

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
January 10, 1983

The Human Services Committee was called to order at 12:30 p.m., January 10, 1983, in Room 224A of the Capitol by Chairman Marjorie Hart. All members were present.

The first items discussed pertained to orientation and organization.

SMOKING: It was decided to handle the smoking problem as it arises; however, CHAIRMAN HART encouraged smokers to sit in a definite area.

PROXY VOTES: CHAIRMAN HART stated that proxy votes would be allowed on the bill but not on amendments unless an amendment had been out in advance.

SUMMARIZATION OF BILLS: All bills that come before the committee will have a summarization.

AVAILABILITY OF STAFF RESEARCHER: DAVE BOHYER presented a letter stating the functions he will perform in support of the House Human Services Committee (EXHIBIT 1).

HOUSE BILL 12. REP. QUILICI, the bill's chief sponsor, said this bill would prohibit parking a vehicle in a space reserved for handicapped persons unless the vehicle displayed entitlement in the form of a sticker or card. He stated that many people who are not handicapped are taking advantage of parking in areas designated for handicapped individuals. He would like to see stronger language used than in House Bill 12. There are two more bills coming into the Human Services Committee concerning handicapped parking and he requested that the committee hold this bill in abeyance until all three bills are heard and then try to put the best of the three bills into one act.

HOUSE BILL 21. REP. DOZIER'S bill is similar TO House Bill 12. Two things that his bill actually does are (1) allows for a license plate sticker and (2) calls for a \$5 fine. There are several items that he would like to see put into the bill: namely, (1) renewal--presently, the law says it must be renewed annually. He feels that people with permanent disability should only have to make application once. And (2) the increase of the level of the fine is also of concern. There is a problem in that some people with a card that is permanently designed would get the sticker; then, if their car is in the shop for a few days, they would have to have somebody transport them and they would not be able to move the sticker. Constituents feel that they would like the bill to read "sticker and card" rather than "sticker or card."

PROPOSERS:

CONNIE WESTBY represented a majority of disabled through Montana (EXHIBIT 2).

JENNIFER L. HARVEY represented the Handicapped Coalition of Montana (EXHIBIT 3).

JENNIFER FENCHAK was in support of the bill and represented the Handicapped Student Union, University of Montana (EXHIBIT 4).

SYLVIA SPERRY represented the handicapped and herself. She encouraged license plates instead of a sticker. She felt that it was only when she was driving that she needed the license plate sticker and the availability of a parking space. She indicated that a \$15 fine would be more reasonable and that it was very important to have a handicapped person help define areas of clarification.

VIRGINIA JELISON from Missoula represented the Low Income Group for Human Treatment. She supported House Bills 12 and 21 and would also support the consolidation of those bills and clarification of the language. She felt the committee might want to include some language that would say "primary use vehicle," similar to Utah's language. In the case where a handicapped person is not the driver, or is a child, and someone else is providing that party transportation, that person should be able to have that sticker on their license plate. She would also like to see a card that could go in the window to be used temporarily.

BOB DONALDSON, with the State Department of Social Rehabilitation Services, spoke in favor of the bills.

BOB LISTON, Helena, also indicated his support of both bills. He felt it was important to specify who was going to be taking care of the policing of the parking spaces because the police are not responsible for private parking in the state lots.

LARRY MAJERUS, Administrator of the Motor Vehicle Division, presently has the responsibility of issuing the placards. He supports the efforts to improve the statutes and encouraged the committee to take necessary action.

CHAIRMAN HART asked LARRY MAJERUS if he would work with the committee. He agreed to do so.

REP. CONNALLY stated that her bill does cover permanent stickers and also calls for license plates. These would not have to be renewed every year.

There were no opponents.

REP. DOZIER related an experiment he did parking in the empty handicapped spaces at the post office for a month. No one ever confronted him with parking where he was not supposed to.

Because REP. CONNALLY'S bill is still in the Council being drafted, the question was raised whether the sponsors of the three bills could get the draft before it was completed and consolidate all the material into one act.

