

MINUTES OF THE MEETING  
PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE  
MONTANA STATE SENATE

JANUARY 30, 1981

The meeting of the Public Health, Welfare & Safety Committee was called to order by Chairman Tom Hager on Friday, January 30, 1981 at 1:00 p.m. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Johnson and Senator Halligan who were excused. Kathleen Harrington, staff researcher, was also present.

Many visitors were in attendance. (See attachment.)

Senator Hager then turned the meeting over to Vice Chairman Matt Himsel, who chaired the meeting.

CONSIDERATION OF SENATE BILL 212: Senator Tom Hager of Senate District 30, sponsor of Senate Bill 212, gave a brief resume of the bill. This bill is an act providing a program of hazardous waste management separate from the non-hazardous solid waste management program in Montana. Senator Hager stated that this bill was introduced at the request of the Department of Health and Environmental Sciences. This would enable the state to have someone closer to home instead of the federal government to answer questions and problems relating to hazardous solid waste disposal.

Bob Adams, attorney for the Department of Health and Environmental Sciences, stated that Congress, through enactment of the Resources Conservation and Recovery Act of 1976, has given the states the choice of establishing hazardous waste programs approved by the federal government and operated by the states themselves or of allowing the Environmental Protection Agency to operate the program without state involvement. Montanans will have a hazardous waste program; the question is whether that program will be operated from Denver and Washington by EPA or by DHES on behalf of the Montana Legislature. DHES seeks legislative approval of the proposed Montana hazardous Waste Act in order to obtain a program equivalent to the federal program, yet approved for operation by the State of Montana. Hazardous waste regulation is already an accepted idea in Montana. The present code contains the foundation of our hazardous waste program in the Montana Solid Waste Management Act. The present law will prove sufficient to bring Montana interim authorization to operate its hazardous waste program for approximately two more years in lieu of an EPA operated program. Senate Bill 212 will accomplish two purposes. First, it will separate all authority relating to hazardous waste from 75-10-201, MCA, and consolidate it into a new act and part of the code. Secondly, it will sufficiently adjust and clarify DHES' rulemaking authority to allow the Department to bring its program into full equivalency and consistency with EPA's program. When this is accomplished, Montana will move from interim authorization to full and final approval from EPA to run its own program. Montana will then solely administer the permitting, regulating, and enforcing.

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Bob Helling, lobbyist for the Montana Wood Products Association, stood in support of the bill.

Ben Havedahl from the Montana Motor Carriers stated that this bill requires use of a manifest. His group would like to have uniform manifest.

Brinton Markle, of the Montana Railroad Association, stated that his group generally supports the Department's efforts for state control of hazardous waste management. Montana can and should do a better job and has more at stake to do so. Minor amendments to Senate Bill 212 would bring the bill more in line with applicable federal rules and regulations. Mr. Markle then stated that his group would be happy to submit amendments, if the committee so desires.

Don Allen of the Montana Petroleum Association stood in support of the bill. He stated that Senate Bill 212 would resolve some of his association's former concerns.

Pat Stuart of the Montana Coal Council stated that she wished to offer some amendments for the Committee's consideration which would establish a statutory guarantee that rules adopted by the state in regulating hazardous waste would be no more stringent than those imposed by the federal government. If the amendments are not adopted they would oppose the bill. The handling and management of hazardous waste is a highly technical and potentially dangerous activity for which many rules specifying technical requirements at the federal level have just this week been made available for review. A state program equivalent to the federal program which this bill seeks to establish would regulate 361 substances for four different characteristics. Experts in the industry consider this to be one of the most complex of all regulatory areas. Once the state has assumed the financial and regulatory burden of the program, some portions of the state authority are still subject to review and override by the EPA. (See attachments.)

Senator Hager read a letter from Wilson representing MONTCO Coal Co., Mr. Wilson's letter stated that MONTCO is in full support that the Montana State Department of Health and Environmental Sciences have full charge of the hazardous waste program and the revamping of the solid waste laws. The benefit of having the program based in Helena rather than the Denver EPA office will be invaluable in time saved by industry.

Lucy Brugger representing herself stood in support of the bill.

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With no further proponents, Senator Himsel called upon the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Himsel asked if the department already receive funding from the federal government and was told yes this is the case.

Senator Himsel asked about manifest. Mr. Havedahl that on page 13 line 21 this tries to coordinate. Mr. Roger Thorvilson from the Solid Waste Management Bureau and also the Department of Health stated that the bill does not require a uniform manifest. The EPA is going to develop a uniform manifest.

Senator Norman asked that on page 10 lines 19 and 20, what constitutes medical radioactive material. This is already covered by the Atomic Energy Act.

Senator Hager closed by saying that this would enable the management of hazardous waste material disposal to be handled in Helena by people who would understand problems of Montana. Senator Hager then asked for favorable consideration from the Committee.

Senator Himsel turned the meeting back over to Senator Hager.

CONSIDERATION OF SENATE BILL 228: Senator Pat Regan of Senate District 30, sponsor of Senate Bill 228 gave a brief resume of this bill. This bill is an act to amend laws realting to foster care by clarifying financial responsibility for payment, to require court review of children in foster placements through a foster care review committee. This bill was introduced at the request of the Department of Social and Rehabilitation Services.

