

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN DON HARGROVE, on February 17, 1997,
at 10:02, in Room 331.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: Sen. Delwyn Gage

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SR 15, SB 330 - 2/12/97
Executive Action: None

HEARING ON SR 15

Introduction:

CHAIRMAN DON HARGROVE introduced Laurie Ekanger, Director of
Public Health and Human Services.
{Tape: 1; Side: A; Approx. Time Count: 10:04; Comments: None.}

Proponents: None

Opponents: None

Opening Statement:

Laurie Ekanger, Director of Public Health and Human Services,
presented her resume to the committee. EXHIBIT 1. She stated

that the scope and magnitude of the department is daunting. The department has 3,000 employees and hundreds of programs. The department touches many lives. There are 131,000 people on the Medicaid program. The department has thousands of contracts and a \$1.4 million budget.

She comes to the job with an understanding of the legislature's goals for the department. As the Labor Commissioner for the past four years, she was part of the Governor's Human Services Subcabinet. The subcabinet met every week in order to streamline and better deliver services. The subcabinet also worked with the Governor's Task Force to renew government.

While with the subcabinet, she was compelled by consumer information regarding how difficult it was to access human services when the services were delivered by funding streams instead of consumer groups. People from the disability, Asian and mental health communities described how they had to go through three or four departments to receive services.

In reorganizing, **Dr. Peter Blouke** did a fantastic job of using the vision of the legislature in setting up a management team. The process was public. She was on the team for selecting the management and was impressed with the expertise of the candidates. She is honored to be a part of the newly developed department.

She has been in her position for six weeks. The budget hearings began the day after she was hired. The department is big enough that it has its own committee. The hearing process has been a fantastic learning experience. She has had the opportunity to hear the perspective of the people the department serves. She has seen that the consumer oriented direction of the department has worked. Consumers have said that this is the first time they can come to a budget hearing and talk about all issues at one time.

She pledged that if concurred in, she will work as hard as she can to insure that the confidence of the Governor and the legislature is well placed.

{Tape: 1; Side: A; Approx. Time Count: 10:11; Comments: None.}

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. VIVIAN BROOKE commended **Ms. Ekanger** for her knowledgeable presentations at hearings so soon after starting her position.

She commented that, during the six weeks of budget hearings, disturbing decisions have been made concerning the budget for Public Health and Human Services. She has discussed the Headstart Collaborative with members of the committee and the concern is that, although the Collaborative looks good, it seems unnecessary to draw the state into the something already working so well on a local level.

Ms. Ekanger stated that the Headstart program is part of the Governor's budget. The funding is 100% federal. The idea is to bring a coordination to the program. As part of a private planning process, the plan is to integrate and maximize all programs available to families. The goal is also to make sure the program is serving the same purpose across the state and providing the same service as programs that have a state flow-through. Her experience with other community programs indicates that the communities work very well together. She thinks it is important to the program and other providers in the community that the grant be accepted. The state is trying to be a conduit to help fill the need recognized by the community.

SEN. BROOKE asked if the Headstart Collaborative would facilitate more training for daycare providers so that all day care operators would have access to the same training opportunities as Headstart teachers.

Ms. Ekanger responded that she has not read the grant but she would supply the answer later.

SEN. BROOKE asked if there is federal block grant allowing for more coordination in the area of child care.

Ms. Ekanger responded that the intent of the grant is to provide for such coordination. One of the objectives of the new department was to put child care issues in a single place. That has been done and the issues are now in the Child and Family Services Division. The block grant is a substantial resource. The federal government recognized this was a major key to welfare reform. The block grant requires an intricate flow chart to show the various facets and requirements of the funding stream. The goal is to assure that, rather than be used for administration, or studies, the majority of the money will go directly to the providers to create more access to daycare. She believes the process will work better than it has.

SEN. BROOKE asked if any part of the department deals with youth corrections and what parts of the department, if any, coordinate with the Department of Corrections in this matter.

Ms. Ekanger commented that the decision to move youth corrections from the Human Service agencies to the Department of Corrections has been a controversial one. Many people feel the Department of Corrections is not the appropriate setting in which to deal with juvenile offenders.

Her desire is to work as closely with **Rick Day** as **Hank Hudson** and **Mr. Blouke** have. The emphasis of the department is on prevention. There was a joint meeting among the Oversight Committee on Corrections, the Corrections Appropriations Committee and the Health and Human Resources Committee regarding ways to maximize federal funds for Medicaid. The request was made that the Human Resources Department determine how much of the department's funding could go to Juvenile Corrections.

