purposes in order to work with individuals with co-occurring disorders. This has turned the traditional mainstream parallel treatment systems into an integrated system with defined standards of care.

SEN. ESP asked for more specific information on how Texas manages the medical records for the program, given that the records are all internet-based, and if Texas has considered allowing all medical records to be internet-based, so all consumers could evaluate and choose where they wish to be treated. Dr. Ernst said HIPAA requirements may prevent that and that it was too early in the development of the model to incorporate something of that nature. SEN. ESP asked if providers were resistant when the change was made from paper to electronic records. Dr. Ernst said there was resistance and still is, but that as the providers are learning how to use the programs, their concerns are lessening.

REP. GIBSON asked if implementing a standardized form for best practices had resulted in providers staying longer and adding stability to the treatment system. Dr. Ernst said not only has there been a trend of increased engagement in terms of compliance with treatment goals, but there has also been a drastic decrease in the incidence of consumer right's violations reported by consumers. Overall, standardized practices have been a tremendous help. SEN. O'NEIL asked if practitioner turnover rates had decreased with the implementation of the integrated model. Dr. Ernst attributed the turnover rate to low salaries. In spite of this, client care and outcomes have still improved significantly, partially because the Texas model requires family members to be actively involved with the treatment plan.

REP. CLARK asked if the funding for the integrated program was taken from existing dollars or if additional funding had been allocated. Dr. Ernst said there had been no additional funds allocated, that the program was operating on existing funds.

REP. FRANKLIN commended Dr. Ernst for the holistic care approach taken by Texas and asked him to explain how the transition to the integrated model was made. Dr. Ernst said the transition occurred through cross-training, which included identifying the behaviors of individuals with serious mental illness, serious addiction problems, and the commonalities of both. This allow the providers to adequately recognize and treat both addiction and mental health problems. Texas is increasing the course curriculum requirements from 8 to 45 hours and is working with community colleges to allow providers to pursue accredited course work.

REP. FRANKLIN asked how Dr. Ernst encouraged cooperation and integration between the agencies. Dr. Ernst said the most important factor is the 1995 legislative rule which mandated state agencies to work together to provide a complete service delivery system. This legislative rule gives him a significant amount of authority over the agencies and he also maintains contact with state and national officials.

SEN. ESP asked if the move toward electronic records was only within the mental health and co-occurring disorders providers or on a broader base. Dr. Ernst said there is a movement to cover all fields of medicine. The WHITS software used by Texas is available to all states through SAMHSA. There is no cost for the software but the hardware and training costs would have to be funded.

Lois Steinbeck, Fiscal Analyst, Legislative Finance Division (LFD), asked if the state mental health hospitals were integrated into the system. Dr. Ernst said they were and were actually more advanced than the community mental health centers because the prevalence of co-occurring disorders is much higher among the more seriously impaired individuals, so hospitals have been serving this population for a long time.

Peg Shea, Western Montana Addiction Services, asked Dr. Ernst to describe the combined mental health-substance abuse budget. Dr. Ernst said it has grown from \$1 million in 1996 to over \$200 million. Ms. Shea asked if Medicaid covered all services. Dr. Ernst said it did not. Ms. Shea asked if Texas was an American Society of Addiction Medicine (ASAM) state, adding that she was pursuing this for Montana. Dr. Ernst said Texas is not an ASAM state. Ms. Shea asked if chemically dependent people with mild mental illness were eligible for treatment. Dr. Ernst said individuals who are not seriously mentally ill do not qualify for treatment and that his program treats primarily the seriously mentally ill - low addiction patients. The state hospitals deal with the highly mentally ill - highly addicted patients. Ms. Shea asked for advice on how to identify and prioritize the issues of highest importance. Dr. Ernst strongly encouraged the Committee to examine the Texas Administrative Code, saying it has a brief description of the purpose of the rule and common definitions between the mental health and substance abuse. There are specific subtopics in the different chapters that address access issues, parties of compliance, managed care, quality management, importance of integrated screening assessments, and treatment plans. It is intentionally small and readable, making it user-friendly for all who need it.

Bonnie Adee, Governor's Mental Health Ombudsman, asked if the correctional system has accepted the co-occurring treatment model. Dr. Ernst said the criminal justice system has addressed mental health by garnering enough legislative support to create its own state agency and is responsible for its mentally ill population. The criminal justice program has a significant amount of funding and there is resistance to working with our program because of this. Treatment is provided to inmates only 3 months prior to discharge from the system and not during the term of incarceration. A Motion of Understanding (MOU) has been established that allows a 30 day supply of medication after discharge.