CHAIRMAN HART called for questions.

REP. KEYSER asked if there was any reason why the fine was only \$5.

REP. DOZIER stated he put \$5 because he didn't know what the level of fines was.

REP. MENAHAN felt that the fine should be over \$5.

REP. BROWN asked if somewhere in the law there was a definition of the term "handicapped?" Does "handicapped" refer to people only in wheel chairs or is it any kind of a handicap?

SYLVIA SPERRY said that according to the Federal Register that came out, Section 504 of the Rehabilitation Act of 1974, "handicapped" is almost everybody. A broad definition includes alcoholics, drug addicts, people who have had a mental breakdown. It includes those who are handicapped temporarily-- someone that has a cast on his leg or a pregnant woman.

REP. FARRIS asked that the research assistant find out if the Montana definition matches the Federal definition.

LARRY MAJERUS stated that if one was referring to a definition of "handicapped" as far as parking is concerned, it is that physical handicap which impairs driving ability and impairs the mobility when not in a motor vehicle.

REP. FABREGA asked if the term "handicapped" applied to someone with a pacemaker.

LARRY MAJERUS said he believed that the doctor addresses the mobility problem specifically.

REP. FABREGA stated that the handicapped has to be certified by the doctor.

REP. WINSLOW indicated he would like to see permanent certification and that the fine be \$25.

REP. DRISCOLL mentioned he wanted to make sure that parents who have handicapped children also get the license plate or sticker. He asked that the researcher check the language and make sure it is adequate.

SYLVIA SPERRY said that if someone was driving her around, that that individual did not have the right to park in a space designated for "handicapped" as a handicapped person who was driving would need the spot more than the person being driven.

REP. BROWN asked "Who designates the parking spots as 'handicapped'?"

BOB LISTON said the city was responsible for designating "handicapped" spaces.

REP. SWIFT wondered if there were some federal requirements on the number of spaces designated.

LARRY MAJERUS concurred that for federally-owned buildings and those buildings that receive federal funds, there is direction given.

REP. SEIFERT MOVED that House Bills 12 and 21 be held in committee until other bills pertaining to this question are received and heard.

CHAIRMAN HART said we will hold these bills up and have Executive Action later in the week.

HOUSE BILL 48. REP. McBRIDE presented the bill (EXHIBIT 5). . This bill brings all the widows of silicosis victims, particularly those who became widows prior to 1974, to receive full benefits and moves a \$6,800 total income limitation. Silicosis is a disease which miners particularly get working in hard-rock mines. Those miners who breathe the silicon dioxide dust receive impairment of the lungs and have great difficulty in breathing after many years of working in the mines. This bill would increase the benefit from \$100 to \$200 for those women who became widows prior to 1974.

PROPOSERS:

REP. PAVLOVICH spoke in support of House Bill 48.

JIM MURRAY, Executive Secretary for the Montana AFL-CIO also spoke in support of House Bill 48 (EXHIBIT 6).

There were no opponents.

CHAIRMAN HART called for questions.

REP. McBRIDE mentioned several other items she was concerned about. One of them was regarding the income limitation of \$6,800 based on the benefits paid to some widows. She had the researchers check and they could find no reference to any other program that limited payment based on income. The payment of benefits is dependent upon widows remaining unmarried. Her final comment was that the silicosis program for benefits is paid out of the General Fund and not out of Workman' Compensation. She stated that this particular bill is actually incorporated into REP. PAVLOVICH'S bill.

There was some discussion regarding the figures used in the Fiscal Note but all questions were answered to the satisfaction of all.

REP. MENEHAN stated that he thought this bill would go to the Taxation Committee no matter what action this committee took.

REP. FABREGA said he felt that this bill addressed the equity question as well as the money question. Consequently, he felt the committee should view the bill as an equity question and act on it from that perspective.

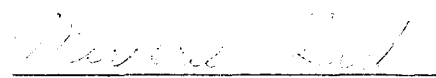
CHAIRMAN HART closed the hearing of House Bill 48.