This bill is for permanency planning for children in foster care and to direct the department to continue its efforts in this area. This bill is intended to encourage reduction of the number of children in foster care; to free the children for alternate permanent placements; thereby assuring the appropriate utilization of public funds and that the best interest of the children in placement in Montana are being met by the department's program. Senator Regan offered some small amendments.  
(See attachment)

Norma Vestry, chief of Social Services Bureau of the Department of Social and Rehabilitation Services, stated that Department of SRS requested introduction of this bill as an attempt to solve two major problems in the foster care system. One is a fiscal problem and the other involves the well-being of the children in foster care themselves. The fiscal problem, there are 900 children in foster care most are placed by the

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Department on authority of a court order. However, the Youth Court will often place a youth in a home licensed by the Department and order the financing of foster care. This can be done without knowledge or consultation with the Department. This practice made it very difficult to budget, project costs, set priorities or remain accountable. The proposed change, found on page 5 will allow SRS to pay for these children but will require an agreement between the Department and the Youth Court to assure necessary procedures and assurances for financial accountability. The problem of the well-being of the child has been observed over the years that some of the foster children have been denied a permanent home. The basic premise of the department is that every child should have his or her own permanent home. That home should be his or her own home with their natural parents. Social workers throughout the state spend the bulk of their time working to assure that children who have been neglected or abused can stay with or return to be with their own families. However, when for various reasons that is not possible or is not in the best interest of the child, that child should at least have a permanent foster or adoptive home. (See attachment.)

Mark Ricks who is a director of the LDS Social Services, stood in support of the bill. This legislation will establish accountability for probation officer, resource worker of the Department of SRS and other agencies involved in foster care. This will be accomplished by the committee in a review at least every twelve of the status of each foster child. This protects the rights of the child and also the interests of the natural parents. It also provides the opportunity for permanency planning. Should circumstances require long-term placement, of one year or over, permanent planning should be considered.

The president of the Montana State Foster Parents Association stated that there is a definite need to get the county involved and should have to come up with the money to operate this plan. She also stated that the school districts should also be involved, and also a foster parent should be on the review committee. This is a much needed bill.

Dan Hanson, director of the Yellowstone Boys and Girls Ranch, stood in support of the bill. This bill would cover three things: 1) the funding process; 2) review committee; 3) and that membership of the committee should include representative from a service to the children.

Reverend William Burkhardt from the Plymouth Congressional Church stated his support of the bill and said that he would like to see some permanency and evaluation for the sake of the children involved.

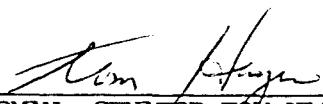
With no further opponents the meeting was opened to a question and answer period from the Committee.

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Senator Regan closed by asking the Committee to treat the bill gently. The best judgement of the court, the social worker and other community leaders are brought to bear to bring about movement of the child into a permanent home. This system has been tried in other states where it has met with success. No child can become lost in the foster care system.

ANNOUNCEMENTS: The next meeting of the Committee will be held on Monday, February 2, 1981 at 1 p.m. in Room 410 of the Capitol Building to consider Senate Bills 241 and also 251.

ADJOURN: With no further business the meeting was adjourned.

  
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CHAIRMAN, SENATOR TOM HAGER

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## ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date Jan 30

Each day attach to minutes.

DATE

January 50, 1981

COMMITTEE ON Prison Welfare

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Opp
BRINTON MARKLE	MONT. RAILROAD Assoc	5-212	✓	
Ervin R. Lick	Mont. Text. & Publ. Assoc.	5228	✓	
W. Mark Pick	SEI	5228	✓	
Jim Harris	EPA	5-212	✓	
Bob Adams	DHES	5212	✓	
Diane L. Robertson	Mont. Health Envt.	5212	✓	
Roger Thorvilson	DHES	5212	✓	
BITS Holding	W.L. Wood Firewood Assn	5212		
Ben Hardin	Mt. Mtr. Carriers Assn	5212	✓	
Alma Lester	SEI's	5228	✓	
Mary Flynn	SEI's	5228	✓	
John Beaubien	Energy Scav. Co.	50212	✓	
Don Poff	M. & T. COMM	58212	✓	
Day Hansen	Yellowstone Boys & Girls Ranch	58 228	X	
Chris Ann John	Mont. Game & Fish Comm	50212	X	
Don C.	Mont. Water Comm	58212	✓	
Willie A. Burkhardt	local minister of church	50228	✓	

SENATE BILL NO. 212:

Introduced by Senator Tom Hager at the request of the Department of Health and Environmental Sciences.

An Act Providing A Program of Hazardous Waste Management Separate from the Non Hazardous Solid Waste Management Program in Montana; Amending Sections 75-10-2-2 through 75-10-204, 75-10-212, 75-10-214, 75-10-221, and 75-10-232, MCA; and Repealing Sections 75-10-211 and 75-10-225, MCA.

The bill separates the existing hazardous waste statutes from the solid waste statutes. It sets up a new part which is known as the "Montana Hazardous Waste Act". This part establishes a program of regulation affecting the generation, storage, transportation, treatment, and disposal of hazardous wastes. It provides for administrative enforcement through notification of violations, a hearing process, injunctions, clean up orders, civil and criminal penalties. The Department of Health is designated as the official agency for the state to administer a hazardous waste program pursuant to the Federal Resource Conservation and Recovery Act of 1976 (42 V.S.C. 6901 through 6987, as amended).

NAME: Bob Adams DATE: 1/30/81  
ADDRESS: Helen e  
PHONE: 449-2630 (Off.)  
REPRESENTING WHOM? MT. DHES

APPEARING ON WHICH PROPOSAL: SB 212

DO YOU: SUPPORT? ✓ AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: See DHES Comments attached

Comments of the Department of Health and  
Environmental Sciences Explaining  
and in Support of SB 212:

Congress, through enactment of the Resource Conservation and Recovery Act of 1976 (RCRA), has given the states the choice of establishing hazardous waste programs approved by the federal government and operated by the states themselves or of allowing the Environmental Protection Agency (EPA) to operate the program without state involvement. In short, Montanans will have a hazardous waste program; the question is whether that program will be operated from Denver and Washington by EPA or by DHES on behalf of the Montana Legislature. DHES seeks legislative approval of the proposed Montana Hazardous Waste Act in order to obtain a program equivalent to the federal program, yet approved for operation by the State of Montana.