Randy Gray, Mayor, Great Falls, said this model creates funding opportunities and that Montana is not making use of the relationship between alcohol and tobacco and gaming taxes. A compilation of those funding sources that are already in place could be a vehicle to produce enough revenue to implement a similar treatment system here in Montana. Mayor Gray asked for an explanation of how Dr. Ernst combined the various funding sources. Dr. Ernst said there has been discussion in Texas on utilizing "sin taxes" to fund treatment programs. At this time, they are not a significant source of revenue. Mayor Gray reported he has been approached by several industries in Montana, saying employers are finding it difficult to find and retain a good labor force, due to addiction problems, particularly methamphetamine. There has been discussion among some of the industries of doing a self-imposed tax to help combat this problem and he asked if Texas has considered an employer/employee tax. Dr. Ernst said he was not aware of any discussion involving this type of tax. Mayor Gray said he was curious about any economic data is available revealing the impact this model has had on the different budgets, either positive or negative, if it has impacted crime rates or affected access to services. Dr. Ernst said the Texas model was started by five pilot programs throughout the state before it was expanded statewide. An evaluation program is set up but the statewide

integrated service approach system has not been in effect long enough to accurately evaluate it. Mayor Gray asked Dr. Ernst to comment on how to reduce recidivism rates. Dr. Ernst said drug courts were the most effective avenue to accomplish this and demonstrated significant cost savings as well.

Drug Courts -- Bridget Kelly, BA, CADC, CCJAP, Treatment Alternatives for Safe Communities,

Ms. Kelly said a statewide collaborative system supports the recovery process and justice system goals by offering continuity of care, access to services, accountability, and efficiency. She presented a detailed explanation of how to create a statewide drug court (*What Works: Creating a Statewide & Collaborative Drug Court Model* - Power Point presentation, EXHIBIT #3). Discussion included:

- an overview of drug courts;
- the drug court team and role of the defense counsel;
- the challenges of drug-involved offenders;
- the benefits of a statewide drug court system;
- the necessary steps to accomplish a statewide drug court system;
- the role and goals of a statewide drug court system;
- case supervision versus clinical case management;
- foundations for effective systems;
- critical justice and treatment principles;
- the value of independent case management; and
- funding resource opportunities: existing, state, county, city, and federal.

SEN. O'NEIL said he didn't see the need for creating a whole new system and thought it would be much less expensive to have parole officers provide the collaborative treatment and independent case management. Ms. Kelly said probation caseloads are overwhelming and they simply do not have the time, training, and resources to provide effective care. Additionally, a drug court expedites cases and frees up the judge for other matters. In the long term, a drug court costs less than incarcerating offenders.

REP. CLARK pointed out that an additional benefit of a drug court is that it treats the whole family and not just the addict, adding to the long term savings.

Ms. Kelly noted that she did not have a specific number of drug court clients served in Illinois but estimated it to be in the thousands. She said the county drug court she works in serves 400 clients annually. The Division of Alcoholism and Substance Abuse and the court system has oversight of the drug court.

Ms. Shea asked of the 400 people treated in Ms. Kelly's drug court, what the cost per treatment was annually. Ms. Kelly said the first year, it cost \$100,000 to treat 200 people, and that early intervention is key to successful treatment and to holding down expenses. Ms. Shea asked what the cost is for a full time case manager. Ms. Kelly said it ranges from \$20,000 - \$25,000, with benefits.

Kathy McGowan, Community Mental Health Centers, Sheriff's and Peace Officers Association, asked Ms. Kelly to discuss what the drug court's position of electronic monitoring

is. Ms. Kelly said electronic monitoring is a very effective tool in reducing incarceration and to ensure compliance.

REP. FRANKLIN asked Ms. Kelly to discuss protocols for progressive sanctions and if industry standards have been developed. Ms. Kelly said the Illinois drug courts use state-of-the-art protocols written by Dr. Fay Taskman. The protocols are available on Dr. Taskman's website and may be downloaded free of charge.

Funding -- Doug Allen, Interim Director, Washington State Division of Alcohol and Substance Abuse, explained various aspects of the Washington drug courts:

- Washington utilizes both federal and state funds to support the drug courts. The funds are designated for treatment only. The only exceptions made are for transportation and child care costs.
- There are 14 drug courts in the state and the annual average cost per client is approximately \$3500.

Over 1.2 million Washington State citizens are involved in some sort of state services within the Department of Social and Health Services. Washington funds only those individuals who are 200% or less of poverty level and no private individuals are funded. Approximately only 1 in 4 persons in need is served.

The Washington State Division of Alcohol and Substance Abuse is 15 years old and has continuity of leadership with the Governor's Office and the Legislature, which has helped add stability.

Mr. Allen provided specific information in a handout (*Washington State SAA, EXHIBIT #4*), which he discussed in detail for Committee members. Mr. Allen explained:

- The Division of Alcohol and Substance Abuse budget;
- SSA revenue streams and contracting entities;
- allocation of federal funds;
- research -- direct and partnerships;
- the consequences of good data and how to utilize this data to influence policy;
- treatment completion statistics;
- factors contributing to success of the drug court; and
- future opportunities being explored by the drug court.

