

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY

Call to Order: By **CHAIRMAN STEVE BENEDICT**, on January 10, 1997,
at 1:00 PM, in Room 410.

ROLL CALL

Members Present:

Sen. Steve Benedict, Chairman (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Sharon Estrada (R)
Sen. Eve Franklin (D)
Sen. Fred Thomas (R)

Members Excused: Sen. Larry L. Baer (R)

Members Absent: Sen. James H. "Jim" Burnett, Vice Chairman (R)

Staff Present: Susan Fox, Legislative Services Division
Karlolyn Simpson, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 8, SB 14, SB 23, 12/31/96
Executive Action: None

{Tape: 1; Side: A; Approx. Time Count: 1:00 PM}

Introductory Meeting & Procedures discussion:

CHAIRMAN STEVE BENEDICT welcomed everyone and introduced the staff to the committee. He requested those who are testifying to (1) Sign in on the register, (2) Give written testimony to the Committee Secretary prior to the meeting, (3) Not read long testimony, but "hit the high points" and give the written text to the committee, (4) Coffee fund. He explained the procedures for the committees: (1) Quorum, (2) Proxies must be written, but must be date and bill/amendment specific. **SENATOR CHRIS CHRISTIAENS** voiced concern that amendments could change his vote on a bill. **CHAIRMAN BENEDICT** said if the proxy-holder feels uncomfortable voting on amendments, a request could be made to hold the vote open for another day. **SENATOR FRED THOMAS** made a motion for the vote to be held open if a proxy-holder does not feel comfortable voting on amendments. The motion carried. **CHAIRMAN BENEDICT** continued explanation of procedures: (3) Voice vote on most

bills, but any member of the committee may request a roll call vote to be taken, (4) Promptness, be on time for each meeting. A copy of the Public Health Committee Rules were given to each committee member. (EXHIBIT 1) SENATOR THOMAS made a motion for the Committee Rules to be adopted. SENATOR CHRISTIAENS requested equal time be given to both proponents and opponents. SENATOR EVE FRANKLIN referred to item #6 and requested members of the public who are uncomfortable speaking extemporaneously, be allowed to read their testimony. CHAIRMAN BENEDICT said it is preferable that someone not read many pages of testimony, but try to be brief. The motion carried. He then went through the committee rules.

HEARING ON SB 8

Sponsor: SENATOR DON HARGROVE, SD 16, Belgrade

Proponents: Jim Smith, Montana State Pharmaceutical Association
Kevin Kraushaar, Nonprescription Drug Mfg. Assn.
Beth Baker, Department of Justice

Opponents: None

Opening Statement by Sponsor: SENATOR HARGROVE, SD 16, Belgrade, said the subject of SB 8 is Ephedrine, a powerful stimulant, and its cardiovascular effects increase the diastolic and systolic blood pressure, cardiac output, and heart rate for a relatively long period of time. It increases coronary cerebral and mesenteric blood flow at the expense of renal and splenic blood flow. The principle adverse effects of ephedrine are central nervous system stimulation, nausea, tremors, tachycardia, and urinary retention. He read a paragraph #4 of a letter from Alison Counts. (EXHIBIT 2)

Ephedrine is made from the ephedra plant and is the building block for methamphetamine. SB 8 was taken from similar law in Illinois and there are 17 states that have similar laws. The Federal Government has produced guidelines and will probably come out with more specific legislation. SB 8 will include ephedrine on Schedule IV of controlled substances.

His concern is with the over-the-counter items, sold legally in Montana, and sold primarily to truck drivers, but more is purchased by 14 and 15-year old kids.

He has one amendment, recognizing the problem is with the over-the-counter items purchased by kids. (EXHIBIT 3) Non-traditional doctors use ephedrine and this bill will not prohibit their using it. There are dietary supplements which contain ephedrine and the amendment will exempt these products. The Justice Department also has an amendment, which suggests including pseudoamphetamines. Pseudoamphetamines are used in thousands of over-the-counter cough medicines and similar products. He is most concerned with the products containing illegal and harmful amounts, and wants them off the counter so kids cannot purchase them.