"Hazardous waste" is broadly defined in SB 212 to match the realities of the times: it encompasses those wastes which cause or significantly contribute to increased mortality or serious illness, or which present substantial threats to human health or the environment. The bill meets the need to control the full range of hazardous waste processing in Montana, from the generation of wastes through their transportation to final containment by treatment, storage and disposal.

Hazardous waste regulation is already an accepted idea in Montana. The present code contains the foundation of our hazardous waste program in the "Montana Solid Waste Management Act," 75-10-201, MCA, et seq. Extensive administrative rules have been adopted in MAR Title 16, Chapter 44 which promulgate the hazardous waste statutes existing within the Solid Waste Management Act. The present law and regulations, in fact, will prove sufficient to

bring Montana "interim authorization" to operate its hazardous waste program for approximately two more years in lieu of an EPA-operated program.

As the proposed Statement of Legislative Intent shows, SB 212 will accomplish basically two purposes. First, it will separate all authority relating to hazardous waste from 75-10-201, MCA, et seq. and consolidate it into a new act and part of the code. Second, it will sufficiently adjust and clarify DHES' rulemaking authority to allow the Department to bring its program into full equivalency and consistency with EPA's program. When this is accomplished, Montana will move from interim authorization to full and final approval from EPA to run its own program. At that point, Montana will solely administer the permitting, regulating and enforcing. It should be noted that we are close to having the necessary authority at present. SB 212 adds authority to make inspections of and take samples from generators of waste, and includes them as subjects of the enforcement authority. A variance procedure is established, and definitions have been adjusted to coincide with federal law. The bill gives authority to require certain packaging and marking of wastes by generators.

The rules which have already been adopted in MAR Title 16, Chapter 44 are the equivalent to and no more restrictive than the corresponding federal regulations. Some of Montana's regulations adopt EPA rules by reference. As declared in the proposed Statement of Intent, the Department is seeking a program which is equivalent to EPA's and which is no more restrictive. While DHES believes that its Statement of Intent, coupled with its recent adoption of rules equivalent to EPA's, demonstrates its

intent to keep its program under SB 212 no more restrictive than the federal government's, DEHS would not oppose the suggestion by some that language "codifying" such intent be incorporated into the bill. DHES, therefore, would not oppose statutory language mandating that rulemaking be no more restrictive than EPA's rules, if the legislature thinks such an amendment is necessary.

For further details on the intent of and the changes brought about by SB 212, the committee members are referred to the Department's "Fact Sheet" and "Proposed Statement of Legislative Intent" which accompany this Comment.

In conclusion, DHES supports adoption of SB 212 as the means by which Montana can perfect an approved federal-equivalent program and thereby obtain final authorization, rather than have the entire program revert to federal operation and control at the end of the interim authorization period.

PROPOSED STATEMENT OF LEGISLATIVE INTENT FOR MONTANA  
HAZARDOUS WASTE ACT (SB 212)

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A statement of intent is required for this bill because it delegates rulemaking and licensing authority to the Department of Health and Environmental Sciences. Senate Bill 212 is intended to separate from the existing Montana Solid Waste Management Act (Sects: 75-10-201, et seq., MCA) all references to the treatment, storage, disposal, generation and transportation of hazardous wastes and place the statutes regulating hazardous wastes into a separate part of the code. The specific objective and intent of the bill is to clarify and extend state rulemaking authority in order to be totally authorized by the Administrator of the Environmental Protection Agency (EPA) to operate a hazardous waste program in Montana which is equivalent to and in lieu of the federal hazardous waste program established by Subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976, P.L. 94-580, as amended.

The rules promulgated and permitting procedures adopted under this bill shall meet minimum standards under RCRA and shall not be more restrictive than those analogous provisions in which EPA has adopted regulations under RCRA. In the limited situations in which no federal regulations have been adopted or the drafting of regulations has been purposefully left to the states, the Department must be guided and constrained by the purpose set forth in Section 9, the powers of the Department noted in Section 11, the rulemaking guidelines of Section 12, and the minimum requirements of RCRA.

It should be noted that Montana has enacted regulatory provisions under existing Title 75, Chapter 10, Part 2, the Solid Waste Management Act, and has sufficient coverage of hazardous waste responsibilities enabling the state to qualify for interim

authorization from EPA to carry out a program in lieu of the federal RCRA hazardous waste program. This bill grants the Department authority to make additional adjustments, through rulemaking, which will bring its program affecting generators and transporters of hazardous wastes, the universe of hazardous waste, inspection and sampling, definitions, enforcement alternatives and penalties for hazardous wastes into equivalency and consistency with federal requirements.

Senate Bill 212 intends that the Department of Health and Environmental Sciences shall have authority to require by rule, in accordance with the Montana Administrative Procedure Act, that generators of hazardous wastes, prior to transporting hazardous wastes or offering them for transport off-site, must perform certain packaging, labeling, marking and placarding of the wastes in a manner equivalent to the provisions of federal regulations contained in 40 CFR 262.30 through 262.33. The Department shall have authority under the bill to adopt rules setting penalties or fines for generators of hazardous wastes that set upper limitations which are no less than the amount of \$10,000 per day, as required for final authorization under the federal program. Furthermore, Senate Bill 212 allows additional rulemaking to clarify the Department's authority to make inspections of and take samples from generators of hazardous wastes in a manner equivalent to federal inspection authority provided in Section 3007 of RCRA and federal rules promulgated under RCRA.