Funding -- Suzanne Gelber, SGR Health Ltd, and The Avisia Group, started with an overview of substance abuse treatment, saying it is unusual as a component of health care and creates issues because much of the funding for substance abuse is public money. Because of this, there are many questions at the local, county, state, and national level about how those funds are being used and whether or not treatment works.

Ms. Gelber distributed her presentation (*Funding and Finance Options for Public Substance Abuse Treatment Services - EXHIBIT #5*). Topics covered in her discussion were:

- funding streams and other revenue sources;
- the importance of funding diversification;
- non-revenue strategies;
- infrastructure improvements needed to pursue diversified funding; and

- NIDA/NIH and methamphetamine-related resources and research.

SEN. ESP commented that Ms. Gelber's statement that "there is no evidence that organizational change will save money" contradicted what Dr. Ernst said earlier. Ms. Gelber said reorganizing agencies and programs come at a huge cost, which likely will exceed the savings. The reorganization may or may not yield the desired results.

Ms. Shea asked Ms. Gelber to comment on the California legislation, Proposition 36, regarding non-violent drug offenders being routed into treatment, versus incarceration. Ms. Gelber said the initiative that led to Proposition 36 was funded by a philanthropist. Individuals with substance abuse problems who were about to be incarcerated were instead moved to community treatment programs. The evaluation of the program is in progress and is being done by the University of California - Los Angeles (UCLA) and the data looks promising. Ms. Colker said Arizona operated a very similar program from 1996-2000 and that she would provide that data to the Committee, if requested. REP. FRANKLIN asked her to do that.

Ms. Colker said she would provide copies of "Treatment of Alcohol and Other Substance Abuse Disorders -- What Legislators Need to Know" to the Committee chairs, the legislative library, and to legislative leadership. The information was compiled specifically for legislators to help guide them through the many issues related to substance abuse disorders.

Ms. Gelber recommended a series of books called "Treatment Improvement Protocols" from The Center for Substance Abuse Treatment and said the books were very useful. The books can be ordered through www.samhsa.gov.

Overview of Montana -- Joan Cassidy, Chemical Dependency Bureau Chief (CDB), Department of Public Health and Human Services (DPHHS)

Ms. Cassidy introduced herself to the Committee and briefly reviewed her professional background as a substance abuse treatment provider before becoming the CD Bureau Chief. Ms. Cassidy said the Chemical Dependency Bureau organizes and funds prevention activities and assesses Montana's need for chemical dependency treatment and prevention services. Her Power Point presentation outlined the following topics (*The Chemical Dependency Bureau - EXHIBIT #6*):

- the mission of the CDB;
- the staff;
- funding sources and bureau expenditures;
- the chemical dependency service system and the services it provides;
- admissions data for fiscal year 2003;
- a description of statewide prevention services;
- other initiatives and involvement; and
- barriers and challenges.

Ms. Cassidy provided copies of *The Prevention Connection* newsletter (EXHIBIT #7). The Committee has received presentations in the past on AMDD-funded programs. A program the Committee may not be aware of is the recovery homes. Representatives from both homes made a presentation.

Shelley Johnson, Director, Alcohol and Drug Services, Gallatin County, The Recovery House - Bozeman, said the home in Bozeman is one of two pilot project recovery homes. The homes provide a stable and safe environment for clients who have completed a treatment program but are not be ready to return to an independent living situation. Ms. Johnson said these homes are very cost effective and a valuable opportunity for those individuals coming out of addiction services. Ms. Johnson also distributed an overview and photos of the recovery home (EXHIBIT #8).

Joan McCullough, Southwestern Chemical Dependency Center, The Recovery House - Livingston, said the difference between the recovery homes and the three women and children's homes is that the recovery homes are simply a living situation, with no services provided.

- No treatment is administered, nor are classes offered at the recovery homes.
- There is a full time case manager, who helps the residents deal with a wide range of issues: education, transportation, shopping, hygiene, cooking, and cleaning, for example.
- The residents can be male or female, are required to apply for food stamps, and cannot be a sexual offender.
- The residents must abide by responsible living standards such as signing in and out, and are required to participate in household duties.
- The Recovery House takes referrals from agencies, physicians, individuals, and has received strong support from the community.

REP. CLARK asked what the capacity of the home was and what the average length of stay was. Ms. McCullough said the home's capacity was six adults and the average length of stay was one year.

SEN. O'NEIL asked what the cost per participant averaged out to be. Ms. Johnson said she did not have that information but could tell SEN. O'NEIL that each participant was required to pay \$300 per month and that the Recovery House receives approximately \$65,000 of state funding annually.

