

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - 2nd SPECIAL SESSION

SUBCOMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIR D. BRADLEY, on July 6, 1992, at 10:00 AM.

ROLL CALL

Members Present:

Rep. Dorothy Bradley, Chair (D)
Sen. Mignon Waterman, Vice Chairman (D)
Rep. John Cobb (R)
Sen. Tom Keating (R)
Sen. Dennis Nathe (R)

Members Excused: Rep. John Johnson

Staff Present: Lisa Smith, Associate Fiscal Analyst (LFA)
Bill Furois, Budget Analyst (OBPP)
Billie Jean Hill, Secretary

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

HEARING - DEPARTMENT OF FAMILY SERVICES

Tom Olsen, Director, Department of Family Services, said Family Services are offered on a slightly reduced budget since the last Special Session. Our primary reductions in the January Special Session were in the area of continuum care. They took approximately \$500,000 of continuum development money. We were also reduced by money for a management information system. The amount we were reduced by would have paid the fees required by the Department of Administration to develop the system. The Department developed the management information system internally with existing staff and with additional staff persons and were able to achieve savings that way. Aside from that our budget has been driven by a rise in referrals. I think we are probably consistent with the rest of the nation in that we are experiencing nearly a 30% increase over the past three years due to referrals in child abuse and neglect. That amount has taken a toll on our ability to make perfect placements. As a result, we had to request a supplemental appropriation. We were approved an additional \$300,000 to get through the end of this year. Our costs have primarily been a result of providing services to kids who are seriously emotionally disturbed and tend to need a very high level of care. We have had children on a waiting list. We have been operating on a one in and one out basis and we have

been placing only those kids that are most in need of placement. To date we have anticipated for the remainder of the year a supplemental in excess of \$200,000.

SEN. NATHE asked what is causing the big jump statewide and nationwide in foster care placements.

Mr. Olsen said that no one could answer that with any degree of clarity, but we are experiencing a deterioration in family structure. I think that with the recession we are experiencing, in the state and nationally, parents are under higher levels of stress. When there is not enough money to make ends meet, that stress is often expressed in anger towards others and often those least able to defend themselves are children. It is a decline in family structure and directly related to matters such as these.

SEN. NATHE asked if we were going out and finding children that had always been there before.

Mr. Olsen said that this is not the case. There is a higher incidence of reporting child abuse and neglect than there has been in the past. This is due to a lot of things. There has been a lot of media exposure in the past few years on the issues of child abuse and neglect and people have a better idea of what to report and to whom they should report it. The number of referrals are up in that aspect also. This does not indicate that there is more child abuse and neglect, just that people recognize it and know where to report it.

SEN. NATHE asked if we have a good mix of social worker staff who represent minorities.

Mr. Olsen stated that we have a good representation of social workers who represent minorities. Our largest minority population is Native American and a significant portion of the staff are Native American social workers. We also contract for services on the reservations where we don't have direct services so we are providing comparable services on all reservations.

SEN. KEATING asked if foster care is an entitlement program.

Mr. Olsen replied that it is a moral entitlement program. It is not like a medicaid entitlement program. We are not obligated, because it is general fund money primarily, to provide care to anyone who asks for it. We are able to if we have to. We have a waiting list. It's not like a federal program that says anyone who is eligible in that population has to be served.

SEN. KEATING asked if foster care entails more than just removing the child from the environment into a safe haven of some sort. When we talk about foster care, are we talking about moving a threatened child into a different environment or are you also including family treatment or the treatment of the child within that same environment?

Mr. Olsen replied that it is somewhat blended. When we refer to foster care, we refer to out of home treatment. We split the money out for family based services and in home type treatments. Basically what we try to do is to make foster care money flexible. Also we have a program that is called Prevention, In-Home, Post-Placement Services, (PIPPS) which is a wrap-around type service for which we can use foster care money, and that money is foster care money especially approved to prevent removal of kids from their families. Primarily when we talk about foster care money we talk about the lion's share going for out of home care.

SEN. KEATING asked to what extent is out of home treatment driven by the courts.

Mr. Olsen replied that a certain degree of the population served comes from forward placements. For instance, if you look at our out of state placements right now, we have 76 children that are now in home care. Approximately 1/3 of those are DFS placements. Approximately 2/3 are placed in probation by the courts. In some cases the placements are of a determinate nature at which time the court tells us thou shalt do something. We are sort of in a damned if you do, damned if you don't situation, because when the child comes in through the court system, we place that child on a waiting list, and prioritize them along with other DFS kids. The court then has the authority to commit that child to DFS, thereby calling for an appropriate placement at Pine Hills. We are in some instances driven by the courts and probation.

SEN. KEATING asked if there is a means test to see who is going to pay for foster care, and to what extent do you find individuals paying privately for foster care treatment if the court determines abuse and the family needs treatment. The family then decides to select private treatment through a social worker or an L.P.C. or a clinical psychologist and not receive state aid. Is there some of that and is there a means test within our system for partial pay?

Mr. Olsen introduced **Jess Munro, Deputy Director, and Gary Walsh, Administrator for Protective Services**, who would further help him explain. **Mr. Olsen** said that we had developed legislative authority in the last session that tell the courts they can do a means test and whether a family can pay a portion of the child's treatment or not the child comes into our system. That works in some areas better than others. We have done the best we can to educate our staff and the courts as to how this process works. We have not done as good a job with this as I would like. We have not gotten full benefit of the parental contribution legislation that we were given last session. There will be a major training on that this summer. By next year we will be increasing the amount of money that we are recovering from the courts. I wish I had access to a training institute for the judges so that we could sit down and give them a short course on how legislation reads and how they should do this. Your other

question dealing with parents who choose to do treatment with their own resources can be answered briefly. Parents should have taken that route before they entered the courts. Once a child is court ordered for placement and the judge does not make a parental contribution determination then the D.F.S. is responsible for that care. The amount of money that parents have to spend after a kid comes through the courts in a child abuse and neglect situation is minimal.

SEN. WATERMAN asked to pursue (1) the supplemental for this biennium (2) and what you are requesting for the next biennium. These supplementals are regarding foster care.

Mr. Olsen replied that the supplemental request is approximately \$2.8 million. This will meet base load services, existing services that we provide to current population. We are not going out finding new cases for additional services. It's just a base level for operations.

SEN. WATERMAN said that she understood that to mean no increase in caseloads.

Mr. Olsen answered that they have always had increases in caseloads for every year in operation, but have never been funded for increases in caseloads. We have always been funded for the previous year, if that. Generally, we have been funded for a percentage of the previous year. We have never been funded for the amount of children who come into the system. That puts us in a posture of having to catch up due to the supplemental process. That just gets us back to the level of spending that we currently provide with our waiting lists, with our prioritization, with everything else. It's not that the money we are requesting for a supplemental provides for every kid in the state. It provides for the kid for whom we are providing services now, because we have no other choice.

SEN. WATERMAN asked if the supplemental for the biennium for the year just ended was \$300,000.

Mr. Olsen answered that was the amount to catch us up to the end of the year was \$300,000 additional.

SEN. WATERMAN asked if they pulled any of the 1993 money into 1992.

Mr. Olsen answered yes.

SEN. WATERMAN asked how much.

Mr. Olsen answered that was where their \$300,000 came from; that was their plus. It was not new money. They just allowed us the authority to bring it back from 1993. This would get us through until the end of the year.

SEN. WATERMAN stated that the \$2.8 million supplemental for 1993 will just keep you at the same level as 1992. She asked what the caseload increase is for 1993.

Gary Walsh, Administrator, Protective Services stated that the average increase from 1984 to 1991 was 5.8%. The increase anticipated in 1993 is 1200 kids for the year.

SEN. WATERMAN asked if that was an increase of 1200 kids and what kind of a waiting list is in those programs right now.

Mr. Olsen and Mr. Walsh answered that probably there was a waiting list of 25 kids statewide or, more correctly, just under 50 at this time.

SEN. WATERMAN asked how long does it take to get these 50 kids into the pipeline.

Mr. Olsen answered that these placements have already been made. When a kid is put on a waiting list the child has been assessed for placement and basically a placement is recommended. A child can be placed as soon as money is available for that placement to occur.

SEN. WATERMAN asked how long the gap is between the time they are assessed, they are put on the waiting list and they are actually placed. What's happening right now. Does it vary from region to region?

Mr. Olsen answered that it does vary from region to region and also varies from child to child and it depends on the severity of kids in care and the number of long term kids the region may have in care. If a region has a disproportionate high number of children who need longer treatment, then the kids on the waiting list tend to have to wait longer. In some areas it is probably two to three months and in other areas it may go up to six months. It varies.

REP. COBB asked on the supplementals, if, in Fiscal Year 1993 they were asking for \$2.8 million?