Under existing law, the Department has promulgated rules which define a broad spectrum of hazardous wastes (the universe

of hazardous wastes) by specific listing and by characteristics; which list exclusions from the definition of hazardous waste; which define terms necessary to implement the hazardous waste program; which establish manifest requirements specifying how a hazardous waste is documented from time of generation through transport to time of disposal by the operator of a treatment, storage or disposal facility; which set record keeping and emergency clean-up procedures for transporters of hazardous wastes; which establish licensure procedures and standards for operators of hazardous waste treatment storage and disposal systems; and which provide enforcement alternatives for treatment, storage and disposal facility licenses. All of the existing rules are equivalent to and consistent with the federal program established by RCRA; in many instances, EPA rules have been incorporated by reference.

Under Senate Bill 212, the Department will have authority to amend and revise these rules, and to adopt new rules, in accordance with the Montana Administrative Procedure Act, which may be needed to meet changing minimum federal standards for a hazardous waste program authorized for state control under RCRA, as amended. Thus, Montana will be able to continue to maintain federal authorization for an independent hazardous waste program, equivalent to the federal program, but operated by the Department.

FACT SHEET  
PURPOSE OF HAZARDOUS WASTE BILL

- \* Establishes hazardous waste authority separate from general solid waste authority.
- \* Deletes hazardous waste references from the "Montana Solid Waste Management Act".
- \* Establishes the policy of developing a state program equivalent to the federal program and approvable by EPA.
- \* Alters definitions to agree with federal definitions.
- \* Allows DHES to establish a fee system for issuing permits.
- \* Deletes the transporter licensing requirement, but requires that generators and transporters register with DHES and obtain ID numbers.
- \* Establishes authority for DHES to issue emergency permits and to grant permits by rule.
- \* Establishes a variance procedure.
- \* Specifies a requirement for self-monitoring by facility operators.
- \* Clarifies and broadens DHES inspection and sampling authority (sampling authority and inspection of generators and transporters were not specified in MSWMA).
- \* Provides for an inventory of hazardous waste storage and disposal sites - both active and inactive sites.
- \* Provides for administrative enforcement actions.
- \* Provides for emergency actions where an imminent hazard is presented.
- \* Specifies DHES's ability to order cleanup of spills or improperly disposed hazardous wastes.
- \* Reduces civil penalty limits from \$25,000 to \$10,000.
- \* Upgrades criminal penalty provision to \$10,000 or 6 months imprisonment. (Necessary to meet minimum requirements placed by EPA on authorized state programs.)
- \* Designates DHES as the agency responsible for the hazardous waste program and encourages DHES to coordinate its program with those programs operating in other states.
- \* Establishes venue for legal proceedings.
- \* Specifies that existing rules, orders, permits and legal actions are not invalidated by this new act.

Proposed Amendment to the Introduced  
Copy of Senate Bill 212:

1. Page 25, lines 22 and 23.

Following: "fine"  
Strike: "of not less than"  
Insert: "not to exceed"

2. Page 25, lines 23 and 24.

Following: "imprisonment"  
Strike: "for no less than"  
Insert: "not to exceed"

3. Page 25, line 24.

Following: "both."  
Insert: "A person convicted for a violation of this section after a first conviction under this section is subject to a fine not to exceed \$20,000 for each violation or imprisonment not to exceed 1 year, or both."

NAME: Bob Helding DATE: 1/30/81  
ADDRESS: 316 Sycamore Center Block - Missoula, MT  
PHONE: 728-3650  
REPRESENTING WHOM? International Wood Products Assoc.  
APPEARING ON WHICH PROPOSAL: S. 212

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS:

NAME: Ben Henderson DATE: 1/30/13

ADDRESS: the land

PHONE: 617 6666

REPRESENTING WHOM? Victor Motor Sales, Inc.

APPEARING ON WHICH PROPOSAL: 50-312

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_

NAME: Brinton B. Markle DATE: 1/30/81

ADDRESS: 7 Edwardo St.

PHONE: 242-4813

REPRESENTING WHOM? MONTANA RAILROAD Assoc.

APPEARING ON WHICH PROPOSAL: SB 212

DO YOU: SUPPORT? ✓ AMEND? ✓ OPPOSE?       

COMMENTS: MRRA GENERALLY SUPPORTS THE DEPT'S

EFFORTS FOR STATE CONTROL OF HAZARDOUS

WASTE MANAGEMENT. MONTANA CAN AND SHOULD

DO A BETTER JOB AND HAS MORE AT STAKE

TO DO SO.

MINOR AMENDMENTS TO SB 212, WHICH

MRRA WOULD BE HAPPY TO SUBMIT IF DESIRED

WOULD BRING THE BILL MORE IN LINE WITH

APPLICABLE FEDERAL RULES & REGS.

Brinton B. Markle

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Dan Allen DATE: 1/30/81

ADDRESS: Hicks, N.Y. 14841

PHONE: 4118-7582-

REPRESENTING WHOM? Mr. Fletcher (less)

APPEARING ON WHICH PROPOSAL: SK 212

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS: \_\_\_\_\_

NAME: Pat Stuart DATE: 1/31/71

ADDRESS: 2361 Colonial Drive

PHONE: 442-8225

REPRESENTING WHOM? Mr. Ed. French

APPEARING ON WHICH PROPOSAL: 53 22/2

DO YOU: SUPPORT? AMEND?  OPPOSE?