SEN. ESP asked Ms. Cassidy to discuss the program outcome measurement and how that information will be used, if the information would be difficult for providers to use, and what infrastructure would be needed to allow them to use it. Ms. Cassidy said, in putting together the SAMS system, WHITS became available on disc and she attended an orientation program for new directors. When she brought the program back to the State, it fit very nicely. In putting the system together, the team really came together, not only working with the state in terms of what we need, but also in looking at provider availability. It will be a continuous upgrading of software, hardware, and maintenance but will be a very friendly system for the providers. This system which accommodate both large and small providers and will also be able to be accessed by other systems.

SEN. ESP asked why the Montana Chemical Dependency Center in Butte is not included in the CDB. Ms. Cassidy asked her supervisor, Joyce DeCunzo to answer SEN. ESP'S question.

Joyce DeCunzo, Division Administrator, Addictive and Mental Disorders Division (AMDD), said the Chemical Dependency Bureau deals with community-based programs for chemical dependency. The Montana Chemical Dependency Center in Butte is the state-run chemical dependency facility and is run separately from the community based programs.

SEN. ESP asked Ms. DeCunzo if agencies were working to overcome some of the "turf" issues that have caused problems in the past. Ms. DeCunzo thought there were efforts being made to overcome these types of issues. The most difficulty occurs when trying to move from one treatment system to another, for instance, moving a client from the correctional system to a community-based treatment program. The AMDD is working with the Department of Corrections to overcome these barriers because we recognize that we serve the same individual. We know we need to figure out how we get around our separate funding streams and separate treatment modalities so they don't act as a barrier to an individual getting the services they need.

SEN. ESP asked if the Prevention Needs Assessment done in Montana schools is done by the Chemical Dependency Bureau only, or if it is done cooperatively with other agencies. Ms. Cassidy said the CDB works with the school districts but no other agencies are involved in the survey.

REP. GIBSON reported a study of the inmates at the Women's Prison in Billings revealed that they are provided addiction treatment while incarcerated. She noted that one of the inmates commented that it was easy to "stay straight while you're locked up" and expressed concern that it is much more difficult for inmates to stay clean and sober when released. Ms. Cassidy concurred with REP. GIBSON'S statement and added that this is a problem in the male inmate population also. The key is to enable these inmates to access services when released. es. There is a high risk of recidivism without this effort.

PUBLIC COMMENT

Ms. Shea said policymakers must consider many complex issues and face many difficult decisions in crafting a statewide coordinated treatment plan. She suggested a good place to begin is to determine what can be influenced and build from there. Effective and open communication will be a crucial element between department directors, elected officials, and community and government leaders. Priorities and goals must be set and a plan established for achieving them. REP. CLARK asked Ms. Shea what her first priority would be. Ms. Shea answered that she thought it should be adolescent, women, and family services.

Mayor Gray commented from a community perspective:

- Methamphetamine use is rapidly increasing and the result is manifesting itself in increased crime rates, officer assaults, a criminal justice system stretched well beyond capacity, increased demand on our fire and police departments, increased child abuse, schools dealing with students with addiction problems, and national forests being used as meth labs.
- Trade groups are very concerned about the declining labor force, due to drug addiction,
- rapid consumption of public funds for treatment of inmates with addiction problems.

Mayor Gray related some of the specific work that the Great Falls workgroup has undertaken to create a public awareness of the many problems created by substance abuse and described some of the services being provided by this working group.

Mayor Gray also said that integrated services are essential but in order to create an integrated approach, there must be coordination and cooperation. Resistance issues must be overcome.

Funding is critical and creative and innovative avenues must be considered, such as a "sin tax" on legal substances. There are other potential funding sources may be the bed tax, a realty tax, or pursuing federal assistance through the Forest Service and the Bureau of Land Management.

Great Falls is actively pursuing economic development but substance abuse is a real threat to the labor force and is impacting Montana's ability to attract new business.

Dr. Don Nauts, Great Falls, said mental health insurance parity is a key issue, in his opinion. States with parity have a less than 2% shift in employers moving to self-insured systems. A lot of people with some benefits find them to be inadequate when seeking treatment. The individual ends up losing his/her benefit, can't re-access treatment, loses his/her job, and ends up in the public sector. Insurance companies must offer more treatment options. The majority of people want treatment but can't pay for it. Stigma is another major problem. Montana has the pieces, it just needs the coordination and leadership to bring it together. Research by the American Society of Addiction Medicine indicates that the longer these patients are engaged in services, the better the outcome is.

REP. FRANKLIN agreed that research has indicated that outpatient, community-based treatment is more effective. Dr. Nauts said a supportive treatment environment is essential for outpatient treatment. The majority of treatment can continue in outpatient settings so long as there is supportive living environments. It appears that the key element in methamphetamine treatment is long term engagement.

Dr. Nauts testified that Montana is lacking in detoxification programs, especially hospitals with treatment programs. If the hospital does not have treatment, people in need of detox may be turned away.