Proponents' Testimony:

Jim Smith, Montana State Pharmaceutical Association, which represents retail community pharmacies, pharmacists in all settings, said many of the members of the association have told him about people who have gotten into abuse and misuse situations with this drug and compounds of it. They support placing this drug on the list of controlled substances.

Kevin Kraushaar, Director of State Government Relations, Nonprescription Drug Manufacturers Association, Washington, D.C. fully supports SB 8, but they think the Public Health Committee and the Legislature can do more to enforce effective sanctions and regulatory controls on some of the products which are marketed for purposes other than those approved by the Food and Drug Administration. They represent about 90% of the manufacturers of non-prescription drugs in the United States, and these companies range from very large to small.

There are products containing ephedrine being marketed as stimulants, appetite suppressants, and for muscle enhancement. Ephedrine is approved by the Food and Drug Administration as a bronchodilator and vasoconstrictor, but ephedrine is a wonder drug for asthmatics, and probably wouldn't be prescribed because there are better treatments for asthma. Products containing ephedrine have a history of safety for treatment of mild symptoms of asthma. The products which have caused problems are marketed in a manner leading you to believe they are approved by the Food and Drug Administration for things they are not, but any drug used in extreme conditions or in excess, even aspirin, can cause problems. They are subject to abuse if not marketed properly. There are signs that ephedrine, as well as pseudoephedrine which is contained in about 80% of cough-cold products available over-the-counter, are finding their way into amphetamine labs.

Ephedrine has been a big problem all over the United States about 30 states have placed regulatory controls on ephedrine, but no state has placed restrictions, prescription or otherwise, on all ephedrine products. Every state allows legally manufactured and marketed products be sold over-the-counter without restriction. Some states have placed ephedrine on prescription status or controlled schedules, have certain exempted products on a name-by-name basis, but names of some of the products change slightly due to changes in formulation. Other states have exempted by formulation if they meet the formulation requirements of the FDA, which would alleviate the regulatory authority of the Legislature from having to make a determination on a product-by-product basis. SB 8 would place single ingredient ephedrine products on schedule or prescription. But his concern is, once single ingredient ephedrine products are put on schedule or prescription basis, companies that manufacture the products you are trying to regulate will simply reformulate and add 100 mg guaifenesin which is less than what FDA deems necessary. The "model legislation," which they prepared, places ephedrine on prescription or schedule IV, III or V, and exempts some products if they are lawfully sold over the counter without a

prescription, labeled and marketed in a manner consistent with FTC regulations, manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse, labeled for indications of stimulation, mental alertness, weight loss, muscle enhancement, appetite control, or energy, and lists the two specific formulations must meet to be marketed in Montana.

Regarding the amphetamine problem, it's easy to regulate the ephedrine products because there are only a small number of these products marketed and sold for legitimate purposes, but there are thousands of pseudoephedrine products, primarily cough and cold products sold in pharmacies and grocery stores. In states where ephedrine products cannot be marketed, companies switched to pseudoephedrine and the abuse problem went away, because kids weren't buying and using these products.

To solve the problem of pseudoephedrine and ephedrine products being diverted to manufacture amphetamines, the federal government has already taken action against the large bulk sale of these products. The Drug Enforcement Agency has said the major source of diversion to labs for the manufacture of amphetamines is illegal importation of products from Mexico, rogue chemical companies, and illegal mail order shipments in large quantities.

He suggested carefully weighing the balance of having many of these products available on a non-prescription basis, so people won't have to see their doctor or stand in line at busy pharmacies, and these products continue to be sold on an unrestricted basis in Montana, with the need to control these products that have been leading to the problems.

CHAIRMAN BENEDICT asked **Kevin Kraushaar** if they support SB 8 as it is written. **Kevin Kraushaar** said they did, but probably it won't have a great deal of effect because many of the single ingredient ephedrine products have been removed from the market place.