Mr. Olsen answered that the Executive Budget recommendation is \$1.5 million.

CHAIR BRADLEY said the Executive Budget recommendation is \$1.2 million.

REP. COBB stated that it was supposed to be \$2.2 million but you are supposed to find a \$1. million reduction somewhere. Does the supplemental count those 1200 new kids? If it does count those 1200 kids then the supplemental is bigger.

Mr. Olsen replied that it could be bigger.

REP. COBB replied that either it was or wasn't. He asked what the supplementals are supposed to be. Are we going to add those 1200 kids which were projected right now; what's the total supplemental we are going to have to put in after we have saved \$1.0 million? What are those 1200 kids going to cost extra above the \$1.2 million?

Mr. Olsen replied that they couldn't project that because of the kids. You cannot put a dollar figure on a child especially if the child has to go into high level care. We're probably talking about \$180/day. Depending whether he is medicaid eligible or not medicaid eligible, the General Fund portion of that varies.

REP. COBB asked how you do your budget cut. You do one in and one out and if we gave you the money up front, you may not have to do one in and one out. I'm trying to find out how much 1200 kids cost, because that money should be put into the budget so that you can have a little more flexibility instead of one in and one out. Right now we have these huge waiting lists, so they go to a higher cost in service, than they would have if we had caught them earlier. Will it be a \$1.0 million, or \$500,000., or what. How many kids do you have in service now?

SEN. WATERMAN asked if you could take a percentage of that. If you got 1200 additional, and how many have you got now.

Mr. Walsh replied that in FY 91, we have 3,417. We gave you wrong information for FY 93. The 1200 in parentheses was included in that. It was 210 children. So for Fiscal Year 1993 we are talking about an additional 210 kids, for Fiscal Year 1994, we have 3,417. We are projecting for FY 92, we will have 3,615 kids, so the projection for FY 93, is 3,825. So it is growing approximately 200 kids per year. That increase is not just kids going into treatment, it is kids throughout the system. Some of those kids are going into family foster care, shelter care and the rest of them are going into high level treatment cost.

REP. COBB said that you are supposed to save \$1.0. million now. Otherwise instead of \$1.2. it would be \$2.2. plus those extra kids, so how are you going to save \$1.0?

Mr. Olsen answered that the only way that we are going to save \$1.0 million is to implement again a one-in-one-out that we discussed earlier. We will have to further prioritize kids for care. The waiting list will get longer.

REP. COBB answered that we are going to pay the bill anyway because you are getting supplementals each time. You'll just have to wait longer to get the supplementals. Isn't that generally what happens? What happened to that federal money? Did you get that Title IV-A and extra federal money that you were looking at?

Mr. Olsen replied that they were presently looking at the federal monies and the whole refinancing project. We're looking at refinancing Title IV-A funds. We may be able to recover an additional \$500,000 per year, if we are able to refinance under Title IV-A which is short term emergency types of care. If we are required to take any savings that we generate through refinancing to offset current general fund, we are going to be in the same position we are now. We are going to be underserving kids, only we are going to be underserving them with more federal money.

REP. COBB asked for the time they will be receiving federal money?

Mr. Olsen replied that the federal money will not be available until we can get planned amendments in place which requires working with an interagency task force that plans for the state allotment from Social Rehabilitation Services. It's going to be a phase in process. I mentioned Title IV-A, because that is the most immediate. We will probably see some benefits from that refinancing strategy in the next six months. To get the maximum benefit of refinancing as a total comprehensive systems reform package, it will probably take us up to two years, because when we get into medicaid and we get into changing the payment systems and the medicaid state plan, it is going to be considerably more staff and labor intense.

REP. COBB asked if there was any way of getting that money this year. If not, is there any way of getting it between now and January or now and next July?

Mr. Walsh answered that it would take a minimum of six months to implement the IV-A refinancing strategy, so there may be some recovery of IV-A funds during the second half of this fiscal year.

REP. COBB states that there are 76 children out of state. What do they cost per year? There are kids going in and out. Would it cost the same to bring them back to Montana and build a place for them here or does it matter where they are.

Mr. Olsen replied that he could not give an exact cost for 76 kids. We are trying to develop options within the state for these kids. Eighty per cent of these kids are being placed in four placements out of state. One is across the border in North Dakota, one is in Excelsior, Idaho and one is in Northwest Idaho which is a medicaid provider and one is in Rivendell of Utah which provides a long term residential care option which we don't have available to us in this state. We talked to providers about providing services in the state. Every kid that goes out of the state is screened for in-state placement. We currently don't have the resources. We're looking at a medicaid resource for sexually abused kids within the state as an option. Most of the kids out of state are right on the border, and they are where

they are because it's a placement we couldn't get in state, and the price is more attractive to us for an appropriate placement. This has to be emphasized because the position we take in the department is that we try to meet the kid's needs in an appropriate place rather than filling a bed because it happens to be in the state.

REP. COBB stated that DFS asked for \$1.0 million for a supplemental for 1993, but that doesn't take care of the extra 200 kids. That \$1.0 million reduction means that you are going to keep kids on waiting lists much longer now, but you already came for a supplemental for fiscal 1992, that was \$290,000 or so. Are those kids now on huge waiting lists too? Is that the same thing we are doing now this next fiscal year? So the plan is that we just keep them out there longer and longer to meet the \$1.0 million reduction.

Mr. Olsen replied that with the \$1.0 million reduction we are just keeping them out there longer.

SEN. WATERMAN asked for a clarification of years and numbers.

Mr. Walsh replied as follows: For FY 91, 3,417 kids, for FY 92 3,615, and for FY 93, 3,825.

CHAIR BRADLEY asked if there was no Executive increase for those years? If that is true, than because it was proposed executively you were not budgeted for any kind of an increase, although it was consistently going up.

Mr. Olsen replied that they have always been funded for previous years and caseloads.

CHAIR BRADLEY understands that you are going to request a \$2.5 million supplemental. That was not accommodated. You are requesting \$1.5 million. In rough numbers is it possible to give us some idea of a breakdown of where those numbers are, what percentages and which categories.

Mr. Walsh stated that these are projected numbers for 1992, but the dollar amount for family foster care is approximately \$4.0 million, for shelter care we have about \$1.4 million projected, for group homes \$1.6 million, for in state treatment \$4.1 million, out of state treatment \$3.2 million.

Then we have some other costs in terms of clothing allowances and other support services.

CHAIR BRADLEY asked if increases had been spread pretty evenly throughout or is there an area where there is rapid increase?

Mr. Walsh replied that there has been some increase in terms of treatment. Historically, the proportionate cost of increases is in treatment. For family foster care, going back to 1988, we

were spending approximately \$3.0 million. In family foster care projection for 1992, it is about \$4.0 million. Whereas, for in state treatment in 1988 the cost was \$2.9 million or \$92,000 for one month.

Jim Smith, Lobbyist for Montana Residential Child Care Association and the Montana Juvenile Probation Officers Association, stated that data available have been changing over the past month or so since the special session was announced. His understanding is that DFS requested a \$2.8 million supplemental for FY 93. About \$300,000 of that was granted to DFS for an over-expenditure in 1992. So that's the \$300,000 that came up earlier. DFS requested it but it was granted to account for an over-expenditure in fiscal 1992. So that left about \$2.5 million and on June 23rd when the Finance Committee was in town, his understanding was that we were looking at a \$2.5 million supplemental for the DFS. Of that \$2.5 million, the DFS was supposed to revert about \$1.0 million and that is the \$1.0 million that Rep. Cobb was talking about. As he looked at the analysis today, it looked like the D.F.S. was finally granted a \$1.5 million supplemental and he's not sure the reversion language still applies. That is of concern to the organizations that he works for, because that is going to do exactly what the Director says. It is going to put the DFS and everybody that it does business with back into this one in and one out policy. In other words, no child gets into care until another child gets out of care. That policy has modified a little bit, but now we talk about a dollar in and a dollar out. A dollar is not expended any longer on a kid, until another dollar is ceased being expended on a kid. So whether we talk about kid in, kid out, dollar in, dollar out, anyway we look at it, if the recommendation goes forward this way, the DFS, everybody it does business with and all these children we're talking about are going to operate under these same constraints for another year. The notion that the DFS was going to be able to revert a \$1.0 million at the end of fiscal 1993 was troubling to us as we sat here in the middle of June and listened to that. We didn't think that was a realistic expectation for the D.F.S. to meet at the end of June. If all they are going to get is a \$1.5 million supplemental, it is not adequate. We feel that the supplemental should be at least \$2.2 million. Then maybe we can talk about these 210 children, the growing caseload of children who are abused and neglected to whom that supplemental does not speak and who will not be affected by that supplemental. My opinion is that the D.F.S. should receive a supplemental of \$2.2 million plus whatever amount of money is estimated to take care of those 210 kids who aren't factored into any of the discussions so far.