Ms. Colker said that even though parity is being demanded by many, from a practical perspective, it must be carefully considered. Mandating equality can backfire and actually result in decreased benefits and coverage. Managed care is a result of parity laws, which some would argue are not necessarily effective. However, if parity is mandated, research has shown that for substance abuse, the premium increases approximately 1/2 of 1% and the increase for mental health is from 1-2% in the premium. If the premium increase is weighed against the costs suffered by employers by not having treatment in the workplace, it is a very negligible cost. Ms. Colker said there are several reports that substantiate this and she would make them available.

Ms. Colker also discussed the implications of the Uniform Accident and Sickness Insurance Policy Provision Law (UPPL) model law created in 1985. The idea behind the law was to give permission to insurers to not pay medical insurance claims that arrive if the person has any presence of alcohol or drugs. The doctors were fearful that they would not be paid for services rendered if the screening revealed that the patient was under the influence of drugs or alcohol, so they simply stopped screening patients for drugs and alcohol. This has prevented people in need of treatment from getting it because the doctor did not order a screening, therefore their condition is not accurately assessed and the opportunity for a motivational interview or for a referral to treatment is lost. This law has had a lot of problems and there is a movement to roll it back.

Ms. McGowan commented that she finds it frustrating that so many groups and entities are working on this issue without any coordinated effort and seemingly, at odds. Regarding the use of deferred sentencing, law enforcement and county attorneys won't buy in unless it results in treatment on the other end. There must be a serious intention to do both. Leadership is key and to date, there hasn't been effective leadership.

Mr. Petesch remarked that 33-22-231, MCA, has remained unchanged since 1959.

Prevention Issues -- John Oliphant, Government Affairs Director, Boys and Girls Club, and Gary Pfister, 21st Century Grant, Office of Public Instruction (OPI),

Boni Braunbeck, Chair, Montana Alliance of Boys and Girls Clubs, Lewistown, explained that she is working to create a partnership between the Boys and Girls Club and other after school programs in Montana. The alliance has been in effect for three years and really increased efforts in the last year to establish long-term residual funding for Boys and Girls Clubs of Montana.

John Oliphant, Government Affairs Director, Boys and Girls Club, distributed a copy of his presentation to the Committee members (*Boys and Girls Clubs of America* - EXHIBIT #9), in which he:

- listed the Montana Alliance of Boys and Girls Club Board members;
- profiled the programs and opportunities provided to children by the Boys and Girls Club;
- discussed the growth of the Club since 1990;
- related cost and budget issues;
- said the Club is not seeking additional funding but is pursuing funds already in the state budget that are allocated for youth-related issues; and
- said that more and more communities are relying on these Clubs to provide more life-saving and life-enhancing skills to youth.

Gary Pfister, Education Programmer, Office of Public Instruction (OPI), Director, 21st Century Learning Program, said the 21st Century program is a federally-financed afterschool program. Mr. Pfister explained that the definition of afterschool program has been expanded to include any time that activities and services are provided when school is not in session.

Research has shown there are many benefits to afterschool programming and it is becoming an important part of the educational system. Benefits provided by afterschool programs are:

- providing a safe and drug-free environment during critical hours when many parents are unable to be with their child;
- providing one-on-one tutoring, homework help, specialized reading and math programs to increase a child's chances of academic achievement;
- teaching prevention programs which are based on the individual community's needs, including counseling and mentoring;
- offering nonacademic learning opportunities such as cooking, arts/crafts, games, physical activities that help increase self esteem and to feel successful;
- providing nutritious snacks; and
- aiding working families, particularly single parents.

The 21st Century Grant Program:

- was originally federally funded through the Department of Education, but the Office of Public Instruction now administers the funds;
- awards grant funds through a competitive grant process;
- requires grant applicants to meet certain eligibility criteria;
- accepted 55 applications and will award grants starting at the minimum amount of \$50,000 up to the \$100 - 125,000 range;
- will fund 14 or 15 new projects, for a total of approximately 35 projects statewide;
- has a far greater demand for funds than it can supply; and
- recognizes there is a need for outreach to rural communities and has partnered with various organizations to try to accomplish this.

Mr. Pfister said a recent needs assessment revealed that there is a need:

- ▼ for increased availability of programs,
- ▼ to improve the quality of the programs, and
- ▼ to establish a viable, sustainable funding plan.

Michael Marnin, Billings, related an anecdotal story of a mother and daughter who were positively impacted by a Boys and Girls Club. The daughter had fallen far behind her grade reading level, and through tutoring received at the Club, she was able to catch up in several months. The extra attention she received at the Club is the heart of why the program is so important and so effective.

REP. FRANKLIN noticed that the per-child cost had gone down and asked Mr. Oliphant what accounted for that. Mr. Oliphant said economy of scale and better business practices have allowed costs to be significantly reduced.