COMMENTS:

Offices located  
in the  
Colonial Inn  
Best Western

406-442-6223



# MONTANA COAL COUNCIL

2301 COLONIAL DRIVE • HELENA, MONTANA 59601

## TESTIMONY ON SB 212 BEFORE THE

SENATE PUBLIC HEALTH COMMITTEE, JANUARY 30, 1981

THE MONTANA COAL COUNCIL WISHES TO OFFER FOR YOUR CONSIDERATION AN AMENDMENT TO SENATE BILL 212 WHICH WOULD ESTABLISH A STATUATORY GUARANTEE THAT RULES ADOPTED BY THE STATE IN REGULATING HAZARDOUS WASTE WOULD BE NO MORE STRINGENT THAN THOSE IMPOSED BY THE FEDERAL GOVERNMENT.

WE HAVE DISCUSSED OUR CONCERN WITH OFFICIALS IN THE SOLID WASTE DIVISION OF THE DEPARTMENT OF HEALTH WHO HAVE ASSURED US THAT IT IS THEIR INTENT TO SET UP A PROGRAM THAT IS NO MORE RESTRICTIVE THAN THE FEDERAL PROGRAM. WITH THE ADOPTION OF THIS AMENDMENT, THEREFORE, WE WOULD NOT OPPOSE SENATE BILL 212.

IF, HOWEVER, THE AMENDMENT IS NOT ACCEPTED, WE WISH TO ENTER OUR REASONS FOR OPPOSITION IN THE RECORD.

THE HANDLING AND MANAGEMENT OF HAZARDOUS WASTE IS A HIGHLY TECHNICAL AND POTENTIALLY DANGEROUS ACTIVITY FOR WHICH MANY RULES AT THE FEDERAL LEVEL HAVE JUST THIS WEEK BEEN MADE AVAILABLE FOR REVIEW.

A STATE PROGRAM EQUIVALENT TO THE FEDERAL PROGRAM WHICH THIS BILL SEEKS TO ESTABLISH WOULD REGULATE 361 SUBSTANCES FOR FOUR DIFFERENT CHARACTERISTICS. EXPERTS IN OUR INDUSTRY CONSIDER THIS TO BE ONE OF THE MOST COMPLEX OF ALL REGULATORY AREAS.

UNDER THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT, STATES HAVE UNTIL DECEMBER OF 1982 TO COME UP WITH THEIR OWN PROGRAMS BEFORE THE FEDERAL GOVERNMENT STEPS IN. ~~WE FEEL THAT EVEN THOUGH THERE MIGHT BE A LAPSE OF A~~

FEW MONTHS WHERE THE STATE COULD NOT HAVE CONTROL, IT IS BETTER TO LEAVE THE PROGRAM FOR NOW IN THE HANDS OF THE AGENCY WHICH WILL WRITE AND, HOPEFULLY, UNDERSTAND THE REGULATIONS TO IMPLEMENT IT.

AT THIS POINT, THE FEDERAL RULES AND REGULATIONS GOVERNING THE MANAGERIAL ASPECTS OF THE PROGRAM ARE IN PLACE BUT THOSE WHICH SPECIFY TECHNICAL REQUIREMENTS ARE NOT. ASSUMING THAT IT HAS REQUIRED A GREAT DEAL OF EXPERTISE AT THE FEDERAL LEVEL TO PROMULGATE SUCH REGULATIONS, IT IS OUR BELIEF THAT DEVELOPING THE SAME EXPERTISE IN MONTANA WOULD REQUIRE AN ENORMOUS EDUCATIONAL EFFORT AT CONSIDERABLE COST.

COLORADO'S COST TO START ITS OWN PROGRAM BEGAN WITH A REQUEST FOR 15 ADDITIONAL FTE AT AN AVERAGE EXPENDITURE OF \$250,000 A YEAR AND A TOTAL BIANNUAL APPROPRIATION OF \$607,000. WE WOULD LIKE TO POINT OUT THAT THE FEDERALLY-ADMINISTERED PROGRAMS ARE 100 PER CENT FEDERALLY FUNDED WHEREAS A STATE-ADMINISTERED PROGRAM REQUIRES AT LEAST A 25 PER CENT MATCH.

~~X~~ WE WOULD ALSO LIKE TO REMIND THE COMMITTEE THAT ONCE THE STATE HAS ASSUMED THE FINANCIAL AND REGULATORY BURDEN OF THE PROGRAM, SOME PORTIONS OF THE STATE AUTHORITY ARE STILL SUBJECT TO REVIEW AND OVERRIDE BY THE ENVIRONMENTAL PROTECTION AGENCY. THOSE INCLUDE SUCH AREAS AS PERMITTING AND MONITORING OF PERMITTED ACTIVITIES. THAT WOULD MEAN THAT THE REGULATED COMMUNITY WOULD STILL HAVE TO SATISFY TWO AGENCIES ON MANY MAJOR DECISIONS.

THOSE ARE SOME OF THE PROBLEMS THAT WE FORESEE WITH THE BILL IN GENERAL. MORE PERTINENT TO OUR SPECIFIC INDUSTRY, THOUGH, WE WOULD LIKE YOU TO BE AWARE THAT THE COAL INDUSTRY CURRENTLY IS EXEMPT FROM THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT BECAUSE OF OUR ACTIVITIES ARE COVERED BY THE SURFACE MINE RECLAMATION AND CONTROL ACT. IN THE INTEREST OF CONSISTENCY, THEN, WE REQUEST THAT YOU ADOPT AN AMENDMENT WE ARE OFFERING WHICH WOULD PUT US IN THE SAME POSITION AT THE STATE LEVEL.