Rep. Cobb stated that there already is a waiting list for the one in and one out, and one dollar in and one dollar out now. Basically, you are saying that you will continue that process. Do you think that the process will get worse or will it be the same process?

Mr. Smith answered that to continue it makes it worse, and there might be one or more kids on a waiting list for a longer period of time. The longer this goes on the worse it gets.

REP. COBB asked what would happen if we fully funded them, whatever that means, because DFS always seems to need a supplemental. Do they have the capacity to provide the services needed to catch the kids early enough or is it going to be so far behind that we'll never catch up? Are we just appropriating more money into the system and giving them \$2.8 million or \$3.0 million to just stabilize things or will it make things better?

Mr. Smith said he asked a DFS social work supervisor who has been with the DFS twenty years what it is that drives these caseloads and drives these programs. The response he got from him was very similar to Director Olsen's. It's the economy. Kids in care, kids out of care, abuse and neglect reports track economic conditions. Unemployment, and under-employment are the two links, the two indicators. If the economy improves, perhaps this situation will improve. Secondly, the department has taken some of the \$1.5 million that was appropriated by this committee in the last regular session and put a lot of that funding into new services in the so-called continuum of care. These new services aim at earlier identification and at working with whole families.

SEN. WATERMAN stated that one of the reasons for the growth of child abuse and neglect is lack of parenting skills. This information comes from family based services. We assume that parenting skills are learned from our own parents. Now we get back to preventative services that the interim committee is stressing. Back to the Executive Budget, it's still not clear what it is the governor is recommending we fund DFS. It has been stated that we are going to fund DFS the same in FY 93 as in FY 92, even though there has been a 210 client caseload increase. Page 25 of the Executive Budget reads, DFS will be funded \$1.0 less than last year, assuming that family based and wrap around services will reduce placements. Is this correct?

Bill Furois, Budget Office, stated that **SEN. WATERMAN'S** understanding was correct. The \$2.2 million is not an appropriation transfer, so it never came out of 1993, so their '93 budget will be short approximately \$300,000 that we talked about that was transferred to FY 92. The number could be smaller, but it is about \$300,000. So you replace the \$300,000 and put in another \$2.2 million and you would have \$2.5 million which would keep them at the level they are at today. That would not recognize the other 210. The negative side to that are two things that you read off this page. First of all there is a little over \$500,000 in family based and wrap around services which are expansions in FY 93 and not in FY 92. Secondly, if you look at operating costs, there is no recommended cut in operating costs. We have kept them at 3.81%.

This year they have enough savings in operating costs to be able to handle a part of their fair labor standards problems, so there were savings this year in their operating costs.

SEN. WATERMAN asked if these savings would have to revert at the end of 1993.

Mr. Furois replied yes, and the Executive Budget asks you to strike the language that says you cannot move personal services. If you do not strike that language, any personal services costs would have to revert and could not be moved down. The Executive Budget asks to strike the language on personal services movement. We do not recommend any increase in operating cuts and we leave them at how we figured it at 3.81% and do not raise them to 8% cuts and then we add \$515,000 for wrap around and family based services. So that was the mixture the Executive Budget was looking at to offset this \$1.0 million that we were saying would be taken away from any supplemental.

SEN. WATERMAN stated that at this point you are going to operate under a directive to reduce your expenditures by \$1.0 million and handle 210 more kids in FY 93. Would you give me your estimation of whether we are going to see a supplemental from you in FY 93?

Mr. Olsen stated that could happen.

REP. COBB stated that we have not done anything with this agency. We have not taken any Executive action, because they are just going to come in for a supplemental which we didn't approve and just keep paying the bills and there might be a larger supplemental and there might not be. Technically, we are just supposed to let it go, and we are not supposed to appropriate the supplemental when we are in special session in the fiscal year starting now.

Mr. Furois stated that was correct. Typically we bring supplementals to the next Legislature. They are not to where they would run out of money before January, February or March. He stated that the Executive Budget is recommending what the Governor is telling the Director, please try and manage this the best you can with a \$1.0 million less. The Governor and the Director will come back to the next Legislature and say we did it or we failed.

REP. COBB asked what is that \$1.9 million you had in state treatment? Who is it?

Mr. Walsh stated that it includes the Deaconess Home in Helena, the home in Missoula (Susan Talbot), the Aware Programs in Butte.

REP. COBB asked if that is \$4.1 general fund?

Mr. Walsh answered that is total expenditure.

REP. COBB asked if that would be 1/3 or 2/3, or how much is it?

Mr. Walsh answered that for those cases that are Title IV-A eligible we get the F.F.E. rate for the maintenance part of it. It's not that high in terms of the total federal dollars in the treatment process.

REP. COBB asked if we passed legislation for a sliding scale or did DFS just do it for in-state psychiatric treatment. Do you have a sliding scale now?

Mr. Walsh replied that DFS does not have a sliding scale. It is not allowed under medicaid regulations.

REP. COBB asked if you could get a waiver.

Mr. Walsh replied that they were investigating that along with the medicaid plan.

REP. COBB asked how far the investigation has gone. Do you have anything concrete?

Mr. Walsh answered that it has not gone very far. We are pretty short staffed as is S.R.S.

REP. COBB asked them to do any waivers that give federal money.

CHAIR BRADLEY addressed Mr. Furois regarding the percentage cuts and wanted to know against what numbers these are made because the governor's budget on page 25 talks about 3.8%, and the Legislative Fiscal Analyst on page 19 says 1.5%. Which is it. If you take the dollars as they originated then 1.5% is correct and we need to know that number for that full committee.

Mr. Furois replied that he is not an expert on the difference between the L.F.A. and our calculation. The budget office came up with their number on page 11 of the Executive Budget. We figured out what a fully funded general fund operation budget would be for a department. The fully funded plan would have covered vacancy savings, under funding of the pay plan which you heard, and prior special session cuts. With all these things put together we came up with a number. In that case we came up with 3.81% (and we are only dealing with one fiscal year) in the Executive Budget for a DFS reduction for FY 93. Regarding the L.F.A.'s 1.59% the difference is the under funding of the pay plan. The L.F.A. did not include that in their base. That may be the difference. The amount of dollars is on page 11 of the Executive Budget book. You can see that DFS vacancy savings cost them \$165,000. The under funded pay plan cost them another \$200,000. The L.F.A. did not include these numbers as a base with which to start.

Lisa Smith, Legislative Fiscal Analyst, replied that was correct as far as how those percentages were calculated. It's the same

numbers with which we started, but some things were subtracted with the governor's office and some things from L.F.A. They could be reconciled, and they both represent what we say they do but there are different things out of one.

Mr. Furois stated that it is basically a question of where did you start the cuts and the Executive Budget said that we started cuts as if they were operating budgets. Again we are not talking benefits, we are talking operating budgets that have been fully funded. Every F.T.E. that was budgeted for FY 91 was fully funded. No vacancy savings occurred. No under funding of the pay plan occurred. That is the whole budget and that is from where we measured.

SEN. NATHE stated that he had a series of unrelated questions. Do you buy cars from your budget for your field staff, or do you use the state motor pool?

Mr. Olsen replied that they use the motor pool. That is, in every case but in the western region where we use a portion of our training budget to buy cars before we had a chance to make a deal with Highways. They feel that they can pay for them by the offset mileage.

SEN. NATHE asked for clarification.

Mr. Olsen replied that they have a deal with the Department of Transportation whereby vehicles that have high mileage coming back from the motor pool can be cycled to D.F.S. for use so we can get about 20,000 miles worth of use on them.

SEN. NATHE asked what the cost was to DFS.

Mr. Olsen replied that they do not do that for nothing. They have an agreement with John Rothwell, Director, Department of Transportation. We have about ten cars right now, and what we are doing is paying anywhere from 5 1/2 cents to 20 cents per mile to use the cars for one additional year after they pull them out of the motor pool. However, once they get to 90,000 miles they are really leery about letting us keep them. They are in the process now of pulling those back. We use three things: our staff uses their own cars and the state is paying 27 1/2 cents a mile now; we can get used state cars and put them in high use areas, and that way we can keep our costs down because we pay 5 cents to 20 cents a mile now; and the other option is to go to the motor pool and pull one out.

SEN. NATHE asked where are these 3,112 kids. Where are they in Montana? They're north of Malta; they're at Yellowstone Boys' Ranch; they're at Rivendell; they're all over the state. What's your response to the suggestion of the sociologist from back East who suggested orphanages. What difference from where we are putting some of these kids right now and the orphanages?