TANF, Food Stamps, and Drug Offenders -- Minkie Medora, Montana Food Policy

Council, appeared before the Committee to request that this Committee repeal the exception in 53-4-231, MCA, in order to allow convicted drug felons to receive food stamps and TANF benefits. This law imposed a lifetime ban on a drug felon from receiving benefits and in her opinion, is meaningless and inhumane. This is a nutrition issue and affects not only the felon, but his/her family also.

SEN. O'NEIL asked how these felons are managing without food stamps. Ms. Minkie said many times, they rely on other family members, some go to food banks, but many of them simply go hungry.

Hank Hudson, Administrator, Temporary Assistance for Needy Families (TANF) Block Grant Program, DPHHS

supports the DPHHS proposal. The federal policy adopted in the 1990s allowed states to opt out of that provision through legislative action. Montana chose not to do this and has discovered that it has created great difficulty for those individuals who are genuinely trying to successfully reenter society. Mr. Hudson encouraged the Committee to request this legislation.

REP. CLARK asked how or if this would affect the TANF budget. Mr. Hudson said there would be additional TANF expenditures but didn't have a specific amount. Other costs of not providing nutrition must be taken into consideration as well, such as foster care, juvenile corrections cost, or potential recidivism by the felon. If repealed, a felon would be eligible to receive the TANF

benefit if he/she agrees to submit to random drug testing at the discretion of his/her probation or parole officer and the officer will have to certify compliance.

REP. GIBSON asked what would happen if the felon experienced a relapse and tested positive for drugs. Mr. Hudson said if the felon tested positive, they would lose their TANF benefit and wasn't sure how their probation and parole would be affected.

REP. FRANKLIN asked Mr. Hudson if the drug testing provisions should be addressed through administrative rule or through statute. Mr. Hudson recommended legislation, making the provisions a part of Montana statute.

Ms. Fox referred Committee members to the report: *Public Assistance Benefits and Convicted Felony Drug Offenders* - (EXHIBIT #10), and said the language from the 2001 proposed bill was on page 2 and recommended using that same language for the new proposal. Ms. Fox brought the Committee's attention to the fact that Montana has a Constitutional provision on the convicted felon's rights (Montana Const., Art. II, Sec. 28). Ms. Fox also said she received an e-mail message from **Roland Mena, Montana Board of Crime Control (MBCC)**, passing on information from the Legal Action Center, on Roadblocks to Reentry. The e-mail said Montana has identified this issue as one of the roadblocks to success for people with criminal records.

Greg Petesch, Legal Director, Legislative Services Division, said the current law was not written clearly and that an equal protection challenge would likely result in the Supreme Court striking it down.

SEN. ESP asked if the proposed bill draft had a waiting period or other stipulations. REP. FRANKLIN said the exact language was on Page 2 of EXHIBIT #10.

REP. GIBSON said it was inhumane to deny food, especially if the felon was making an attempt to be a law-abiding citizen.

SEN. ESP asked Mr. Hudson what the difference would be in the amount of food a family would receive if the male lost his food stamp privileges. Mr. Hudson said it amounted to approximately \$150 per month for a family of three. If it was a family of five, the loss of the adult food stamps would amount to about 30% of their total food allotment.

REP. CLARK clarified that a stipulation of the bill was that "there is an absence of any current drug dependency". Mr. Petesch said there was a certain amount of ambiguity in the language that could be clarified through administrative rule because as written, the language could be interpreted to have several meanings. REP. CLARK asked Mr. Hudson what language he would suggest for the administrative rule. Mr. Hudson suggested the following language, "while a client is receiving benefits, the client will be subject to testing at the discretion of the Department. The client will be tested at the outset and the Department reserves the right to test again". REP. CLARK asked who would bear the expense for the testing. Mr. Hudson said the cost of the testing would come out of the TANF budget.

SEN. O'NEIL said he was considering sponsoring a bill containing a penalty which would deny TANF benefits for a short period of time to an individual convicted of a misdemeanor or felony.

REP. FRANKLIN thought SEN. O'NEIL'S bill should be independent of the one being considered by the Committee.

SEN. PEASE asked why the Governor amended the original bill. Mr. Hudson said the Governor wasn't comfortable with the law, perhaps because some viewed this bill as "welfare for drug felons".

REP. CLARK **moved** to have Ms. Fox draft a bill, using the language discussed by the Committee. The motion passed on a 6 - 2 voice vote, with SEN. ESP and SEN. O'NEIL voting no, and SEN. SCHMIDT and REP. ROBERTS (Attachment #4) voting yes by proxy through REP. FRANKLIN.