Proposed Amendments to SB 212

Page 4: line 4, delete "department of"

Page 4: line 4, delete "lands"

Page 4: line 5, delete "The department of"

Page 4: line 6, delete "natural resources and conservation"

Page 4: line 6, insert "by the state"

Sentence would therefore read ". . . . reclamation laws administered by the state, slash and forest debris under laws administered by the state, . . . ."

Page 10: Between lines 21 and 22 insert "(c) Hazardous wastes do not include those functions governed by Title 82, Part 4, MCA."

Page 12: line 21, delete "department of"

Page 12: line 21, delete "lands"

Amendment to SB 212

Page 14, line 6: strike the period and insert:

" , except that the department is not permitted to adopt rules under this act that are more stringent than those promulgated by the federal government."

1212 First Northwestern Bank Center  
Post Office Box 31572  
Billings, Montana 59107  
406 252-5208

**MONTCO** Coal Co.

Senate Bill 212

Mr. Chairman, for the record my name is Pat Wilson and I represent MONTCO in support of SB 212. MONTCO is in full support that the Montana State Department of Health and Environmental Sciences have full charge of the hazardous waste program and the revamping of the solid waste laws. The benefit of having the program based in Helena rather than the Denver EPA office will be invaluable in time saved by industry. We ask for a "do pass" from the committee on SB 212.

NAME: Roger Thorvilson DATE: 1-30-81

DATE: 1-30-81

ADDRESS: 2216 E. 6<sup>th</sup> Ave., Helena, Mt. 59601

PHONE: 449-2221

REPRESENTING WHOM? Solid Waste Mgt. Bureau, Dept. of Health + Env. Sciences

APPEARING ON WHICH PROPOSAL: 5212

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

**COMMENTS:** \_\_\_\_\_

NAME: Duane L Robertson DATE: 1/30/81

DATE: 1/30/81

ADDRESS: 727 8th Ave

PHONE: 449-2821

REPRESENTING WHOM? Dept of Health & Environmental Sciences

APPEARING ON WHICH PROPOSAL: SB 212

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS: See DHES Comments.

Introduced by Senator Pat Regan, at the request of the Department of Social and Rehabilitation Services.

An Act to Amend Laws Relating to Foster Care by Clarifying Financial Responsibility for Payment; To Require Court Review of Children in Foster Placements through a Foster Care Review Committee; Amending Sections 41-3-104, 41-3-501, 41-5-801, and 53-4-112, MCA.

In Section 1 there is a new subsection (3) that mandates a review either by the SRS or arranged by them, of a foster care placement if the child that is placed is under the supervision of SRS, is placed by SRS or if the placement is financed by SRS.

Section 2 is a new section that mandates foster care review committees. The committees must review foster care placement within the first year of the child's placement in foster care. The committee will provide the youth court and the department with a report of its findings and recommendations for further action by the youth court or the department. All proceedings and findings are confidential. The committee is subject to the call of the youth court judge.

Section 3. The provision that a child related by blood (excluding son, daughter or ward) may not be cared for in a foster care arrangement by the relative, is eliminated.

Section 4. This section sets out the conditions for financing foster homes. They must be licensed by the department, the youth court and the department have an agreement concerning the child and the placement of the child is reviewed.

Section 5. It expands the duties of the department in strengthening child welfare services. It adds child care agencies, group homes or treatment facilities.

STATEMENT OF INTENT: Senate Bill No. 228

A statement of intent is required for this bill because in addition to amending section 41-3-104, 41-3-501, 41-5-801, and 53-4-112, the bill creates rule making authority for the Department of Social and Rehabilitation Services to administer a review of children in foster care under the department's supervision or for whom the department is making payment under section 41-3-104(2) or 41-5-801(2).

It is the intent of this bill to indicate the legislature's support of permanency planning for children in foster care and to direct the department to continue its efforts in this area. This bill is intended to encourage reduction of the numbers of children in foster care; to expediently return children to their natural homes when possible, or to free the children for alternate permanent placements; thereby assuring the appropriate utilization of public funds and that the best interest of children in placement in Montana are being met by the department's program.

Rulemaking is primarily necessary to implement Section 2 and Section 1 paragraph 3 of the bill. These sections require that a foster care review committee be established by the department and the court to conduct reviews of children in foster care and provide written reports to the youth court and the department. Rules would identify which children are to be reviewed, and would list precisely what information is to be shared with the review committee, when the committees are to conduct business, what the geographic district will consist of, the general guidelines for the committees operation, the time limitations for conducting the reviews, and who may participate in the review. As for the information to be reported, the rules will ask for:

- (1) Summary reports of the review to include the recommendations of the committee regarding the continuation or discontinuation of foster care and reasons; treatment needs of the child; and court action.
- (2) Sufficient information to allow the tracking of the reviews; to facilitate: follow-up services, compliance with court orders, agency decisions, and response to committee recommendations; and to provide necessary reports on the departments foster care program.