Mr. Olsen replied that orphanages tend to be like long term holding tanks for kids. They tend not to be treatment oriented; they tend to be a place for kids to grow up in a large institutional environment. What we do with kids if they have to be placed out of the home is place them with a family. That is one child with one family and that is basic foster care. That is on the assumption that is a far more normal environment for raising a kid than being raised with 200 other kids in a fairly large institution. There is not a lot of cost saving by going back to an institution concept.

SEN. NATHE said the reason he asked was because you used part of the figures on B159; that is over \$11,000 per kid. What is your cost of administration of this program as you administer this money going out to all these group homes around the state? If he goes back and looks at B139 and looks at personal services and operating expenses, what all is in that? Is that just your department here and your staff or what is that? Are you approaching 30%? I am asking the cost of the administration of these kids.

SEN. WATERMAN asked if the \$11,000 per kid for foster care is going to the family that's providing the foster care.

Mr. Olsen said that foster care costs run them about \$3600. The administrative costs that are in that are below normal.

SEN. DOROTHY ECK, CHAIR INTERIM COMMITTEE FOR CHILDREN AND FAMILIES, commented that she had heard a lot of good things about what is happening with new programs for children and families and we are convinced that they are going to save money on each child as time goes on and we pushed rather hard at our last meeting with Charlie McCarthy about what this would mean in savings for the state. He's convinced that it will mean savings for the state, but because the caseload is going up so fast what we would look at would be a cut in the rate that supplementals increase. That is what you are talking about here. What legislative action could help at this time. Mr. McCarthy felt that the D.F.S. could cut that rate of increase if they were given increased flexibility in how they used the money that was available to them. That will mean looking increasingly towards the savings they can make in using federal money more appropriately. If you could get that flexibility now, it might mean that the supplementals you were looking for in January might be less.

CHAIR BRADLEY asked for a more specific direction on the aforementioned.

SEN. ECK answered that you need to talk to Mr. Welch, the one who has been working on the better use of federal monies. Their committee had a report last January on ways they could use the state money so that they could create more federal money. Some of that is going to take some time, but some of it could realize some federal money very soon.

SEN. WATERMAN asked what DFS wants from this committee or this Legislature to accomplish the refinancing for Title IV-A or anything else at this point that could possibly help us get some control on either caseload or supplementals to this budget.

Mr. Olsen noted that he had a handout that redefines the project. From this Legislature we need increased federal spending authority and legislative intent that authorizes us to reinvest the amount of money that we recover. The refinancing project that we've devoted so much time to right now shows all the results with us being reduced in general fund by the amount that we collect. We have absolutely no incentive to do it. There is absolutely no reason why we should go out and provide the same level services, but shift the funding. What we can do is provide up to \$6.0 million dollars more in services for kids in the state with the same amount of general fund appropriation as we received in the last legislative session. We need the authority to spend the money we collect and that used to be a fairly broadbased authority. We cannot predict what costs are going to come and how much is going to come at any given time.

SEN. WATERMAN stated that she would like a repeat of the first request.

Mr. Olsen answered that the first request was increased federal spending authority.

SEN. WATERMAN asked if that was included in the document handout?

Mr. Olsen requested that **Mr. Walsh** explain the document. We feel that Montana is one of the states in the country that utilizes federal funding very poorly. We are far behind the curve in getting the return on the federal tax dollar we send out back to the state. There are a number of ways that we can attract additional federal dollars to the state by using federal dollars to provide services that are now being provided exclusively by the general fund. The first thing that we want to do is look at Title IV-A funding which provides emergency assistance. This will require a minor amendment. Right now emergency assistance is only used in cases of disaster. You can construe it as broadly as you want to. For instance, we would want to construe emergency assistance to mean the first thirty days of a child abuse investigation. We can use it to fund family based services because they are time limited emergency type situations where without that service being provided, the result would be the child removed from the home. We can pay for the first days of treatment and therapy in foster care and group home care. We can pick up additional money for administrative costs. Beyond that there is a range of options that are available to the state. Medicaid financing is a better use of Medicaid. Currently in Montana we have funding of Social Service Block Grants, Title XX money. That money is used to pay for services for developmentally disabled individuals. In every other state in the union, that money is used to support child abuse and

neglect. It is about \$8 million. In order for SRS, where the money goes now to get these people onto Medicaid for which they are eligible, they would require about \$2.5 million from the general fund. By us taking \$2.5 million from the General Fund, and transferring it to SRS, they can get that population eligible for Medicaid and we could net approximately \$4.0 million in unrestricted federal block grant monies that we could then use to provide services to people that we are now paying for out of general fund. There is a number of scenarios. The list goes on and on. We had a team of consultants in November of last year, folks that worked in numerous other states doing this sort of thing and they felt that possibilities to refinance services in Montana are many. They were giving us figures like \$12 million per annum in additional federal recovery. This is probably a bit optimistic but the numbers would be significant.

REP. COBB replied that DSF was supposed to get private donations last time. I know that you want to get the money, but before the full committee you said that you would get private donations to get this money together and get this federal money.

Mr. Olsen replied that they are not asking additional monies from this committee to do this.

REP. COBB replied that you could have done it last time and you still didn't do it. Last January we gave you money to do this Montana refinancing. You gave out something in a draft on 12-91, explaining how you do the Montana refinancing. This was supposed to be implemented last April. It's your department, and it still hasn't been done and it keeps going on and on. We still need another \$2.0 million for this budget; we are going to get killed in our committees, and I just want to know when all this wrap around and all these things are going to be implemented, because we were told it would be implemented a lot sooner. We keep hearing that in the future we will get it. We heard a minute ago that maybe we will get that Title IV-A started in six months. But none of this is going to get done for a long period of time. We heard all of this last time, so when is it going to be done?

Mr. Olsen stated that they began this process in November of last year. In January of last year I told the Legislature that we were in the middle of setting this in motion. We are not talking about a quick fix here. We are talking about a significant systems change. We're doing every portion of it that we can currently do. I'm not asking for additional legislative appropriation to fund consultants to do this for us. This is money we have in our existing budget. It's going to take an estimated three years to get through the whole process with Medicaid rule changes if we have the cooperation of the Executive, the Legislature and other agencies to do this. We have formed a task force to begin looking at refinancing. We have the federal authorities from Colorado, the Administration for Families and Children, sitting as members of that task force. They are supportive of what we are doing which was a major

accomplishment. First thing we have to do is get federal approval to do it and we've gotten that federal buy-in.

REP. COBB asked if you had said that you didn't have the resources to go ahead with SRS and you didn't have the resources to put all this in because you didn't have the people or the time. How can you get it done if you don't have the people?

Mr. Olsen replied that we are doing a lot of it by reallocating existing staff. We really have a cooperative staff to do this. We are going to hire a consultant to come into the state and take some of those staff resources. Just the expertise of putting together something like this is very technical and structured. It's going to require a very massive effort to recover that kind of money. It's going to take approximately three years maximum, but we will start seeing benefits in six months.

REP. COBB asked if you have the resources right now to get beyond target to get any of these things done. Do you have the people and the money and the staff until you can get this federal money?

Mr. Olsen replied that they do have the staff dedicated to working on this project. The problem we run into is that other agencies are very short staffed. We have to work around their staff allocation and their time allocation. But they are being very patient with us and trying to help us with this. We are on track on that scenario; we are not delaying this unduly. We are not asking the Legislature for additional appropriation right now to make it happen. It is nothing that will happen quickly. It is fundamental system reform.

SEN. WATERMAN asked if the \$2.5 million to refinance Medicaid DD services needs an agreement or buy in from the Director of S.R.S.

Mr. Olsen replied that the last time we talked about it was when the federal people were here from Denver, who have to buy into it also, and there seems to be agreement that we might be taking a look at doing that refinancing.

SEN. WATERMAN asked about child care in child protective day care services. What is happening with the day care services in child protective services? Is that available? Has that been cut?

Mr. Olsen replied that it has not been cut. We are out of general fund monies.

SEN. WATERMAN asked if those services were being provided.

Mr. Olsen replied that we are not buying new services, but we are providing services for those that have been receiving them.

SEN. WATERMAN said there must be a waiting list for that. Do you anticipate running out again before the end of the year? Parents do not pay for that, do they? Is there a way to ask parents on an ability to pay basis to pay part of the child protective services? Is that feasible and done in other states?

Mr. Olsen replied that he could not answer about other states, but he could guess that it probably is. It is a reasonable way to approach it; parents should pay whatever they have. If a parent has resources and is able to pay without jeopardizing other children in the family than they should pay a portion of any services that are received by their children.

SEN. WATERMAN assumes that this matter cannot be addressed in a special session, but I would like to get further information from you on the possibility of doing that and possibly doing something in the regular session. It's been brought to my attention that social workers have concerns about parents that just give away their kids. They turn them over to the DFS to take care of them, and if there is a way that we can encourage them to help provide some services, I would like to pursue that.