SEN. BROOKE inquired about the MRM and managed health care.

Ms. Ekanger stated that there is concern that children will not receive the service they did under the MRM program. The contract specifically addresses services to children and coordination with schools. The MRM program was limited and when the money ran out there were no more services. Under the Mental Health Contract there is capped rate and a fixed fund so the services can't run out.

In the past, when people needed health care assistance, they received the services wherever they happened to stumble into the system, whether it was the appropriate service or not. The contract will bring all the resources into a single place so people will need to go to only one place to receive the appropriate service.

SEN. BROOKE stated that she had spoken to people from the Missoula region MRM who are quite proud they have saved the state considerable dollars by not sending youth out of state. They are concerned this focus may drop out and that the support structure will not be there to provide service locally.

Ms. Ekanger indicated that the contract has an inordinate amount of quality control and oversight built into it to make sure the needs of the consumers in the community are being met. The people that worked under MRM are deservedly proud as they maximized their resources.

SEN. KEN MESAROS asked for a review of the communication line between constituents and the department.

Ms. Ekanger stated that the most important thing a director can do is set standards. This includes making sure the needs of the people are listened to and relayed to the department. It is also important to make sure the needs of the staff are heard and valued.

She stated that people generally call when there is a complaint, but do not call to say things are going well. She hopes to continue her practice of consumer surveys to measure success. The department has news letters and press releases. She intends to take the department out into public forums as much as possible.

The department has launched a benchmarking project of assessing current status, setting goals and determining, through feedback from the public, whether there has been progress toward those goals. Due to the nature of service provided by this department, the need will always exceed the resource.

SEN. MESAROS asked **Ms. Ekanger** to list her top three goals for the department.

Ms. Ekanger reported that a primary goal is to develop cohesion in the department. She also hopes to identify interagency issues in order to establish in what direction to proceed. She intends to make her employees feel valued and help them understand what the standards are. She hopes to use the benchmarking system as a tool in doing this.

The Renew Government Task force talked about delegating as much decision making to local communities as possible. This has not been as successful in practice as projected. Time needs to be spent with all local governments, including the Indian reservations, to help this process.

Four departments with four different cultures and styles of doing things were brought together and work needs to be done internally, and within the community, to bring the different aspects together. She does performance appraisals of those who work for her and the method of performance measurement needs to be centralized.

SEN. FRED THOMAS inquired about legislation on Medicaid Flexible Spending Accounts.

Ms. Ekanger stated there is a bill drafted that establishes a pilot project. The department has worked closely with **Susan Goode**, an advocate for that program. There was reluctance on the department to do the project because it was determined not to be cost effective. However, in working with advocates of the program, a test model has been developed. The department is supportive of the bill to fund the project.

SEN. THOMAS asked if there are programs that duplicate services.

Ms. Ekanger stated that the situation has greatly improved. She commended the progress in welfare reform. There are a number of new prevention programs related to child protection. These are being integrated into one program. The programs are too new to see the long term results. Case management and teen pregnancy are particular areas where consolidation of programs is taking place. The change in organization from funding stream to consumer group will create a challenge.

SEN. THOMAS requested that reduction of duplication be a focus of **Ms. Ekanger's** position. He also expressed concern about undeserving individuals qualifying for Medicaid.

{Tape: 1; Side: A; Approx. Time Count: 10:44; Comments: END OF SIDE 1.}

He commented that the Headstart program referred to by **SEN. BROOKE** is void of necessity. However, he understands the attempt to receive the \$600,000 funding when there is no match required. He sees this becoming a wedge issue and hopes the department does not help promulgate the division.

CHAIRMAN HARGROVE asked **Ms. Ekanger** if she fully understands the organization of the department and what, if any, changes she plans to make.

Ms. Ekanger expressed that she does understand the organization of the department and hopes to help the public better understand it as well. She plans to find the best way to meet federal requirements.

CHAIRMAN HARGROVE observed that family is a vital element often left out of the various service groups' attempts to solve problems.

Ms. Ekanger explained that one of the guiding instruments for the department is a program to help people and families help themselves. The programs are intended to be family focused.

CHAIRMAN HARGROVE cited the example of a run-away, with both the Sheriff's Department and the Department of Health and Human Services getting involved, as a situation in which the child may be isolated from the family due to the family's inability to obtain records.