Statewide Coordinated Leadership and Prevention Proposals

Ms. Fox asked Committee members to review the April 16, 2004, memo (previously mailed to Committee members) which summarized both the statewide leadership and prevention issues and the Committee's work to date (*Coordinated Statewide Leadership Proposal Status*, EXHIBIT #11). Ms. Fox noted that **Vickie Turner, Prevention Resource Council (PRC)**, who has acted as Administrator for the Interagency Coordinating Council (ICC), had received word that the VISTA program will no longer subsidize the ICC. Ms. Turner provided additional information and said:

- The ICC has met several times since last fall and, through this Committee's suggestion, has begun work on the leadership proposal that is before the Committee. However, the ICC has not officially voted on this proposal and will be meeting again May 27, 2004.
- The Prevention Resource Center (PRC) exists through various funding sources. The majority of the funding is from the VISTA grant and with the loss of this funding, the future of the PRC is uncertain.
- There is a FTE open and the efforts are being made to receive partial funding through a collaborative effort with the DPHHS for a prevention coordinator within DPHHS. That position may be able to provide minimal support.

Ms. Fox asked **Roland Mena, Executive Director, Montana Board of Crime Control (MBCC)**, who also serves as the Chair of the ICC, to comment. Mr. Mena said the work of the ICC cannot be continued at the same level of activity until it is determined whether or not the PRC will be fully staffed.

Ms. Fox said she has consulted with the MBCC, the ICC, and the DPHHS Division Directors on both the preliminary proposal and the MBCC proposal (page 2, EXHIBIT #12). While there has been no commitment made by any of those groups, Ms. Fox stated she was very pleased that it was finally being acknowledged that coordination efforts are in need of improvement.

Ms. Fox said the Committee is very aware of the existing funding sources and also discussed potential funding sources, such as "sin taxes". She said the tobacco tax is an example of such a tax.

Ms. Fox said with the Committee's permission, she would like to work with both the ICC and the MBCC to draft the two proposals in bill form, requiring them to make a decision on this matter. Bill Mercer, Chairman of MBCC, is very interested in speaking to this Committee and would like

to attend the June meeting. Ms. Fox said she would like all proposals to be on the table and open for discussion at the June meeting. The Committee can then gauge the interest and make the final decision on how to proceed.

SEN. O'NEIL asked if the bill drafts would integrate the substance abuse issues with the mental health issues. Ms. Fox said she would like the Committee to give her direction on that and asked the Committee to decide if the proposal should include both mental illness and substance abuse for a general, holistic prevention and treatment approach, or if the proposal would include only substance abuse programs.

SEN. ESP wanted additional information on the issue of electronic access to information and thought the Committee should consider mandating some sort of move towards electronic data. REP. GIBSON asked how this electronic data would be used and what purpose it would serve. REP. FRANKLIN said it would help in many areas such as standardize care and evaluating patient and treatment outcomes. SEN. ESP said he thought the entire medical profession should move to electronic data.

REP. CLARK **moved** to direct Ms. Fox to use a "holistic approach" to draft the bills, to encompass both substance abuse and mental health programs. The Committee agreed.

Ms. Fox asked Committee members to look at the Unified Prevention Budget (EXHIBIT #12). As the presenters all said this morning, it is difficult to braid funding, to be creative, and to know how to apply it effectively and legally. Gail Gray, Director, DPHHS, has cautioned that taking even a small percentage of funding from a program can have a drastic impact on its budget and to proceed carefully. Efforts don't have to center on funding however. For instance, the 21st Century Grant program said it needed more rural outreach and grant writers. Instead of finding additional funds for these things, there is a need to use existing resources more carefully, such as have agencies share resources or "purchase" a needed service it can't provide from an agency that does provide the needed service. This approach would not disturb FTE's or funding.

Ms. Fox said she would like an indication from the Committee on how willing it was to "upset the apple cart". Director Gray and the DPHHS wants to get rid of the unified budget in the ICC. Ms. Fox said she would suggest revamping it and making the unified budget work in the Office of Budget and Program Planning (OBPP). However, if the Committee doesn't support this idea, it can be left to the Appropriations or Fiscal Committees to deal with.

SEN. O'NEIL asked if Ms. Fox was recommending that the ICC be given grant writing responsibilities. Ms. Fox said she could not make that determination, but in the discussion for statewide coordinated leadership, that has been identified as an important issue. Providing technical assistance and acting as a clearing house for information have consistently been requested to be on the list of duties. In theory, the chief prevention officer will coordinate resources and services, overseeing integration. However, unless there is firm direction, it may be difficult to get "program people" on board. Ms. Fox said she favored taking the soft approach, using incentives and more of a carrot/stick approach.

REP. GIBSON thought outsourcing grant writing was very sensible because all agencies could share expenses. Ms. Fox said another approach to consider would be to contract out the grant

writing. A contract budget would have to be established and there would need to be a contract officer that would write and enforce the contract.