I would like to get back to out of state placements, because I have heard a lot about whether these kids are DFS or probation kids. Would **Dick Meeker** talk a little bit about probation from his perspective; what is happening about caseloads; where those kids are placed; can they be served in state; why are they where they are, and anything else he may want to comment on.

Dick Meeker, Chief Probation Officer, First Judicial District, which comprises Lewis and Clark, and Broadwater Counties. In 1987, before the creation of DFS, judges were known to be rather loose and free about how they placed kids and at that point all they had to do was make an order and they had a child placed in a treatment program and had SRS pay for it. During the creation of DFS in 1987, it was part of the negotiations that the development be referred to as the Placement Committees. The creators of the Placement Committees were very clear in their intent. It removed the power from the judges to place any child in any facility at their own discretion. At this point the courts can only recommend to the DFS that they place a child in a particular facility. An order should read that a child is placed by DFS in an appropriate treatment facility. Juvenile Probation Officers then under the law make recommendations. There are committees set up on a local basis that go through the reviews that make a recommendation to the regional director and the regional director makes a recommendation to Mr. Olsen's office. The buck stops there. That's where a child is placed or not placed. It is not the court system or juvenile probation. Mr. Olsen or his appointees determine where the child is placed. He mentioned earlier that the child is not placed immediately. They may place a child in Pine Hills or Mountain View pending a placement. The only time a child can be placed in Pine Hills or Mountain View is if they are determined to be a serious juvenile offender. Other than that a child cannot be placed in Pine Hills or Mountain

View. The law specifically states that if a child is ordered to be placed, unless he is a delinquent youth, while he's in placement and thereafter, the decision rests with the juvenile probation department, not with the DFS. So if a judge orders a child to be placed, pending that placement, probation has to supervise that child. It is very clear that DFS can place a child or refuse to place a child at their discretion. The courts cannot order it. Until a child is placed, unless he or she is a delinquent youth, a serious juvenile offender, then probation supervises that youth.

SEN. WATERMAN asked what do you do with them.

Mr. Meeker replied that if a child is already placed and pending a waiting list to be fulfilled, we can look at shelter care, some type of foster care, even a child in his own home. It is a rather elaborate scheme to keep a child under control while he is in a community.

SEN. WATERMAN, SEN. NATHE both asked who pays for it.

SEN. NATHE asked if you use juvenile detention centers also.

Mr. Meeker replied that some do.

SEN. NATHE asked about the new ones, because he knows of kids you are talking about under court system that were placed in jails.

Mr. Meeker said that the juvenile detention centers are somewhat different due to the fact that it is a federal mandate that children are taken out of adult jails. They will help to relieve the problem to some degree, but children in the detention facilities that are placed there have what they call a pre-adjudicator. In other words we could not adjudicate a child a delinquent youth and pending a placement in Pine Hills, keep a child there six months or so.

SEN. WATERMAN remarked that before a child is placed there, he is your responsibility. Who pays for them, like if you have them in shelter care?

Mr. Meeker replied that if they are in shelter care, the bill is passed onto DFS.

SEN. WATERMAN asked if you have supervision, DFS still gets the bill?

Mr. Meeker stated that shelter care is one of those exclusive things that allows us to place a child there no longer than forty five days. After that, DFS has a right to veto that placement.

SEN. WATERMAN asked who decides where they are going to be put if they are claiming placement.

Who decides where they are going to be in the meantime until they get off the waiting list or whatever.

Mr. Meeker answered that it was Juvenile Probation.

SEN. WATERMAN replied that the second choice is yours then.

Mr. Meeker replied that they could make two recommendations to DFS for placement. We could recommend Yellowstone or Deaconess. They could say that they don't like either one; we want to place them in Excelsior in Spokane. They can do that as that is their choice.

SEN. NATHE asked if they have a youth support budget any more. Was that abolished in 1987 when we created DFS. I know that the courts, the juvenile probation officers in the early 1980's had a tendency to stick it to the school districts and put those kids that were emotionally messed up in Denver. They billed the school district for health, psychological counselling and everything and in 1980 that was about \$25,000 a year. The school district was tough; they went right back on the juvenile probation officer in the district court and judges in juvenile court and they had to pay for the psychological counselling for the health, the braces on the teeth and the school was only liable for the education of that child. This is why I ask what happened to that budget.

Mr. Meeker replied that he did not know what happened or what district. She was talking about. I've been with our department since 1976, and we've never had a placement budget. Maybe at one time it varied from district to district, but our department never had such a budget. Talking about schools clarifies something. The only time schools were responsible for placement or cost of placement of a child in treatment was at first when they identified a child as seriously emotionally disturbed. Otherwise, they were out. We had to identify a child as seriously emotionally disturbed.

SEN. NATHE responded that the schools did not identify them. The juvenile system saw a way to put the bill back on the schools.

CHAIR BRADLEY stated that they had to find a way to wind this up. **CHAIR BRADLEY** asked **SEN. WATERMAN** if it made sense to try to solve this by appointing a sub-committee of one to work on this proposal in the time that they had. We need a recommendation the day after tomorrow, July 8th. Perhaps you can do it with the help of **SEN. ECK**, too.

SEN. WATERMAN replied that she would work on this, but wanted any input she could get from other committee members on what direction they should go with their recommendation.

CHAIR BRADLEY asked if anyone could see any way to cut some dollars. She commented that all they were dealing with so far

were requests for dollars, and the time to deal with the bulk of that is in January.

Mr. Olsen replied that is why we need to get this thing done as soon as possible, because the supplementals keep growing, and technically we don't have to do anything to this Department, but that supplemental is counted in the budget. At the end here that \$17 or \$19 million dollar supplemental request by all agencies will just get larger and larger and the cash flow problem get worse. We can at least solve part of that problem now or at least get it going. Maybe not this fiscal year but FY 94-95, there won't be that much general fund and we will just automatically kick in to DFS and it can be used elsewhere.

CHAIR BRADLEY said that part of the problem causing this increase every year, and we are looking at 200 more kids per year fairly steadily, is family financial problems. The key budget that we are directed to examine for cuts is the welfare budget. Of these kids on these programs, what percentage is welfare families?

Mr. Olsen stated that he would guess about 75%.

Mr. Walsh replied that looking at it from the out of home care the percentage is 40% For those that come in at the front end of the system, we don't have any way to track. But we do have a way to track kids that end up in foster care and it has been 38 to 40%.

CHAIR BRADLEY asked if these kids are AFDC eligible.

Mr. Walsh replied that was correct.

Mr. Olsen stated that if you looked at what you considered in the community as low-income families, you would consider the numbers higher. There is a direct relationship between many of these cases and the income of the families.

CHAIR BRADLEY asked about basic management flexibility to better manage your dollars, as far as legislative categorizations and things like that. If you had total flexibility there and had a warm winter like this year, couldn't you accommodate something? Obviously, \$1.2 million is not great. How can we ask for more cuts when you are coming in for major supplementals? Would management flexibility do anything to help your picture and can you describe to me how it would help. Where would your shifts be. I am a believer in management flexibility; but I need to build a case if I can get it through.

Mr. Olsen replied that the ability to move between personal services and operations would be crucial. Right now we are in a position of basically having to manage any savings that we are reverting through vacancies. If we could move that program, or as we attract more federal dollars, we could have the flexibility to move program dollars into staffing. There is a lot we could

do that right now we can't. It would not give us the amount of money we are talking about but it would certainly give us the ability to use all available resources. Right now we just don't have that ability. Our resources are bound in certain areas and if we have a problem in those resources, there's not much we can do.

CHAIR BRADLEY asked if there is a real possibility that you can cut back that \$1.0 million supplemental if you have that flexibility?

Mr. Olsen answered that they could cut some back. If we recover federal money and have the spending authority to go ahead and plan for that, that would be of great help to us too. We are going to be receiving additional federal dollars that currently we do not have the authority to spend. The flexibility to use our federal dollars flexibly and the authority to move our personal services money that we save in operating cost will help us a lot.

CHAIR BRADLEY requested that DFS work with Ms. Smith to see if they can give us a better idea. They have to move on at this point, and it may take some scrambling around that the committee cannot do with what is before them. DFS should see if they can provide her with some specific examples of how it would help them so she can take the management flexibility issue to the full Appropriations Committee.

REP. COBB asked why they didn't come in right now with a budget amendment or operating plan change and tell us that you want to move money from personal services down to operating expenses. If you know what you want to do, and know the amount of money you want, why don't you just say that you want to move money from personal services down to operating expenses and have the committee approve it. Then we know what you are doing, and that you are getting the job done. But just to give you the flexibility to move it and we are not sure of a time span or anything, can't you come in the next few days also and let us know what kind of money you want to put in there and exactly how much it costs. If you have money saved, you can ask us to change it since we are in special session and then we know how it is being spent.