He asked if specific measurements have been employed to determine how the department is doing with regard to use of its funds.

Ms. Ekanger reported that **Dr. Blouke** assigned the Quality Assurance Division to develop a benchmarking system with specific processes by which all divisions will be evaluated.

CHAIRMAN HARGROVE suggested that, for some divisions, the department may need to rely on surveys in order to measure progress.

Ms. Ekanger noted that it is important for people to know their concerns are heard and to feel that the process is fair, even if they don't agree with it. She senses that in some of the programs, the public does not feel a process is in place to get concerns heard.

CHAIRMAN HARGROVE asked **Ms. Ekanger** how she intends to evaluate and prioritize the functions of the department with regard to budgeting.

Ms. Ekanger related that she feels programs have already prioritized their functions. Her plan is to develop cohesion within the department. This, added to the benchmarking process, will determine priorities.

{Tape: 1; Side: B; Approx. Time Count: 10:55; Comments: None.}

Closing Statement:

Ms. Ekanger expressed the honor she feels in being appointed to her position. She is a little overwhelmed by the magnitude of the department. She intends to practice the mottos of treating people how you would like to be treated and leaving things better than you found them. She requested ongoing feedback.

{Tape: 1; Side: B; Approx. Time Count: 10:57; Comments: None.}

{Tape: 1; Side: B; Approx. Time Count: 10:57 TO 11:05; Comments: TAPE LEFT ON DURING BREAK.}

HEARING ON SB 330

Sponsor: SEN. FRED VAN VALKENBURG, Senate District 32, Missoula.

Proponents: Myron Malnaa, Property Assessment Division
Earl Struback, Department of Corrections
Tom Schneider, Montana Public Employees Association
John Malee, Montana Federation of Teachers and
Montana Federation of Public Employees
Beth Baker, Department of Justice

Opponents: None

Opening Statement by Sponsor:

SEN. VAN VALKENBURG stated that SB 330 has been introduced in context of a request he put in after talking with a state employee in Missoula and a request SEN. DARYL TOEWS put in after talking with a state employee in Glasgow. The issue encompasses the interests of the whole state as well as both political parties. State law currently provides that state employees earn sick leave of approximately 12 to 15 days a year. Many employees don't use the sick leave. Upon termination of employment, the employee is reimbursed in cash for 25% of the value of their accumulated sick leave. The value is determined by the amount the employee is earning upon termination.

This bill would allow employees to use the value of the remaining 75% of accumulated sick leave to purchase additional service

credit under their retirement program. That will give employees additional incentive to retire sooner than they might have. This will lower government spending in wages and benefits because those who retire are almost always replaced by people earning less. More importantly, an employee will be more likely to come to work than claim sick leave. Many employees use sick leave when they are well enough to work.

There will be costs associated with this proposal. The employer would pay the retirement system the value of the accumulated sick leave hours so the retirement systems would remain actuarially sound. This is similar the current practice for termination pay. The money has to be paid from vacancy savings or increased deficiencies in operations. The need to find funding for termination costs will provide incentive for more efficiency in government. This will be at least a wash between the cost coming out of government coffers and the savings associated with increased efficiency in state employees' performance. This proposal is an innovative experiment with far-reaching potential in changing government.

{Tape: 1; Side: B; Approx. Time Count: 11:14; Comments: None.}

Proponents' Testimony:

Myron Malnaa, Property Assessment Division, Glasgow, MT stated that he has been with the division for roughly 20 years and has been a supervisor for roughly 18 years. There has been considerable downsizing in recent years. Two years ago, he lost almost 25% of his staff. Some of his employees use their sick leave as they accumulate it. It is becoming easier to obtain doctor's excuses for stress. He has had good employees that have given back roughly 750 hours of sick leave. He would like to reward the employees that don't take advantage of sick time.

The people that will take advantage of the bill are those in the upper echelon of salary levels. The administration of the act could be similar to the current PERS plan that allows employees who have worked at least 20 years to buy 1 year of retirement for every five years worked. He want to set a cap of 20 years, which is the least amount of years with which someone of any age can retire with full benefits. If allowed to go beyond that, the cost may be too high since there is potential of someone having 3,000 hours of sick leave accumulated.