SEN. ESP liked the approach Dr. Ernst used in Texas, which he likened to acting as a bridge between agencies and programs. It would take the right kind of person but would be more productive approach. Ms. Fox agreed.

REP. FRANKLIN said she responded similarly to Dr. Ernst and said that in reality, the person must have some charisma and be able to work effectively between programs and people. In response to Ms. Fox's question of whether or not the Committee is prepared to "upset the apple cart", REP. FRANKLIN encouraged the Committee to "tweak the status quo a bit" and see if it moves the process a little closer to resolution.

SEN. O'NEIL said he would like this organization and/or person, in whatever final form it takes, to oversee all of the grant writing for all of these organizations. Ms. Fox said that was a sensible plan and suggested creating a list of all of the activities that the Committee would like this person to eventually oversee. The position may have to start with just a few duties and then build the program gradually. SEN. O'NEIL expressed doubt that one person could accomplish all he had in mind for them to do. Ms. Fox said she meant that the person would be the "bridge" that would oversee and direct all of the duties and activities. The issue of staff would have to be worked out. All of the options will be presented and the Committee can choose what to proceed with.

SEN. O'NEIL asked if this new organization could take over the MBCC. Ms. Fox said she envisioned it being under the wing of the MBCC and that the MBCC may have to make a paradigm shift because of its orientation towards law enforcement. REP. FRANKLIN said that would be consistent with bridge building, that while the MBCC traditionally has been more of a law enforcement agency, that wasn't necessarily a negative. Mr. Mena said historically, there has been a law enforcement head of MBCC but one of the issues that came through clearly and repeatedly in the day's discussion was how people transition through the system from being arrested, into the courts, into corrections, and back into the community. It is obvious that through that whole process, there are a number of disconnects and gaps that people fall through. A program establishing overarching leadership and coordination of those efforts would be beneficial.

SEN. ESP stated he wasn't sure using the bridge approach would be "upsetting the apple cart" if it was done correctly. He said he was also beginning to believe that a single person would be more effective than involving multiple heads of agencies. One person could go from agency to agency and get a "lay of the land". An overview of all of the agencies would allow him/her to see the efficiencies and to begin to pull things together to maximize those efficiencies.

REP. FRANKLIN agreed, and said the person ought to be given a uniform. The uniform would serve as sort of a metaphor for authority. Ms. Fox said that was the concept behind this Chief, that is why the OBPP is an important key because they already have the information and have a little bit more of a "stick". SEN. ESP agreed.

Ms. Fox reviewed the three options she would like the Committee to consider (page 3, EXHIBIT #11):

- Request that the Governor or the DPHHS provide information on the administration's plans for the administrative support of the ICC and the Prevention Resource Center, including the VISTA program;
- Pursue the Board of Crime Control proposal by requesting a bill draft to be prepared and asking the Board to formally respond at the June meeting; and
- Pursue a proposal to address the issues faced by the ICC and use the existing structure of the ICC to provide greater statewide coordination and leadership in prevention and treatment. This proposal would also be in bill form and ready for consideration at the June meeting.

SEN. O'NEIL asked if the person who would head this office would have control over the budget and spending. REP. FRANKLIN said it would take time to develop system before that could be done, but agreed that eventually, it would be important for the position to have some control. Ms. Fox said this issue could be placed in the duties, but as one of the items that needs to be worked on. REP. FRANKLIN said there would have to be modifications made throughout the process, as it is discovered that does and doesn't work.

REP. CLARK **moved** that Ms. Fox proceed with the two bill drafts, as discussed. The Committee agreed. The motion **passed** on a unanimous voice vote.

Ms. Fox reported that Jean Branscum, Governors Office, has extended an invitation to the Committee to attend the upcoming Methamphetamine Summit in Billings, scheduled for June 1-3. She reported that Ms. Branscum had asked her to help facilitate on the second day of the summit and that she felt honored to be asked. SEN. GRIMES will be attending and will coordinate with Committee as well. Ms. Fox encouraged Committee members to attend and said she would keep them informed.

SEN. O'NEIL said he and SEN. ESP had attended the Governor's Conference on Healthcare and both had incurred extra mileage due to a detour caused by bad roads. He asked if the extra mileage would be allowed expenses for Committee members. Mr. Petesch said SEN. O'NEIL and SEN. ESP voluntarily attended the meeting and were there as an interested citizens. The statute provides that they would get mileage from their home to the meeting place and back again, and by the most direct route.

PUBLIC COMMENT

Ms. Shea, in regard to the proposed bill draft allowing drug felons to receive food stamps and TANF benefits, asked to have additional language included that would allow people who are currently in treatment to receive benefits. Ms. Fox agreed to work with Ms. Shea.

COMMITTEE RECESS

REP. FRANKLIN recessed the Committee until 8:30 a.m., April 30, 2004.

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