EXECUTIVE SESSION

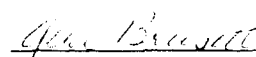
HOUSE BILL 48. REP. DOZIER MOVED that House Bill 48 DO PASS.

CHAIRMAN HART called for a vote and it PASSED UNANIMOUSLY.

The meeting adjourned at 1:45 p.m.



Chairman Marjorie Hart



Secretary



Montana Legislative Council

State Capitol
Helena, MT. 59620

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DIRECTOR, LEGAL SERVICES

TO: House Human Services Committee Members

FROM: Dave Bohyer, Staff Researcher *Dave*

RE: Services available to Committee Members

DATE: January 3, 1983

I will perform the following functions in support of the House Human Services Committee:

- 1) review proposed legislation and advise the committee as to constitutionality, internal consistency, possibility of conflict with or duplication of existing provisions, and compliance with other bill drafting provisions such as grammar, punctuation, word choice, and statutory sentence structure;
- 2) assist the committee or individual member in obtaining data or any pertinent information from government agencies pertaining to bills under deliberation;
- 3) draft proposed amendments upon request of individual committee members prior to committee action on a given bill;
- 4) review all amendments adopted by the committee with the same bill drafting guidelines applied to the original bill -- with the Chairman's authorization to make necessary changes in grammar, punctuation, word choice, and sentence structure, not affecting meaning, that may be detected between committee adoption and delivery of the Standing Committee Report, subject to review by the Chairman before signing the report;
- 5) draft proposed amendments to be moved on Second Reading upon request of any committee member;
- 6) draft Statements of Legislative Intent or obtain drafts from state agencies when directed by the committee;

House Human Services Committee
January 3, 1983
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- 7) draft committee bills when requested by the committee;
- 8) attend subcommittee meetings when assigned by the Chairman to perform the appropriate functions listed above; and
- 9) attend conference committee or free conference committee deliberations as invited to perform the appropriate functions listed above.

DB:Dave5

As spokesperson for a majority of disabled throughout Montana
~~associated with the Montana Independent Living Project~~, I am recommending
the following changes in House Bill 21:

The first change is for the bill to include Section 49-4-303 in addition to Section 49-4-304. In section 49-4-303 we would like the following words added after "physician": "or from a federal or state agency". With this amendment Section 49-4-303 part 1-(a) would then read:

"(a) a certificate from a licensed physician or from a federal or state agency describing the extent of the applicant's disability."

Our reason for making this recommendation is that currently many disabled persons are paying their physician a consultation fee for signing the certificate of disability. This is an unnecessary cost that could be avoided if the disabled person could get the certificate signed by an agency they were already involved with, such as Vocational Rehabilitation, Disabled American Veterans, etc.

The second amendment we would like made to the bill is in New Section, Section 3, line 10:

Following: "fined"

Strike: "\$5"

Insert: "\$15"

This would bring the penalty in line with the amount currently assessed for similar violations such as parking in a fire zone.

There are two other issues which concern both House Bill 21 and House Bill 12 that we would like to have researched.

Neither bill stipulates who will be responsible for enforcing violations of handicapped parking areas. This may be covered under another part of the law that I am not familiar with.

Until violations are uniformly enforced, handicapped people can not utilize the spaces provided for them.

A major problem that is a priority of disabled persons throughout the state is the enforcement of handicapped parking spaces in private parking lots. We are not sure if this matter can be addressed through the Montana legislature, but would certainly appreciate research on a possible solution.

Connie Weethy

WITNESS STATEMENT

NAME Jennifer L. Harvey BILL No. HB 12, HB21
ADDRESS 1127 Mc Donald, Missoula, MT DATE 1-10-83
WHOM DO YOU REPRESENT Handicapped Coalition of Mont.
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The Handicapped Coalition supports the amendment to House Bill 12 that prohibits parking in a handicapped space as proposed, but would like to see language that would implement a uniform state wide recognized sticker for the following reason: handicapped individuals are mobile throughout the state, and a uniform sticker recognizable in all communities would prohibit ticketing in designated parking when traveling away from home.