Informational Testimony:

Beth Baker, Department of Justice, asked the Committee to delay action on SB 8 until there a fiscal note is requested and prepared because there will be a financial impact on the state crime lab due to an increased workload, testing for controlled substances. She suggests including pseudoephedrine to minimize the fiscal impact. Because ephedrine and pseudoephedrine are geometric isomers, they have similar potential for abuse. At present, the lab tests for the presence of ephedrine in a sample, but if it becomes a controlled substance, they must break it down and quantify the specific chemical and the amount. This process increases analysis time, use of instruments, reagent cost, glassware, and scientist hours, which impacts the workload.

{Tape: 1; Side: B; Approx. Time Count: 1:42 PM}

She said if pseudoephedrine were included, there would be no fiscal impact because the lab wouldn't have to distinguish between ephedrine and pseudoephedrine. She has amendments to make this change. (EXHIBIT 4)

Opponents Testimony: None

Questions From Committee Members and Responses:

SENATOR SHARON ESTRADA asked **Kevin Kraushaar** about the small number of products which contain ephedrine. **Mr. Kraushaar** said there are a small number of our member products which contain ephedrine, and this bill addresses single ingredient ephedrine products. None of our companies manufacture single ingredient ephedrine products, and doubts there are any legal single ingredient products out there because the DEA has already revoked the legal drug exemption for these products, which means single ingredient ephedrine products are subject to record keeping and recording requirement. That's why a lot of these products have added 100 mg guaifenesin.

SENATOR ESTRADA asked what products are on the market containing this drug, and wondered if a list were available.

Kevin Kraushaar said he didn't think that is possible, but he can give a list of the products his members manufacture, and it's a very small list. It's Primatene tablets, Bronchaid Dualaction, Peso, which is a hemorrhoid product, a suppository.

SENATOR ESTRADA asked if the main thing he is after is the bronchial inhalers.

Kevin Kraushaar said the legal use of ephedrine is approved through the Food and Drug Administration, it's bronchial dilator in tablet form. The inhalants, Primatene and Bronchaid mist, contain a separate drug, epinephrine, and do not contain ephedrine, so wouldn't be caught up in this bill. It's only the tablet form. The over-the-counter inhalers will not be included because they do not contain ephedrine. He said it's difficult to get a handle on the number of ephedrine-containing products because there are a number of companies, operating on the fringe outside the watchful eye of the FDA and are putting out the products **SENATOR HARGROVE** referred to.

SENATOR ESTRADA said wondered if there were only a small number of products or large number on the market.

Kevin Kraushaar said there are probably only a few, but the one referred to in the letter to **SENATOR HARGROVE**, he has heard of many, many times in almost every state.

SENATOR CHRISTIAENS asked **Kevin Kraushaar** about his reference to "our" members.

Kevin Kraushaar said "our" members refer to members (companies) of our trade association, which is the Nonprescription Drug Manufacturers Association. The company that manufactured the product to which **SENATOR HARGROVE** referred, is not a member of our association.

SENATOR HARGROVE said the product is called Mini-thins, which is sold at truck stops.

SENATOR CHRISTIAENS ask if ephedrine was or was not at one time on the drug schedule.

Kevin Kraushaar said the FDA is prohibited from placing on a controlled substance schedule, anything that is approved by the Food and Drug Administration for nonprescription or over-the-

counter use. Ephedrine, at the federal level, has never been placed on a controlled substance schedule.

SENATOR CHRISTIAENS said he knows of many medications that at one time were prescription drugs, but no longer are, and are over-the-counter. Ephedrine has been around for years and used in hospitals as medication.

SENATOR CHRISTIAENS asked **Beth Baker** about if the reason she requested a fiscal note was due to the cost of the reagents. He said those reagents are very expensive and have a very short shelf life, and the shelf life for reagents to test for ephedrine could only be 30 days, and probably cost in excess of \$375-500.00.

Beth Baker said it's not only the reagents, it's also the instruments and staff time. The rough figure given to her was about \$150.00 per sample to be analyzed.

SENATOR DOROTHY ECK asked **Kevin Kraushaar** if he had mentioned health food stores and natural products.

Kevin Kraushaar said none of his members manufacture herbal product nor the herbal supplement, ephedra, but there is a legitimate market for these herbal products.

SENATOR BENEDICT said there is provision for these products in **SENATOR HARGROVE'S** amendments.

SENATOR ECK asked about products now on the market, and what's in Mini Thins?

Kevin Kraushaar said Mini Thins are available in various formulations around the country, single ingredient and in formulations containing other ingredients. The products causing the problem are probably 25 mg ephedrine and 100 mg guaifenesin, just enough guaifenesin to be approved by the DEA, which is just over the therapeutic level and would be considered a combination ephedrine product. Single ingredient pseudoephedrine is Sudafed, and would oppose an amendment to include pseudoephedrine on schedule IV because that would put about 80% of the cough and cold over-the-counter products behind the counter.

SENATOR HARGROVE said **Mark Eschler**, who is a pharmacist, could provide information to **SENATOR ESTRADA**.

Mark Eschler, Drug Utilization Review Director for Montana Foundations for Medical Care, said specific examples are: Mini Thins, Heads Up, Max Alert, Go Power, Turbo Tabs, 357 Magnum, and in the athletic performance arena they are called Ripped Fuel, Mega Rip, Cyclo Pump, Anabolic Enhancer, and Liquid Super Cuts.

Closing by Sponsor:

SENATOR HARGROVE said his concern is with the list of products just read and the young people who are using these products. He said including pseudoephedrine makes it easy in one way and makes it difficult in another. He said the health food type of products amendment is appropriate.

HEARING ON SB 14

Sponsor: **SENATOR CHUCK SWYSGOOD**

Proponents: Nancy Ellery, Health Policy and Services Div., DPHHS
Curt Chisholm, Department of Environmental Quality
Denzel Davis, Department of Health and Human Services

Opponents: None

Opening Statement by Sponsor:

SENATOR CHUCK SWYSGOOD, SD 17, Dillon, said SB 14 transfers some responsibilities related to vector borne illness and pesticide registration from the Department of Environmental Quality back to the Department of Health and Human Services. Because of the reorganization done in the last Legislative session, some things were unforeseen and small entities get lost in the shuffle, and the expertise for the vector borne illness and pesticide rests in the Department of Public Health. The agencies want this transferred back, along with the state lab, and found two small agencies that should be transferred back. It's agreeable with him to amend these into the bill, but probably the title of the bill will need to be amended to cover it. Their responsibilities are more public health-related than environment-related.

Proponents' Testimony:

Nancy Ellery, Administrator of Health Policy and Services Division, Department of Health and Human Services, said she supports SB 14. She presented written testimony. (EXHIBIT 5)

Curt Chisholm, Deputy Director, Department of Environmental Quality, said some residual problems were found as a result of the reorganization, in terms of the law, assigning responsibility. SB 14 takes care of vector borne illness and pesticide registration, but they found two more items that need to be clarified. The code commissioner told him the title of the bill needed to be amended, and if the Committee agrees with these concepts of these amendments, he would work with them to amend the title of the bill appropriately.

The Occupational Radiological Health Bureau was transferred to the Department of Environmental Quality but it's duties more appropriately belong in the Department of Health, and should be transferred back, along with the two FTE's and money assigned to that program. They want to make another amendment regarding the State Lab because there is a question about who certifies independent laboratories which analyze water, and he thinks these duties should be in the Department of Health rather than in the Department of Environmental Quality.

Denzel Davis, Administrator, Quality Control Division, Department of Health and Human Services, agreed with Curt Chisholm that the two FTE's and their functions will be transferred back to the Department of Health.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR CHRIS CHRISTIAENS asked if his memory was correct that a couple of years ago the Legislature eliminated some of the examination of X-ray and that requirement was removed from the Department of Health because **Director Robinson** indicated staffing was not adequate to do these inspections.

Denzel Davis said "You may be absolutely right on that, I assume most of the inspections on radiological equipment that's being used for cancer treatment and X-ray, so they may have eliminated that."

SENATOR CHRISTIAENS said he would like to have more information on that before long. The other part he questions is allowing the Department to set fees when necessary, rather than annually, and wondered what it really allows. It was his understanding that fees are set according to the cost of the service.

SENATOR SWYSGOOD said the SB 14 doesn't change anything that isn't current law. Currently they are allowed to set fees as necessary.

SENATOR THOMAS asked where the amendments had come from.

SENATOR SWYSGOOD said the amendments came from the Department in coordination with Greg Petesch and are appropriate for the other agencies.

SENATOR ECK said she recalls the Department coming in more than once saying it's not that these functions don't need to be inspected, but it doesn't have enough staff to do them. And it was also discussed that the inspections were being made to the facilities, and wondered who does the other inspections.

Curt Chisholm said currently hospital facilities needing licensure and certification are inspected by the Department of Public Health. At present the two health physicists who work for the Department of Environmental quality inspect for any source of ionizing radiation, like X-ray equipment, on **Mr. Davis's** behalf. That's the reason for suggesting that part of the law be transferred as a responsibility of the Department of Public Health rather than Department of Environmental Quality (DEQ).

CHAIRMAN BENEDICT asked if that was in SB 14.

Curt Chisholm said it is not, but will be part of the amendments.

SENATOR ECK recalled there are inspections done of the personnel who work with the equipment, and wondered if that were true.

Curt Chisholm said that is true, but DEQ is not the certifying authority. They provide training and assistance in setting up this type of equipment and that responsibility would go to the Department of Health.

Closing by Sponsor:

SENATOR SWYSGOOD referred to page 4, line 16 of SB 14, and said that is current language that allows them to adopt fees, but fees can't be more than actual cost.

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During the reorganization of the two agencies, some things got lost in the shuffle, and this bill is attempting to put them back. Some have been physically moved and some of them haven't. There is no cost of transferring these back and forth. The cost associated with these programs will be taken up in the Sub-committees and addressed by the respective agencies.

HEARING ON SB 23

Sponsor: SENATOR TOM KEATING, SD 20, Billings

Proponents: Roland Mena, Montana Chemical Dependency Center
Darrell Bruno, Department of Health
Kelly Evans, Department of Health
Candace Torgenson, Great Divide Education Services
Andrea Merrill, Mental Health Association
Gloria Hermanson, Montana Psychiatric Association
Rick Gildroy, small business owner in Helena

Opponents: Mike Mathew, Montana Association of Counties
Dennis Paxinos, Montana Association of Counties
Mike McGrath, Lewis & Clark County Attorney
Peggy Beldrone, Cascade County
Bob Olson, Montana Hospital Association

Opening Statement by Sponsor:

SENATOR TOM KEATING, SD 20, Billings, said SB 23 deals with involuntary commitment for chemical dependency, which includes alcohol. It has far-reaching ramifications in cost, both financially to counties, taxpayers and society. He said chemical dependency is a disease and there are families that are afflicted with the disease. The person who is sick cannot always be convinced that treatment is needed due to denial. Society suffers because of the damage the person causes to family, society (DUI's and crime), or self. At present, there is no involuntary law for chemical dependency. SB 23 would establish involuntary commitment for treatment for a chemically dependent person if they were considered a danger to themselves or others. At present, some people go in for detoxification, but refuse further treatment. Persons who are both chemically dependent and mentally afflicted, are involuntarily committed to Warm Springs, but on discovery of their base problem of chemically dependency, they are put back on the streets and are costing a lot of money because they are not productive and are a drag on our tax base. With a fourth DUI, there is a mandatory 1-10 years in prison and there are many in Deer Lodge on a fourth DUI, which costs about \$26,000, per year, per person to keep them there, and there are about ten women in the Women's prison due to a 4th DUI.

There has been some involuntary commitment for chemically dependency through the criminal process. While in jail for committing a crime, they can be involuntarily committed for treatment of their chemical dependency. Those in this population who have been involuntarily committed and completed treatment, about 85% recover and are recovering for the rest of their lives. We know involuntary treatment is effective and many times, more effective than voluntary treatment. Those who go in for voluntary treatment can stay for about a week, leave, then come back, but tend to be immune to treatment the more times they come back.

Involuntary treatment could be a good thing, but there is a problem of cost to the counties. SB 23 says the County Attorneys don't have to accept anybody requesting involuntary treatment,

but if there is a clinical reason for treatment, counties may agree to stand the expense. If the Legislature mandates the counties put these people through involuntary commitment, the cost would be tremendous. He related an analogy that nursing homes were not filled until they were Medicaid eligible, then when someone else was paying the bill, the nursing homes filled. It's the same thing here. If you have to pay for chemical dependency treatment for a family member, that's one thing, but if you can get someone else to pay for it, then there would be a real rush to have it paid for. This is the dilemma: we do need an involuntary commitment program to prevent people from going to prison, we need to protect people from spouse and child abuse, and we need to protect people from drunken driving.

SB 23 allows for inclusion of the County Attorney, expands provisions of involuntary commitment to those who have chemical dependency which includes alcohol, inclusion of those who may harm themselves, and requires involvement of a Certified Chemical Dependency Counselor. It also clarifies that pre-commitment costs are costs to the county of the petitioner, and that is the problem. The counties just don't want to do it. The small counties say they might have one or two per year, but the more populous counties anticipate opening a flood gate. One more item is the clarification that the person must be 18 years of age or older for involuntary commitment. The Chemical Dependency Center does not accept minors (anyone under the age of 18).

SENATOR KEATING said he believes this bill is necessary to address this issue for the protection of the state over-all, expense for incarceration for DUI conviction, the cost of damage done to spouse, children and property. Twenty five percent of families are impacted by chemical dependency, and if voluntary commitment doesn't work, something has to be done. On the other side, it's expensive, someone has to pay for it. The counties don't want to pay for it, the state doesn't want to pay for it. Everybody is budget conscious.

Proponents' Testimony:

Roland Mena, Director, Montana Chemical Dependency Center, (MCDC), Butte said he would like to reiterate what **SENATOR KEATING** said. (EXHIBIT 6)

Darrell Bruno, Assistant Administrative, Addictive and Mental Disorders, Department of Health and Human Services said SB 23 is the result of the reorganization of state government. Prior to the 1995 Legislative Session, the alcohol and drug division was a separate division, as well as the mental health being a separate division. The reorganization of making them into one division, made them look at a lot of problems that probably one side or the other never noticed before. They asked for ideas from their providers to enhance the chemical dependency and mental health fields, and this came from the mental health field and started at Warm Springs because of the number admissions who had a primary diagnosis of chemical dependency, and some could be more appropriately treated at the Chemical Dependency Center. He feels it would help many people who have ignored treatment, but

involuntary commitment may prevent them from becoming a fourth time DUI offender or spouse abuser.

Kelly Evans, Department of Health and Human Services, Addictive and Mental Disorders Advisory Council, said the Advisory Council supports SB 23 and a positive step in getting treatment to chronic offenders at the right time, without further jeopardizing their health or the health of others.

Candace Torgerson, representing Rimrock Foundation, said they support the bill. (EXHIBIT 7)

Andrea Merrill, Interim Executive Director, Mental Health Association of Montana, said they support SB 23. (EXHIBIT 8)

Gloria Hermanson, representing the Montana Psychological Association, said they support SB 23.

Rick Gildroy, small business owner in Helena, said he supports SB 23. (EXHIBIT 9)

CHAIRMAN BENEDICT recessed at 2:58 PM and reconvened at 3:45 PM.
{Tape comments: about 1 min silence.}

Opponents' Testimony:

Mike Mathew, President, Montana Association of Counties, said he is not truly an opponent of SB 23 and not opposing the rational behind the bill, but the concern that he and the Association of Counties has, is looking at last session and **SENATOR MACK COLE'S** bill amending 1-2, 112, with the significant budgeting legislation, their hope is between local governments and the legislators they could have some assurance that piece of legislation passed last time would have some effects and positive answers for us. He said the cost of the legislation is going to exceed the 1/10th of 1 mill legislation from last session put as a limit on legislation not having funding attached.

Dennis Paxinos, Yellowstone County Attorney, said approves of the idea behind SB 23, but he has concerns, even good ideas need to be paid for. This bill closely mimics the involuntary commitment sanity bill. There has been a realization in the urban counties around the state, that hospitalization costs exceed the inflationary cost each year. When he first started as a county attorney, they were paying \$40,000 to the hospital each year for pre-commitment cost on their involuntary commitment, and now they are paying in excess of \$120,000 each year. The bill for 1 day in the hospital for sanity commitment is \$800.00 to \$1,000.00 per day.

Under this bill, the county must pay for a physician to examine this person, plus pay for a chemical dependency counselor to examine this person, plus pay for an attorney to represent the intoxicated person, and pay for a second physician, if a second opinion is requested, and all of these are going to cost money, they aren't free. Then, the county is going to have to pay for

all of these expert witnesses' time when are brought in to testify at the hearing. The bill also requires the county to pay for the pre-commitment hospitalization costs. Most of the people are in denial and can be held in the hospital for up to ten days.
{Tape: 2; Side: B; Approx. Time Count: 3:50 PM}

But they try to get everything done in two to five days. You can see how much all of this can cost. Based on the total number of second, third, and fourth offense DUI's last year in Yellowstone County, as many as 800 involuntary commitments could be made, and this number is just the criminals and doesn't take into account the number of families who want a family member committed. He testified during the last legislative session against making a fourth offense DUI being raised to a felony level because he was concerned about the impact it would have on the larger counties, and predicted there would be 120 DUI felonies in Yellowstone County alone. The state representatives anticipated there would only be 100 in the whole state. Now the State of Montana is trying to find a way to decriminalize the fourth offense DUI felony because the numbers are overwhelming. He asked the committee to be aware of the impact involuntary commitment could have. Because of the numbers in Yellowstone County alone, the impact could be \$250,000.00 to \$500,000.00 just to pay for the pre-commitment cost and services. He suggested trying a pilot program in one of the six urban counties to see what the real impact might be and have the state pay all the pre-commitment costs. He thinks Yellowstone County would overwhelm the state's facilities. His other suggestion would be for an amendment for the party who files would have to pay all the pre-commitment costs.

Mike McGrath, Lewis & Clark County Attorney, said he concurs with the statements of the previous opponents. Based on our experience, the numbers of people who could qualify for commitment under this procedure are phenomenal. The state of Montana does not have the facilities to accommodate the numbers of people who could qualify. If people are committed to Warm Springs under the mental commitment process, who have a primary diagnosis that is alcohol-related, possibly the department could draft an administrative rule allowing transfer from one treatment facility to another, by-passing the counties. Presently, on a regular basis, part of the way to resolve the criminal sentence is to require second, third, or fourth DUI's or other people charged with crimes to go for alcohol treatment, and they have some incentive to successfully complete an alcohol treatment program, because if they don't, the alternative is jail or prison. Many of the people involved in the criminal justice system do have chemical dependency problems and can somewhat take care of these people through the criminal justice system, without following the costly pre-commitment procedure.

Peggy Beltrone, Cascade County Commissioner, said Cascade County has great concern about the fiscal impact on the county.

Bob Olson, Montana Hospital Association, said probably the reason for opponents to SB 23 is due to item number 13, which makes the county liable for the cost. Last session, the state decided not to do any kind of detoxification at the Montana Center in Butte, and the resolution was to push it off to the counties without any funding source, and he thinks this bill is a similar threat. Another issue that will intensify the issue of chemical dependency treatment, is there are a lot of people who have both a chemical dependency and a mental illness. Mental illness cannot be dealt with, without dealing with the chemical dependency first. He suggests not taking item 13A out of the bill entirely, because the issue of responsibility is not resolved. Merely not stating who is responsible does not resolve the question who is responsible. **Mr. Olson** said item 13B is important to keep in the bill since the state of Montana has entered into a contract and capitated a mental health contractor to handle all psychological services, which means while someone is getting chemical dependency treatment, if they need on-going psychological services, that contractor knows they are obligated to provide that.

Questions From Committee Members and Responses:

SENATOR CHRISTIAENS asked what the daily population at Montana Chemical Dependency Center was for last year and how will they deal with the numbers of involuntary commitments.

Roland Mena said their utilization has been about 80%, which means 15-18 beds at any one time are unoccupied. If there is an immediate need for a bed, it can be arranged.

SENATOR CHRISTIAENS asked for his opinion of amending the bill for taking care of this under administrative rule.

Roland Mena deferred to **Dan Anderson**, who said that is probably a good suggestion and there could be a way transfer those who should not be in the state hospital at Warm Springs to the Chemical Dependency Center, but would have to look at the legalities of holding a person under a mental health commitment in a chemical dependency program.

CHAIRMAN BENEDICT said **Roland Mena's** testimony was there are 15-18 beds available at any one time and the opponents testimony indicated there would be an overwhelming number of commitments under this program. He asked **Roland Mena** if this happens, is there a possibility that he would come back to a future legislature and ask for money to build a new facility.

Roland Mena said that is a possibility, because he has no way of predicting how many people there would be from involuntary commitment.

SENATOR DePRATU asked about the success rate for those who complete the program.

Roland Mena said outcomes are based on a continuum of care with discharge planning placement. Currently 65% of those admitted to the facility complete the program. Of those, they make every effort to place them back into the community for after care, because without aftercare, there is a high probability of relapse and revolving door. About 68% of the 65% show up for aftercare.

SENATOR DePRATU asked what the average stay is at the center, for those who complete the program.

Roland Mena said the average stay is 20 to 26 days, and the range could be 10 days for relapse up to 45 days. There is a day treatment program, where inmates housed at the pre-release center in Butte come in 6 days a week for treatment, and have 27 days average length of stay for that population.

SENATOR ECK asked if there is an involuntary commitment process for juveniles.

SENATOR KEATING said there is none for alcohol, but under the mental health program, the state can take custody of a child and place them in a continuum care for mental health.

SENATOR ECK said she sees that as a problem because juveniles are becoming addicted and relatively young ages. Because there is not treatment available for juveniles, she said a possible way to pay for this treatment is placing a charge, fee, or tax on the consumption of alcohol.

SENATOR KEATING said there is a beer and wine tax that is distributed to the counties and used to provide chemical dependency services to the indigent, but it's not sufficient for a program for juveniles.

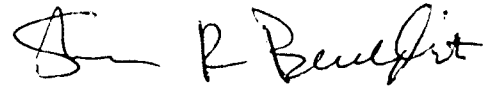
Closing by Sponsor:

SENATOR KEATING said this bill is a case of "you're damned if you do, and damned if you don't." He said there is a real need, but will not say this must laid on the counties. There is no way the voters in the various counties are going to buy off on this program. The suggestion of an alcohol tax or some source of revenue to provide for this kind of care is a possibility. He asked the bill to be held until there is a fiscal note to see if the statute against an unfunded mandate to the counties is exceeded. Another serious consideration, alcoholism is generational, cyclical, and there are a lot of citizens whose families are involved. The cycle can be stopped because successes have been seen in chemical dependency program.

NOTE: Additional ephedrine product information from **Belgrade Chamber of Commerce (EXHIBIT 10)**

ADJOURNMENT

Adjournment: 4:20 PM



SEN. STEVE BENEDICT, Chairman



KAROLYN SIMPSON, Secretary

SB/ks