Mr. Walsh answered that it would be very difficult to do at this time because they are entering a new fiscal year. We can look back at last year and see the vacancy savings we made and we can guess we might make that. We are not having the turnover anywhere near we had before. People are not quitting their jobs right now. He could not tell now how much vacancy savings that they might have before the end of the year. We might have a lot; we might have none. Right now we are saddled with vacancy savings so before I would transfer any of that money, I would want to be sure that we had covered our vacancy savings. In addition to that we are under order from the United States

Department of Labor to pay off some comp time payments under the Fair Labor Standards Act that we are trying to do under current '92, but we might have to go into '93 to pay that off.

REP. COBB answered that you want the flexibility to move money around, but you don't know if you are going to have any monies, so when you do get it, it's a hit and miss thing whether you use a little bit for the next month for this thing or that. Why are you going to wait until the end of the fiscal year to know if you have any money left over.

Mr. Walsh replied that we were talking about if we had the flexibility if we go into the next year and waiver a cover for our vacancy savings. If we do not need additional funds to save to pay off the Fair Labor Standards claim, we would have that General Fund that we could move into programmatic things like foster care. We might be able to match that and use that. We do not know how much it is, but even a little bit would help. If we have the flexibility to do that, than that is what we are talking about. It is the ability to say, if I can save \$90,000 in general fund, can I know that I can move that down.

REP. COBB asked if you could do that now, because the Governor issued a memo saying ignore personal services if it is going to save you on a supplemental. Isn't that what you are doing right now? You just ignored it anyway. Isn't that what is going on?

CHAIR BRADLEY asked **REP. COBB** if he could take it up with DFS another time.

REP. COBB replied that he thought it was already being done. That was what he was trying to find out. If it is already being done, than why do they need the authority to move it?

CHAIR BRADLEY stated that the committee needed more information on some issues. One is the management information system.

Mr. Olsen stated that they are on track. We have defined our data base parameters; we've hired FTE; we are on track with the development of the system.

SEN. WATERMAN asked when the system would be up and running.

Mr. Olsen answered that they told this committee it would be January, 1994. Because we were forced to make reversions and to do it with existing staff, we have moved our date to July, 1994.

CHAIR BRADLEY asked for quick update on Pine Hills and Mountain View. There have been some new proposals that have come up since we were last here.

Mr. Al Davis, Corrections Administrator, stated that for the last several months we've been pulling together a system like plan of doing some shifting of traditional means of dealing with those

400 or 500 kids a year that are coming into the correction system. We are just in the process now of completing an overall examination of 400 youth, digging into the files to make a determination as to where these kids fall on the scales as relates to risk, i.e. low-risk, medium risk, and high risk. That information will be available the 7th of August, and this is being compiled by a National Technical Assistance group out of Michigan who have been working with us quite closely the past year. Once we have that information we will have the information to support making some of the shifts in populations that presently exist in the Corrections Division. The two institutions, Pine Hills and Mountain View, at the current time are being looked at in a number of different ways. One is what is the most appropriate utilization of our current assets, i.e. Pine Hills and Mountain View School. Do we look at long term at the Eastern end of the state, or the co-educational option. We actually introduced co-education to Mountain View School about a month ago and it has gone very well. We have not experienced any problems to date. We're looking at expanding the co-educational concept at Mountain View School in order to maintain those numbers at a reasonable level. Hopefully we will do this in a creative manner that isn't going to endanger funds. We will replace the emphasis at the community-based level and de-emphasize the institutional effect. Populations right now are manageable. As of this morning there are 98 boys at Pine Hills. We will maintain a manageable level. In the process of redesigning institutional programs, we have a psychologist who just came on board this morning. He will be devoting his first three months on campus at Pine Hills with some implementation of some programs.

SEN. WATERMAN asked about the figure that put 400 or 500 kids through Pine Hills every year. Does Utah have a 1/10th of that? Are we not one of the highest in the nation as far as young people that we incarcerate?

Mr. Davis answered that there are 400 kids. One of the things that isn't happening with the delinquent kids in the state of Montana, that is, with Child Protective Services kids is that we are not adding new kids every year. We are in the top three as far as per capita commitments to juvenile corrections. A big part of that problem is the result of just not doing a proper classification of those kids in the front end as they come into the system. So our desire is to get a good fix on each kid as they come through the door, and divert them at the front end to more meaningful and less costly programs, rather than maintain them in the only game in town which as been Pine Hills and Mountain View School for the past number of years.

CHAIR BRADLEY asked if there are any more public concerns, questions or comments about anything.

Paulette Kohlman, Montana Council for Maternal and Child Health, stated that her organization which consists primarily of health

professionals concerned with the health of pregnant women, young children, and adolescents is very concerned that prevention comes first in the budget, as well as it ought to come first in the life of a child. We are also concerned that money be spent where it is most effective. We are in support of anything that makes funding more directed towards a child and institutions that specialize and categorize funding as much as is possible and diverts funding away from foster care toward in-home treatment and early intervention. All of those things will help you with the budget, but they are not things that you can look at on the biennial basis. We also urge the committee on the particular issue of refinancing. All of the money that can be regained by refinancing will benefit many of the state agencies. It is not easy for DFS; they cannot do it by themselves. In order for them to get the Title XX money they have to get SRS to give them Title XX money which is legislative budget authorization business and then they have to give back general fund to SRS. It is not something to be done simply. It is not something that is going to show up in this biennium or the next biennium. We urge you to take a longer view, to do anything to increase availability of federal or state funding for children who really need it early on in assistance.

CHAIR BRADLEY stated that there are people who came here from many miles to testify on one of the day care proposals. One is the Self-initiated Child Care which will actually deal with tomorrow's welfare proposals in the afternoon. As long as they cannot be here tomorrow, they will give their testimony today.

Jane Schumacher, Career Transitions, Bozeman, stated that they authorize child-care directly to the Self-Initiated Day Care. Last year we estimated 97 over the year to whom we gave child care to help keep them in school. At the end of the year from second semester we had 70 ongoing.

SEN. NATHE asked what self-initiated is, day care for schools? Don't we have day care in public schools or are you talking about the University System, Vo-Techs, etc.

Ms. Schumacher replied that we are talking about University Systems, Vo-Techs and Cosmetology Schools and other specialized schools. It could be for after school care, but it is generally for kids that are pre-school age. Most of the students that we deal with are Montana State University students. We have a couple who go to cosmetology school and a couple who drive to Butte. We had the window of opportunity from May 1, to May 31st, and we really did make an all-out effort to contact all our current people to let them know, and some were so frustrated that they didn't bother, and some were graduating. We had 51 people apply. We were notified recently that we had 9 slots this year. We went from 97 to 9. We want to express our concerns about that. We feel that an increase in tuition will not help us. We know that you are talking about decreasing AFDC from 42% of the poverty guidelines to 38% of the poverty guidelines. Housing

is terrible in Bozeman. People who get Section 8 cannot utilize it, because they cannot find a place to live. We are very concerned about these people we deal with one on one.

HEARING - DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Dennis Iverson, Director, Health and Environmental Sciences (DHES), said there are some structural changes in the division. The health side has grown so they have created another division. We took Licensing Certification and made another division out of it and called it Health Facilities. It functions better, and it will also get what used to be the Health Division better prepared for what the federal government is going to do. **Denzel Davis** is the administrator of that new division.

Ray Hoffman, Administrator, Centralized Services Division, Department of Health, explained that he passed out a spreadsheet outlining the funding of the Department of Health and Environmental Sciences by specific categories. It shows no cuts. This represents funding of House Bill 2 as authorized by the last legislature and includes the prior cuts as made by the last Special Session of the Legislature. So what you are seeing is the way the Department of Health looks other than budget amendments that we've had since July 1. I will use the Director's office as an example of a program. (See Budget Exhibit.) If you wish to look down the general fund side that will show you every dime of general fund has within the agency.

SEN. KEATING asked what is the source of the Proprietary Fund?

Mr. Hoffman said the indirect administrative charge is charged to all programs in the agency. (See last page of budget and note Department's General Fund, State's Special, Federal Funds, and Proprietary Fund (a pre-determined percentage against the personal services of the agency is the only Proprietary Account that the agency has). That percentage is negotiated with the Federal Government.

SEN. KEATING asked if the \$1.6 million Proprietary Fund is principally federal money.