The Handicapped Coalition also supports House Bill 21, with the following suggestions:

1. That the language be changed to include not only the person eligible, but also the person legally responsible for a handicapped individual. (This would include children as eligible for vehicle stickers when the vehicle is used to transport the child)
2. That a card be issued in conjunction with a sticker, to provide for those instances in which the handicapped individual is traveling in a vehicle other than the one with the issued sticker. For example, if the primary use vehicle is being repaired, or, if a new vehicle is purchased - the card would be implemented until new plates are received. The sticker and/or cards can be color coded to indicate a permanent disability, therefore alleviating the yearly expense of a physical checkup for doctor's evaluation.
3. That the fine be raised to a minimum of \$25.00
4. That the committee consider that physical disability is not restricted to those in wheelchairs, but includes the elderly, those with heart conditions, and those with other physical mobility limitations

WITNESS STATEMENT

NAME Jennifer Fenchak BILL No. HB12 and HB21
ADDRESS 809 1/2 W. Pine, Missoula, MT 59802 DATE 10 January 83
WHOM DO YOU REPRESENT Handicapped Student Union, UofM
SUPPORT X OPPOSE AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Both Bills are supported, with the following recommended changes: 1) a uniform state wide sticker be issued, in order to facilitate the needs of those handicapped individuals traveling across the state.

2) Both a sticker and a card be issued. The card can then be used in those situations in which the handicapped individual is traveling in a different ~~vehicle~~ vehicle than the one with the sticker. If for instance, the individual purchases a new vehicle, the card can be used in place of the sticker. Also, if the primary vehicle is in need of repair, other vehicles can be used.

The sticker and the cards can be color coded to indicate a permanent disability, therefore alleviating the added cost of an annual doctor's evaluation.

It is also felt that a \$5 fine is not sufficient enough to deal with the offense, it is therefore, recommended that the wording be changed to a "minimum of \$25."

Physical disability is not restricted to those in wheel chairs, but includes elderly, those with heart conditions and other physical mobility limitations.

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL 12

Date January 10, 1983

SPONSOR QUILICI

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
L. MAYERUS	Motor Vehicle Div		✓	
Julin		DIST IV	-	
PARLOVICH	BUTTE	DIST - FG	-	
Jennifer Fenchak	Missoula	Handicapped Student	✓	
Virginia Johnson	Missoula	L.I.G.H.T. Inc.	✓	
Bob Donaldson	Helena	SRS - V wheel	✓	
Bob Histon	Helena	Handicapped	✓	
Katherine Horg	Helena	MILP	✓	
M.R. Donaldson	Helena	Montana DSRs	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL 21

Date January 10, 1983

SPONSOR DOZIER

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE BILL 48

TESTIMONY OF KATHLEEN McBRIDE

HUMAN SERVICES COMMITTEE
January 10, 1983

PURPOSE: To make all widows of silicotics receive the same full benefit. Currently, those women who became widows after March 14, 1974 receive the full benefits but those who became widows prior to that date receive only half the benefit.

REASON FOR INEQUITY: The reason for the difference of benefit payments based on the March 14, 1977 date is not clear, but is probably the date the original bill was signed.

HISTORY OF PROGRAM: The Silicosis Law was enacted by the 1937 Session of the Montana Legislative Assembly and supervised by the Montana Department of Public Welfare until June 30, 1961, and at that time, Legislature transferred the administrative duties to the Division of Workers' Compensation.

The benefits received under this law from 1941 through 1980 varied from \$30 a month to the present payment of \$200 a month. The amount of the payment is set by the Legislature. Claimants have been receiving \$200 a month since October 1, 1981.

The law was enacted to provide benefits for claimants who had contracted Silicosis in their line of work prior to July 1 of 1959. In 1959, the Legislature

passed the Occupational Disease Law, and the benefits paid under this law are the same as the amounts received under the Workers' Compensation Insurance Act. The employee had to have the specified number of hours worked in areas where silicon dioxide was present to qualify, and they have the same time frame to qualify as they do under the Workers' Compensation Act.

The applicants who do not qualify under the Occupational Disease Act may file under the Silicosis Program.

OTHER BENEFITS:--EXCLUDING \$100 BENEFIT

82.71% of widows live on less than \$500/month.

Average \$412.00/month

25% live on less than \$300/month

SOURCE OF FUNDING:

Benefits are paid out of General Fund, not Workers' Compensation.

Last increase for whole program in 1981--increased from \$175 to \$200.

INCOME LIMITATION: Unaware of any other programs limiting payment to spouse based on income.

REMAINING UNMARRIED: Firefighters and police retirement require spouse to remain unmarried.

Exhibit 6
HB 48



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF JIM MURRY ON HOUSE BILL 48, BEFORE THE HOUSE HUMAN SERVICES
COMMITTEE, JANUARY 10, 1983

I am Jim Murry, representing the Montana State AFL-CIO, in support of House Bill 48. This bill provides an increase in payments to a few spouses of workers who have died from silicosis.

As you know, this law was enacted to provide protective benefits for claimants who had contracted silicosis in their line of work prior to July 1, 1959. In 1959, the legislature passed the Occupational Disease Law to cover future claimants.

To qualify under the silicosis law, claimants had to have worked a specified number of hours in areas where silicon dioxide was present. The hours are the same under the Workers' Compensation Act. In addition, claimants had to prove 10 years' continuous residency, total disability, and earnings of less than \$150 per month. The claimant was then examined by one of the physicians on the Occupational Disease Act board.

This program is gradually disappearing because the claimants are slowly and painfully dying. When the Division of Workers' Compensation began administering the program on June 30, 1961 (previously administered under the Department of Welfare), there were 771 active claimants. As of December 31, 1982, there were only 210 claimants.

That number includes 87 spouses who were widowed since July 1, 1974. At that time, widows were made eligible to continue receiving the full amount of the pension (which is now \$200 per month) after the death of the silicosis victim, provided that the widow did not remarry.

There are an additional number of widows whose spouses died before July 1, 1974. They are eligible to receive only half the benefit (\$100 per month), so long as they do not remarry and so long as they receive less than \$6,800 annually from any other outside sources.

In 1974, there were 251 of this group of "second class" widows, unlucky enough to have had spouses who died before July 1, 1974. At present, the number is down to 185. House Bill 48 would simply raise the benefit for these widows now receiving half benefits.

The average age of the full wage claimants, which includes the sick workers and the "first class widows" receiving full benefits, is 74.8 years of age. 53.3% of those claimants receive less than \$500 per month from other sources, and 85.1% receive less than \$750 per month. The silicosis payments of \$200 per month are intended as a supplement to Social Security or any other pension.

House Bill 48 only affects the "second class" widows who are receiving the half benefit amount, or \$100 per month. Of the 185 widows left, the average age is 78.7 years. This group is in much worse economic shape than the regular claimants. 82.7% of the "second class" widows receive less than \$500 per month from other sources, while 95.3% receive less than \$750 per month. The average is \$412 per month or only \$4,944 per year.

During the year, only four "second class" widows were denied payments because they had received more than \$6,800 from outside sources.

House Bill 48 raises the benefits for the "second class" widows up to the same level as the "first class" widows, if it can be called first class to receive \$200 per month. The cost is very small to the state, and the number of both regular claimants and "second class" widows is dropping as more die every year. This program will eventually disappear altogether.

The dollar amount is very small to the state, but can be a welcome help to some elderly Montanans of little means.

We urge you to support House Bill 48.

Thank you.

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL 48

Date January 10, 1983

SPONSOR McBRIDE

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

January 10, 19 83

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 48

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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 39-73-109, MCA,
TO MAKE UNIFORM THE ELIGIBILITY REQUIREMENTS AND BENEFIT PAYMENTS
FOR SURVIVING SPOUSES OF SILICOSIS VICTIMS."

Respectfully report as follows: That HOUSE Bill No. 48

DO PASS