*Senate Bill No. 202*  
*By [Signature]*

## BY REQUEST OF

## THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED "AN ACT TO AMEND LAWS RELATING TO FOSTER CARE BY CLARIFYING FINANCIAL RESPONSIBILITY FOR FOSTER CHILDREN PLACED IN FOSTER CARE FACILITIES; PAYMENT TO REQUIRE COURT REVIEW OF CHILDREN IN PLACEMENTS THROUGH A FOSTER CARE REVIEW COMMITTEE; AMENDING SECTIONS 41-3-104, 41-3-501, 41-5-601, AND 53-4-112, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-104, MCA, is amended to read:

"41-3-104. Payment for support of youth in need of care -- reimbursement by county. (1) Whenever agreements are entered into by the department--of--soctet and rehabilitation services for placing a youth in need of care in a licensed family foster home, child care agency, group home, or private treatment facility, the department shall pay by its check or draft each month from any funds appropriated for that purpose the entire amount agreed upon for board, clothing, personal needs, and room of such the children. (2) On or before the 20th of each month the department shall present a claim to the county of residence of such the children for one-half the payments so made during the month.

The County's portion of the payment as determined by the department. The County's portion shall not exceed one-half the amount paid.

1 The county must make reimbursement to the department within 2 20 days after such the claim is presented.

3 (3) The department shall conduct or arrange for the review required under [section 2] of a child placed in a 4 licensed family foster home, child care agency, group home, or treatment facility if the child is placed under the supervision of the department or placed by the department or the department pays for the care of the child as set forth in this section."

5 NEW SECTION. Section 2. Foster care review committee.

6 (1) In every geographic district established by the 7 department of social and rehabilitation services the 8 department and the youth court shall appoint a foster care 9 review committee. The members of the committee must be 10 willing to act without compensation. The committee shall be 11 composed of not less than three or more than seven members.

12 The members shall include:

13 (a) a representative of the department who shall chair 14 the committee;

15 (b) a representative of the youth court; and

16 (c) someone knowledgeable in the needs of children in 17 foster care placements who is not employed by the department 18 or the youth court.

19 (2) When a child is in foster care under the 20 supervision of the department or the youth court or if 21 22 23 24 25

-2- INTRODUCED BILL  
 SB 202

1 payment for care is made pursuant to 41-3-104 or  
2 41-5-801(2), the committee shall conduct a review of the  
3 ~~departmental policies and procedures~~. The review must be  
4 conducted within a time limit established by the department.  
5 The ~~department~~ shall make recommendations for amending  
6 ~~the departmental policies and procedures~~ and shall set  
7 ~~the departmental policies and procedures~~ a date of the child's  
8 placement into foster care.

9 (3) The department shall provide the committee with  
10 guidelines for operation of the committee. Within 30 days of  
11 the foster care review, the ~~committee shall provide the~~  
12 ~~departmental policies and procedures~~ ~~departmental policies and procedures~~  
13 ~~findings and recommendations for further action by the youth~~  
14 ~~department~~.  
15 (4) The department shall adopt rules necessary to Letter of  
16 intent to carry out the purposes of this section.

17 (5) Because of the ~~individual privacy involved~~  
18 meetings of the committee, reports of the committee, and  
19 information on individuals, cases shared by committee  
20 members is confidential and subject to the ~~confidentiality~~  
21 ~~requirements of~~ the department.  
22 (6) The ~~committee~~ is subject to the ~~confidentiality~~  
23 pertaining to the foster care of a child before the youth  
24 court.

25 Section 3. Section 41-3-501, MCA, is amended to read:  
1 "41-3-501. Definitions. (1) Any person owning or  
2 operating a home or institution into which home or  
3 institution he takes any child or children for the purpose  
4 of caring for them and maintaining them and for which care  
5 and maintenance he receives money or other consideration of  
6 value, and which child is neither his son, daughter, nor  
7 ward--nor-related-to-him-by-blood shall be deemed to be an  
8 "operator" of a "foster home or boarding home" within the  
9 meaning of this chapter, except that this chapter shall not  
10 apply when any person accepts such care and custody of such  
11 child on a temporary basis and simly as a temporary  
12 accommodation for the parent or parents, guardians, or  
13 relative of such child.  
14 (2) The word "person" where used in this chapter shall  
15 include any individual, partnership, voluntary association,  
16 or corporation."  
17 Section 4. Section 41-5-801, MCA, is amended to read:  
18 "41-5-801. Shelter care and foster homes. (1) The  
19 youth court may establish procedures for finding,  
20 maintaining, and administering shelter care and foster homes  
21 or other homes approved by the court for youth within the  
22 provisions of this chapter.  
23 (2) All foster homes established by the youth court  
24 which are licensed by the pursuant to 41-3-104, the  
25 department of social and rehabilitation services shall be

Proposed amendments for SB 228

1. Title, line 7.

Following: "CARE"

Strike: "BY CLARIFYING"

Insert: "FACILITIES; TO CLARIFY"

2. Title, line 8.

Following: "PAYMENT"

Strike: ";"

Insert: "FOR CHILDREN PLACED IN FOSTER CARE FACILITIES;"

3. Page 1, lines 16 and 17.

Following: "department"

Strike: "of social and rehabilitation services"

4. Page 1, line 25.

Following: "for"

Strike: "one-half the payments so made during the month"

Insert: "the county's portion of the payment as determined by the department. The county's portion shall not exceed one-half (1/2) the non-federal share"

5. Page 2, lines 11 and 12.

Following: "every"

Strike: "geographic"

Insert: "judicial"

Following: "district"

Strike: "established by the department of social and rehabilitation services"

Testimony on SB 228 - An Act to Amend Laws Relating to Foster Care Facilities; to Clarify Financial Responsibility; and to Require Court Review

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The Department of Social and Rehabilitation Services requested introduction of this proposed bill as an attempt to solve two major problems in our foster care system. One is a fiscal problem. The other involves the well-being of the children in foster care themselves.