{Tape: 1; Side: B; Approx. Time Count: 11:17; Comments: None.}

Earl Struback, Department of Corrections, stated he has been with the department for 21 years and 5 months. He is currently the Probation/Parole Officer 2 in Missoula and is a grade 16. In the years he has been with the state, he has accrued 1,379 hours of sick leave. This bill would reward those who stayed with state employment during wage freezes, reduction in staff, etc.

{Tape: 1; Side: B; Approx. Time Count: 11:18; Comments: END OF SIDE 2.}

If he could cash out his sick leave at his current salary of \$18.40 an hour, he would have \$25,373 with which to buy 5 years of state time. He would be able to retire at the end of the next biennium, leaving an opening for someone else, who would likely make \$3 to \$4 an hour less. The benefits paid to that individual would also be less. Senior state employees tend to be more dedicated and use less sick leave. This should be rewarded.

{Tape: 2; Side: A; Approx. Time Count: 11:21; Comments: None.}

Mike Noble stated he is a state employee of 22 years who has accumulated approximately 900 hours of sick time. He supports the statements of the prior proponents.

{Tape: 2; Side: A; Approx. Time Count: 11:22; Comments: None.}

Tom Schneider, Montana Public Employees Association, clarified that state law provides 12 days a year of sick leave. He supports the bill because it rewards people who don't abuse sick leave.

{Tape: 2; Side: A; Approx. Time Count: 11:23; Comments: None.}

Faye Bergan stated that she and her husband are both state employees. The bill encourages people to retire and shifts the burden from employees and PERS to the agencies. The agencies already have the full sick leave obligations on their books and this would not add to that. This bill would help pave the way for agencies to reorganize.

The bill is especially necessary if GABA passes. GABA requires that the purchase of 1 year of retirement for every five years worked would have to be on an actuarial basis. The amount that would have to be paid per year to reach the 30 year retirement level would be much higher than it is currently. If GABA passes, and there is no other way to pay for the retirement, it would be a deterrent to retiring.

{Tape: 2; Side: A; Approx. Time Count: 11:25; Comments: None.}

John Malee, Montana Federation of Teachers and Montana Federation of Public Employees, expressed his support for the bill.

Beth Baker, Department of Justice, stated that the bill can also be used by agencies as a management tool. Agency managers have few options to reward long term employees and to provide incentives to keep them from moving on to higher paying private sector jobs.

The bill won't increase the agencies' budgets, but will force an agency to balance the cost when an employee terminates. That is

done currently. Agency budgets are not designed for termination; when an employee terminates, the agency must decide from where the money to pay out will come. The agency should be willing to shoulder the cost, not only because it benefits long term employees, but because of the long term benefit to the state. The state would benefit from keeping good employees and from the increased productivity of those employees.

{Tape: 2; Side: A; Approx. Time Count: 11:27; Comments: None.}

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. THOMAS commented that sick leave is designed to take care of sick individuals. Sickness is in the eye of the beholder. The bill is asking us to pay people to work during sick leave days instead of using them. The employees are already being paid for the days they work during the year and this bill would pay them again for those days.

SEN. VAN VALKENBURG noted that most employees are using their sick leave and are thereby being paid not to work. A number of bills in previous sessions have provided incentive for early retirement. After finding out from **Dave Lewis** that there would be no such bills this session, he proposed this idea. **Mr. Lewis** agreed with the idea.

CHAIRMAN HARGROVE asked how the bill would relate to GABA.

Informational Testimony:

Linda King, Public Employees Retirement Division, responded that the bill would not be affected by GABA.

She went on to express concerns with the bill. The way the bill is drafted does not require the employer to pay anything directly to the retirement system. The Retirement Division takes only money and does not allow for the use of sick leave credit. In order for an employee to write a check to the retirement system, the employer would have to write a check to the employee. That would be a fully taxable cash-out of 100%, rather than of 25%, of the individual's sick leave. This would be subject to employer-paid payroll taxes as well.

If it is not the intent of the bill that the amount be paid directly to the employee, the bill will need to be changed. If the 100% were paid to the eligible employee, there is nothing that mandates the employee to turn the money over to the Retirement Division. She speculated that only those who would

benefit from the additional service would actually use the money toward it.

The Retirement Division administers eight retirement programs, the largest of which is PERS. Of the people who terminate service each year in PERS, about one third are eligible to buy additional service. Of that one third, only one tenth will benefit by buying additional service. If the employer were to make a direct transfer, the entire one third that is eligible would probably buy retirement as the only way to receive the accumulated sick leave. This would create a problem for the retirement system because people that normally wouldn't be buying into the system would be buying into it at less than the actuarial cost. In that respect, the bill would create an actuarial unfunded liability to the system that would require additional employer funds.

{Tape: 2; Side: A; Approx. Time Count: 11:37; Comments: None.}

Questions From Committee Members and Responses:

CHAIRMAN HARGROVE asked what the intent of the bill is.

SEN. VAN VALKENBURG responded that the intent is for the employer to pay the cost directly to the retirement system and for the retirement system to receive whatever is necessary to make the purchase of additional retirement credits actuarially sound. The intent is that this not be a taxable event for the employee. Even if it is not possible to make it a non-taxable event, he still wants to pursue the bill.

SEN. THOMAS commented that the bill needs to be amended to get a fiscal note.

SEN. VAN VALKENBURG stated that if the committee has an interest in the bill, he would like to put it on the list of bills not subject to transmittal by the 45th day. The bill falls in the general scope of a revenue or appropriation bill. He had to postpone solving all the problems in the bill in order to get it introduced in a timely manner.

CHAIRMAN HARGROVE indicated that a fiscal note will be critical.

SEN. MESAROS asked if a fiscal note has been requested.

SEN. THOMAS noted that, unless amended, the bill has no fiscal impact.

Ms. King clarified that there is a fiscal impact. She added that the Budget Office just recently received the necessary information and that the fiscal note would be out in the next two days.

{Tape: 2; Side: A; Approx. Time Count: 11:42; Comments: None.}

Informational Testimony:

David Senn, Teachers Retirement Board, explained that the bill, as conceptually explained by the sponsor, will have no impact on the Teachers Retirement System. There are very few state employees in the Teachers Retirement System.

Approximately 1,000 people in the university system would be eligible to purchase additional service through the Teachers Retirement System. An additional 1,000 are under the Optional Retirement Program, so there would be no service for them to purchase. The committee needs to consider whether the bill should apply to the university system and whether there is a problem with only 1,000 people in the system being able to benefit from the bill.

{Tape: 2; Side: A; Approx. Time Count: 11:44; Comments: None.}

Mark Cress, Department of Administration, agreed with the testimony of **Ms. King** and **Mr. Senn** and added that the only concern he would raise is whether there are costs to offset the additional payments.

{Tape: 2; Side: A; Approx. Time Count: 11:45; Comments: None.}

Mr. Struback stated that his intent for the bill was to let state employees use their sick leave to retire early and that this be the only allowed use.

{Tape: 2; Side: A; Approx. Time Count: 11:46; Comments: None.}

Questions From Committee Members and Responses:

SEN. THOMAS commented that the bill indicates accrued time will be used to purchase retirement, but does not indicate who will do the purchasing. He asked if the bill is based on the assumption that the state will appropriate money for purchasing.

SEN. VAN VALKENBURG asserted that there is no intent that an appropriation accompany the bill. Employers would pay out of their existing budgets. There will have to be an amendment to the bill. He will work with the necessary office to draft amendments clarifying that the employer would make the payments to the retirement system.

Ms. King reiterated that there is a fiscal impact with the bill, however, whether or not individual agencies come to the legislature and ask for additional money is up to each agency.

The bill also covers local government employees, causing a local government impact. The bill will require agencies to spend additional amounts and will result in unfunded mandates.

CHAIRMAN HARGROVE agreed with the suggestion of holding the bill through transmittal.

{Tape: 2; Side: A; Approx. Time Count: 11:49; Comments: None.}

Closing by Sponsor:

SEN. VAN VALKENBURG stated that the provision for purchasing additional service credits is optional at the local government level. Regardless, there would be increased efficiency at the local level as a result of employees working instead of taking sick leave. There would also be lower costs due to employees retiring earlier. Although the idea needs refinement, it has a lot of merit.

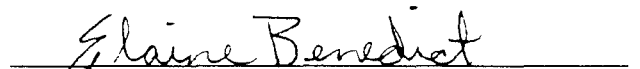
{Tape: 2; Side: A; Approx. Time Count: 11:51; Comments: None.}

ADJOURNMENT

Adjournment: 11:52


SEN. DON HARGROVE, Chairman


MARY MORRIS, Secretary


ELAINE BENEDICT, Transcriber

DH/EMB