Mr. Hoffman answered in the affirmative. Note that the general fund is less than 10% of the total agency's funding. The Executive Budget recommends approximately \$93,000 of General Fund reductions within the Department of Health. We did not bring you a specific proposal addressing that \$93,000. (1) We would like to know the ground rules under which we are operating, because, if you recall the last Special Session, the Department of Health decreased the general fund by over 9%, yet the Department did not receive credit because some of that was funding switches. For example, within the Statistics Bureau we recommended 100% increase within the birth records for the State of Montana. We reduced the general fund; we increased the State Special, yet we

did not receive credit for that direct reduction in general fund. (2) We would like to have some idea of what the tempo of the committee is. Do you want us to have absolute general fund reductions or do you want us to have general fund reductions within the multitude of fee funds that we have, or what do you wish?

CHAIR BRADLEY answered that it was supposed to be their rules.

Mr. Hoffman answered that he knew the rules. They are going to take out \$93,000, but right today they did not know exactly where they were going to take those.

CHAIR BRADLEY asked Steve Yeakel if they were going to detail these cuts, and he said yes. She asked where are they? Those are the ground rules, and I have not seen one.

Mr. Hoffman replied that they do not have specific areas of cuts, but DHES will absorb the \$93,000 of general fund cuts. If you want position numbers, if you want to get rid of travel, or if you want that, I don't think we can come forward with that. Last Special Session you said that the Department of Health had taken as many cuts as it could without full scale elimination of programs. If we are taking \$93,000 and we cut programs, it may have an impact of \$300,000, thereby, giving you more.

CHAIR BRADLEY replied that she wanted to know where they were right now with the DHES cuts and what it would take to get to 8%. Where are you with your percentages and supplementals?

Mr. Hoffman answered that the Department of Health would have no supplementals. We have had none in excess of 10 years and would not have one this year.

CHAIR BRADLEY asked where they were with the total for the biennium and 8%. How far to that line are you?

Mr. Hoffman answered that if they could make the funding switches, than they were there. For example, we could reduce general fund in one program and increase fees that we are charging to the general public for specific services.

CHAIR BRADLEY asked which one?

Mr. Hoffman replied that they could do that in five different areas, air quality fees, sub-division fees, solid hazardous waste fees. They currently have general fund in them and we could increase those fees, and drop general fund.

CHAIR BRADLEY replied that they should have credit for general fund returned. She would like to promote management flexibility, but I need to know if it would help and some examples of how it would.

Good management should be rewarded, and if you can figure out how to shift your share of the dollars back to the general fund maybe you should be rewarded.

Mr. Hoffman replied that it would help and that he would provide a specific listing to the committee tomorrow morning.

SEN. KEATING asked if DHES could have a lump sum reduction. To increase State Special through fees is just increasing taxes in order to get more general fund. Just cut spending.

Mr. Iverson said that they were beneath the statutory line in most of the programs now, and they don't see any way to take any more off the top unless they have management flexibility. If they have to get specific, then they are going to be recommending program cuts. Program elimination is not recommended, but management flexibility is.

REP. COBB stated that even if money is moved around with management flexibility, how are you going to save the general fund. That will be hard unless you raise fees.

Mr. Iverson stated that it would be a mix of each. The Department should have the flexibility and the opportunity to make up what they can with some legitimate fee increases. This is preferable to lopping off some programs.

CHAIR BRADLEY stated that they were not to be cut according to the Executive Budget, and was reminded that it was \$93,000, the revised number.

Mr. Hoffman recalled that in the last special session the Department gave up \$100,000 with the Licensing Certification Program. We asked for flexibility to give you that \$100,000 with language that said you would earmark the general fund in the Licensing Certification Program specifically for that program. Nothing could be transferred in or out. That was \$100,000 flexibility that you gave us and in turn we gave you. We are not coming in for any supplemental for that program. We have managed it. We'll take that \$100,000 in cuts and that is what the Department is asking for now. We'll reduce it \$93,000, but give us the ability in the next year to get that \$93,000 through the most prudent management practices. We will reduce our appropriation, but we must have some flexibility.

SEN. WATERMAN asked if the flexibility was to raise fees.

Mr. Hoffman replied that it would be a combination of things, and there is a possibility that they may have a position that is 100% general fund that they may not fill. Then if they didn't fill the position, they could use that as part of that \$93,000. Our General Fund is extremely limited.

They've gone from \$5.0 million to \$3.0 million based upon creativity that the agency and the committee had by replacing general fund with other sources of revenue.

SEN. WATERMAN asked if they did not now have the flexibility to eliminate positions. Could they just leave a position vacant? They do not need flexibility from the committee to do that, do they?

Mr Hoffman answered that was correct. The problem is that the general fund is in very distinct pockets within the agency and our turnover may be higher within a federally funded program, and extremely low with that specific general funded one. We don't know if someone within that general funded service is going to retire within six months, or quit within four months. We need that flexibility to determine that.

SEN. WATERMAN stated that you are coming back tomorrow with options. The problem is not revenue, it is spending. You should have had this discussion with the Governor's Budget staff, how you should handle these cuts, and if you can increase fees. Probably the Department is looking at more than \$93,000.

SEN. JUDY JACOBSON said she sent out a letter asking every agency and the University System about Proprietary Funds. This Department has a lot of State Special Funds. We would like to look at what those balances were.

Mr. Hoffman stated that DHES has in excess of 40 earmarked revenue funds. The questions that you asked in your letter are extremely difficult. Especially when you talk about fund balance and not cash balance. Fund balance means the difference between all your liabilities and your assets. We don't know how much vacation people have and that is a liability. We're trying to put those 40 some sources together.

SEN. JACOBSON replied that if they just asked for cash balance without looking at your liability it would not be acceptable.

REP. COBB stated that the Department received about \$8 or \$9 million on budget amendments since last session. You received over 60 budget amendments? Is there going to be any more money so we can reduce director's general fund and raise proprietary funds because you have gotten extra federal money? Was all that passed?

Mr. Hoffman replied that the only general fund in the director's office is the director's salary, and that is because he is an appointed official and the federal government will not participate. There is his salary, his benefits and he pays his indirect cost.

REP. COBB stated that if we give you the flexibility, then we might as well forget about reversions. You will use this money

to make up the \$96,000. No reversions, but this is an overall budget problem. If you use your general fund money around the \$96,000 some of that money would have been reverted back to the general fund at the end of the fiscal year. So if we use it here, we want to be sure that we don't double count it.

Mr. Hoffman stated that you will have to look at that on an individual agency basis, because when you look at an agency with \$3.4 million and half of it is used to match federal funds, you are not talking about reversion in DHES. The Department Health will revert some general fund this time, taking into consideration the \$100,000 of flexibility that we had. Some of this relates to pay plan underfunding. But we can prove that management has not gone out this fiscal year and dumped our general fund.

CHAIR BRADLEY asked the Department to work with **Ms. Smith** and bring something in tomorrow morning.

SEN. NATHE asked if there was any increased cost in administration with this new division.

Mr. Hoffman replied no. The Bureau of Licensing has been taken intact from bureau status to division status. The majority of funding in that program is Medicare and Medicaid. The only general fund is state licensure and the Medicaid match. There is no supplemental request to neutralize these certifications.

SEN. NATHE stated that you must have a lot of money because it takes more money for a division administrator than a bureau chief.

Mr. Hoffman replied that was correct but you are talking about very insignificant general fund impact. You are talking about a program that is in excess of 80% federally funded.

SEN. NATHE asked if they used the motor pool.

Mr. Hoffman replied yes they use it in two different ways. First, we have motor pool lease for licensing certification cars, and second, we use it on an ongoing basis for other travel within the state.

SEN. NATHE asked what is paid on a lease.

Mr. Hoffman replied that they are paying the per mileage charge, and the charge depends on the vehicle they are getting whether it be a four wheel drive or otherwise.

SEN. NATHE asked how important is the chemistry lab. Could you contract out your water quality testing? Could you shift it to the Bureau of Mines?

Mr. Hoffman asked the committee to note the FTE's and chemistry budget on handout. If you switched that to a contract lab, demand for the cost increase for those people making profit would exceed the amount of cost that the chemistry lab has. You are also looking at demand for services. If the Director of DHES has something he feels is an imminent threat to human health or the environment, then we shut that lab down and do that test. You won't get that from the private sector without having such a horrendous expense of shutting down their machinery to do the new samples. The chemistry lab has been at this level for a number of years. At one time it was over 50% general fund. We have now switched from predominantly general fund to fee funds. The lab just prepared listings of the services that were provided the last five years by sample types and by charge where we were in every year.

CHAIR BRADLEY asks **Ms. Smith** to go over material passed out.

Ms. Smith - See **EXHIBIT 1**.

CHAIR BRADLEY asked **Mr. Hoffman** to comment on each one of the items in the hand-out.

Mr. Hoffman replied that they just received this so had in house discussion. They had questions on deleting some of these items. Two specific areas provided them with protection, and one was the \$100,000 reduction for licensing certification. The Office of Budget and Program Planning talks about how they perceive flexibility. OBPP went through the bill and where the language looked like it had some restrictions to it, we tried to give the maximum amount of flexibility by taking out those restrictions so we could free up that money.

CHAIR BRADLEY asked the Department to work through it with **Lisa Smith**. If the Department has real flexibility, it could come out with more than \$93,000.

Mr. Iverson made some remarks about the ARCO suit and stated that there was a good chance of getting some of it back. It amounts to \$5 million. It is just a matter of when. The judge is interested in a piecemeal settlement.

SEN. KEATING asked the Director about the fees charged for the various services so that businesses can get going and subdivisions get going. How much staff time is required in complying with the permitting process. The standards that we have drive the activity of the permitting process, and sometimes when we read what is required, the standards are more stringent than they have to be in order to protect the environment and get the job done. Does the Department think that maybe some of the standards are too strict, and if the standards were lessened we could still achieve the environmental protection, but save some money by not requiring superfluous activities.

Mr. Iverson replied that it is a futile exercise, because most of what we do is done by federal license. We are operating many programs in lieu of having the federal government operate them and we don't have much flexibility to change what we are required to do. We are complying with federal standards more than state standards. About the only way that you can deal with it to keep your constituents happy is get the job done as well as we can. Last year we did \$460 million worth of permits in the Air Quality Bureau alone. This year we will do close to \$800 million. If you include the Licensing Certification and the whole works, the Department will process permits close to a billion dollars in construction dollars. Just delay that two months, compute the interest on it. It is a negative shot to the Montana economy. Right now with the exception of subdivisions, we are still three weeks out of current. We do not have any permit on the desk over there that is not current. We are caught up. That is about as good an argument you can make for the fee system. It is also about all we can do. We have to deal with things that we cannot control.

SEN. KEATING stated that there is a fine line between getting permits out and getting the work done.

HEARING - DEPARTMENT OF LABOR AND INDUSTRY

CHAIR BRADLEY stated that the same approach in providing flexibility for departmental management can be worked on with DFS. What we are hoping to extract out of D.F.S. is to truly decrease their supplemental by a million instead of just having everybody fake it. We will work in collaboration with this, since **Ms. Smith** has to work on all three of these programs.

Mr. Mario Micone, Director, Department of Labor and Industry, stated the general fund of the Department is for FY '93 is \$690,000. About \$350 to \$360 thousand is for the Benefits Commission, and the balance to the Human Rights Program. Our contribution back to the treasury was 13%. Human Rights Commission is responsible for contributing \$26,000 for FY '92, and \$26,000 for FY '93. We analyzed our numbers for the Benefits Program, and it is unfortunate that in this program that we have to anticipate how many beneficiaries are going to die as we project our funding. There is an additional \$15,000 that can be freed up. The caseloads in the Human Rights Commission are overloading and we would like to shift those funds to them. The flexibility issue was a discussion in FY '91 with the committee and Department of Labor. Flexibility issue has always been one that agencies need. With the management of budgets today, you don't need an agency director to manage their budgets. You are doing a fine job of micro-managing our budgets. So we really do not need managers to do that. But we believe if the Legislature appropriates a certain amount of money, identifies the services that you want performed, and appropriates a sum of money for the departments, allow the departments to move that money as they see fit. Then give them a further charge that for savings within

their general appropriation, they are not going to be penalized. Our system is not built to reward those that are efficient and economize. It's built to reward those that spend the funds. We certainly encourage flexibility as a benefit not only to the agencies but to the Legislature.

CHAIR BRADLEY asked what they could produce with flexibility.

Mr. Micone said that they could not produce more money but they could provide a higher level of service.

CHAIR BRADLEY asked if they could work with **Ms. Smith** and produce some documentation.

REP. COBB asked what you could do with the money moved around that you cannot do now. Why don't you ask for it now. Give specifics for better services. It's important to have that savings account, because right now if we don't give you the savings account, the tendency is to come back and spend every dime you get before you revert.

Mr. Micone answered that every agency today spends every nickel they could possibly spend because they know that the Legislature is going to reduce their base.

REP. COBB answered that they never reduce the base, because when they reduced personal services, everyone got the same base back. It was only when we did vacancy savings the old way that it happened.

Mr. Micone stated that vacancy savings are part of the problem. The vacancy savings are mandated by the Legislature. We are charged with certain functions within the Department. We could probably provide more services to the clients if we were able as we moved through the year to be able to shift funds from operating to personal services. We would be able to meet a growing demand of needs for people who are looking for employment. We don't know from one year to the next how many customers we are going to have. We do know that we certainly do not have the funding to meet all of our needs. That is the type of flexibility that we're talking about.

SEN. WATERMAN stated that the Executive Budget proposes that in the Project Work Program that there be a matching of federal funds with about a quarter of a million dollars of funding from S.R.S. That match will come out of your Department. Are you familiar with that and what funds they are talking about?

Mr. Micone answered that is the administrative tax.

REP. COBB asked if the Human Rights is mandated by federal law?

Mr. Micone answered no.

REP. COBB asked if the long waiting list of people could go to court if we don't fund Human Rights?

Department of Labor Staff stated that the law says in order to file a complaint in District Court the plaintiff has to exhaust the administrative remedy to file with the Human Rights Commission.

CHAIR BRADLEY asked **Mr. Micone** to work with **Ms. Smith** on the flexibility issue. There's some merit in bringing it up before the full Appropriations Committee. There is no inclination from this committee to try to take dollars and obviously it is not recommended, but it might very well serve as the flexibility recommendation if the committee decides it has some merit.

Mr. Micone said funds that were appropriated for the Jobs for Montana Graduates Program in 1991 was taken from the Department and put into the Office of Public Instruction. They were not interested in administering that program, so we have a letter of agreement that our Department is administering that program. We were hoping that we could take some action deleting that item from the Appropriations Bill that stated the OPI would be responsible for that program.

REP. COBB stated that it would not be wise to bring this to the attention of this special session because of the U.I. tax and general fund.

SEN. WATERMAN asked what was wrong with the language, and having an administrative agreement with them? It encourages some cooperation that we've all talked about.

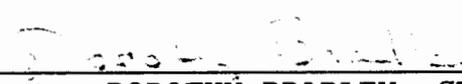
Mr. Micone said that there was nothing wrong with it, but the Department of Labor is responsible for administering those funds. The U.I. Administrative Tax is presently supporting the Montana Jobs for Graduates Program. The proposal that we have out for the use of Administrative Tax talks in terms of programs that the Department does not administer, and should not be funded with U.I. tax.

SEN. WATERMAN asked if he wanted to save this program.

Mr. Micone said OPI has worked closely with them and they have been helping to find additional funding.

ADJOURNMENT

Adjournment: 5:10 P.M.



DOROTHY BRADLEY, CHAIR



BILLIE JEAN HILL, Secretary

DB/bjh

HOUSE OF REPRESENTATIVES
HUMAN SERVICES SUBCOMMITTEE

ROLL CALL

DATE

July 6, 1992 (10-5-15)

NAME	PRESENT	ABSENT	EXCUSED
REP. JOHN COBB	✓		
SEN. TOM KEATING	✓		
REP. JOHN JOHNSON			✓
SEN. DENNIS NATHE	✓		
SEN. MIGNON WATERMAN, VICE-CHAIR	✓		
REP. DOROTHY BRADLEY, CHAIR	✓		

DATE 7/6/92
HB 803

Second Special Legislative Session
HUMAN SERVICES APPROPRIATIONS SUBCOMMITTEE
July 6, 1992

Department of Family Services

Budget Cuts - None

Department of Health & Environmental Sciences

Budget Cuts - The Executive proposes general budget reductions of \$93,352.

Language - The Executive proposes to strike the following (underlined) language in House Bill 2,

"None of this appropriation may be transferred to other programs."
(Referring to the director's office \$82,897 of general fund money within the legal unit used to pay legal services billed to programs funded by the general fund within the department.)

Item 2b (Laboratory Contingency) is a biennial appropriation "that may be used only if the demand for reimbursable services requires expenditures for supplies, materials, and communications in excess of the appropriated levels of \$184,820 in fiscal 1992 and \$184,597 in fiscal 1993".

"None of the appropriation for the licensing, certification, and construction bureau may be transferred to any other program in the department."

"Items 3e, 4e, and 5i (Pay Exceptions - Environmental Specialist) may be used only to pay for the blanket "pay exception -- environmental specialist" class series and associated indirect costs, authorized by the Department of Administration on April 11, 1991."

Department of Labor & Industry

Budget Cuts - None