First, the fiscal problem. We have approximately 900 children in foster care. Except for immediate emergencies, most are placed by the Department on authority of a court order. However, the Youth Court, through its Probation Officers, will often place a youth in a home licensed by the Department and order us to finance the foster care. This can be done without knowledge or consultation with the Department. This practice, allowable under the present statute, makes it very difficult for us to budget, project costs, set priorities or remain accountable.

The proposed change, found on page 5, will still allow SRS to pay for these children but will require an agreement between the Department and the Youth Court to assure necessary procedures and assurances for financial accountability. The Department does not want to control Youth Court placements, but is the party which must be accountable for funds received.

The change found on page 1 is aimed at solving another fiscal problem. We have had instances where a particular youth really needed special services through a special kind of foster care facility; for example, a group home or an intensive treatment center. Because the present law requires counties to pay one-half the cost, there can be a reluctance on the part of the court to order that care because of the additional financial burden on the county. The proposed change would allow the Department some discretion to pay more than half the cost - if it is agreed by the Department that the more costly facility is really needed by the child and the total resources are not available.

Second, the problem of the well-being of the child. We have observed over the years that some of our foster children have been denied a permanent home. The basic premise, the major emphasis, the number one priority of the Dept. is that every child should have his or her own permanent home. If at all possible, that home should be his or her own home with his natural parents. Our social workers throughout the state spend the bulk of their time working to assure that children who have been neglected or abused can stay with or return to

be with their own families.

However, when for various reasons that is not possible or is not in the best interest of the child, that child should at least have a permanent foster or adoptive home. The proposal on pages 2 and 3 sets up a system for mandatory review of all children in foster care in Montana before the end of their 12th month in care. Due to the burdensome caseload of our courts, the committee would be required to review whether or not the child can return home; or if not, what impediments there may be to his placement in a permanent foster home or an adoptive home. This information will be reported to the court. The best judgment of the court, the social worker and other community leaders are brought to bear to bring about movement of the child into a permanent home. This system has been tried in other states where it has met with success. No child can become "lost" in the foster care system. There is no additional cost for this safeguard for foster children. We expect that it will move children out of the foster care system faster - thus saving both dollars and children.

The Department of Social and Rehabilitation Services urges your favorable consideration of this bill.

Norma Vestre, Chief  
Social Services Bureau  
Department of Social and Rehabilitation Services  
January 30, 1981

NAME: A. Mark Ricks DATE: 1/30/81

ADDRESS: 2001 11th Avenue, Yellow, Montana 59101

PHONE: 443-1660

REPRESENTING WHOM? Jeff

APPEARING ON WHICH PROPOSAL: 228

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: I wish to testify on Senate Bill 228

7-1-81

SENATE PUBLIC HEALTH COMMITTEE

January 30, 1981

Senate Bill 228

My name is D. Mark Ricks. I am from Helena, Montana. I serve as the director of LDS Social Services, a private child placing agency, licensed in the State of Montana, by the Department of Social and Rehabilitation Services.

I wish to testify in behalf of Senate Bill 228. Having spent the past fifteen (15) years working with foster care, I have come to find that planning is an important part of our work. Another important part is to be able to join with other agencies, probation officers and juvenile courts in determining what is in the best interests of the child for whom concern has been raised.

It has always been my desire to use other modes of treatment (i.e. counseling with child and natural parents, mental health referrals, testing) before foster care is considered, and only then should we use foster care if it is diagnostically determined to be the most appropriate method of treatment. It should be temporary, with the objective of strengthening the foster child and the natural parents in preparation for family reunification. Preventing unnecessary separation of the child from his natural or extended family is always a primary concern. I also feel that natural parents should be willing to involve themselves in an appropriate treatment program and work towards assuming total responsibility for the child.

These needs and objectives can be better met by establishing in each Judicial District a foster care review committee. Through the administration and functioning of this committee, people working together can determine needs of the child, the natural parents; and then can determine the appropriate mode of treatment that would help meet those needs. It would be my impression that as the members of the committee meet together and begin looking at their resources and the resources of the community, that more children will remain in their homes under a contract and treatment program rather than foster care. This will motivate the child and the natural parents to work together and also this family will be able to maintain their self-reliance.

This legislation will establish accountability for probation officer, resource workers of the Department of Social and Rehabilitation Services, and other agencies involved in foster care. This will be accomplished by the committee in a review at least every twelve (12) of the status of each foster child. This, then, protects the rights of the child, and also the interests of the natural parents. It also provides the opportunity for permanency planning. It is my feeling that should circumstances require long-term placement (over one year), permanent planning should be considered.

Another argument that I present in favor of Senate Bill 228 is, and I quote, "The committee is subject to the call of the Youth Court Judge to meet and confer with him in all matters pertaining to the foster care of a child before the Youth Court." (end of quote). It would be my feeling that judges would want to use this committee to help determine if foster care would be the best solution, or if other resources were available.

I would also suggest that Senate Bill 228 would provide a more consistent practice of foster care services throughout the state. The committee will be required to look at each case and be able to consider what is in the best interest of the child, which home, if foster care is recommended, would be best for the child, and what time period is deemed necessary before the foster child should be returned to the natural home.

Citizens of Montana are concerned about their children. Probations officers, resource workers for the Department of Social and Rehabilitation Services and private agencies are also concerned about people. Senate Bill 228 can and will demonstrate that people can and will work together, and from this not only will we see a healthier Montana, but a happier people. I recommend to this committee and urge your support for this legislation. Thank you.

NAME Wm A. Burkhardt BILL NO. SB 2 28  
ADDRESS 530 Hazel Green Helena DATE 1/30/81  
WHOM DO YOU REPRESENT myself  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: