

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
March 4, 1983

The meeting of the Human Services Committee held on March 4, 1983, in Room 224A of the Capitol Building at 12:30 p.m. was called to order by Chairman Marjorie Hart. All members were present except Reps. Fabrega and Menahan, who were absent.

SENATE BILL 61

SEN. NORMAN, sponsor. He stated this bill relates to the termination of death. When is a person dead? Many people fear being kept alive by artificial means. Thirty years ago it was a relatively simple matter--the heart stopped, lungs stopped--the person is dead. This bill does not change that. There are clinical means--means a doctor or nurse can use to make some clinical determination if the patient is dead. Those would be contemplated in this bill. The reason there is concern about the determination of death is because criminal matters are involved. Person A shoots Person B and they are taken to intensive care. A week or two later, that person is pronounced dead. Did Person A kill Person B. Is the charge murder? There is the matter of inheritance--a family traveling in the same car--accident--who died first? Then there is the problem of organ transplants. When is a person dead so the organs can be taken. What this bill will do is fix the criteria of clinical determination of death.

PROPOSERS:

JERRY LOENDORF, representing the Montana Medical Association, said this bill is the National Conference of Commissioners on Uniform State Law's definition of death. Part 1 of the definition is what we call the common law definition. That is how death was determined prior to statutes being adopted by states. The second method you are allowing to determine death is the method we now have. By enacting this bill, you are allowing death to be determined by both of those methods that have been previously utilized in the state of Montana but only one at a time.

STEVE BROWN, junior member of the Uniform Laws Commission, recommended support of this bill.

MICKEY NELSON, Lewis and Clark County Coroner, said this bill would be very helpful for those in the field as well as those in the hospital setting. He urged support of this legislation.

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OPPONENTS: None.

SEN. NORMAN closed.

QUESTIONS: None.

CHAIRMAN HART closed the hearing on SENATE BILL 61.

SENATE BILL 128

SEN. HAZELBAKER, sponsor, said this act would expand the definition of housing development for purposes of programs administered by the Board of Housing. Sometime ago the Board of Housing was set up to provide housing for low-income persons or families in need of housing. Now it has come to our attention to broaden statutes to include single family homes, multifamily projects, nursing homes and other similar facilities in the definition. This was brought to my attention because the Peoples Organization have taken over the old Children's Center in Madison County and considerable work has been done with that in order to have a retirement home for senior citizens.

PROPOSERS:

TOM RYAN, Montana Senior Citizens Association and President of Montana Peoples Association, said they support this bill because they anticipate developing a personal care facility at the same time they are developing senior housing (EXHIBIT 1).

HERBERT GEORGE, representing the Montana Board of Housing, said his primary interest was to expand the definition to enable them to sell bonds for the purpose of financing this project if it comes to fruition. They set aside 150 units of Section 8 housing assistance for housing for the elderly. They are proposing to build 100 units of housing for the elderly and 125 units of intermediate care or personal care units. There was some question in the minds of the attorneys whether or not the definition as it appeared in the law was broad enough to cover the construction of a personal care or intermediate care facility. For that reason, this amendment has been introduced. Also, HUD has imposed upon the sponsors the requirement that they must build the personal care or the intermediate care as they refer to it in their letter. He asked the Committee to support this legislation.

JOHN HOLLOW, representing the Montana Homebuilders, stated the Board of Housing is designed to provide housing for people who can't really afford it and provide it at a lower rate of interest. There are people who need housing. We are switching now from single family to multifamily because it is more economical. As Mr. George pointed out, it wasn't clear in the definition whether you could go to the multifamily unit or something larger. This amendment makes that clear because we will benefit as construction people in addition to the reason that people will get dwellings. They supported this legislation.

REP. KEYSER, Madison County, stated by expanding the definition of housing development, we will allow the Peoples group and people who are interested in developing this apply for and receive the money for the elderly and people who wish to go in there. It would be a shame if the total facility could not receive the funding. He urged passage of this bill.

OPPONENTS: None

SEN. HAZELBAKER closed reminding the Committee that there is no state funding involved. All funding will be from the private sector.

QUESTIONS:

REP. JAN BROWN: On page 2, line 19, it refers to persons and families of lower income. Then the bill goes on to define lower income. If people of higher income applied, would there be a problem with this law which specifies lower income.

SEN. HAZELBAKER: No, I don't think there would.

HERBERT GEORGE: We operate at the Board of Housing not only under state laws but federal laws control certain aspects of housing. There is a provision in the federal law that requires that any housing that is financed by the tax exempt securities which we sell to finance this type of facility 20% of those units must be kept available for the low and moderate income people. In this particular instance, the housing for the elderly would be 100% subsidized by Section 8. The other facility would be for those who are in the lower income and they would have to meet certain requirements as far as income to be sure we were operating within the framework of the federal law in order not to lose the tax exempt status of those bonds. We operate strictly under the guidance of our bond counsel and legal counsel.

REP. DOZIER: In your testimony, you refer to long-term HUD financing and this bill refers to the state bond market.

TOM RYAN: In order for the Board of Housing to get into this act, they had to have HUD insurance.

REP. HANSEN: Under the low income, does the personal care home make them eligible for medicaid reimbursement?

TOM RYAN: SENATOR NORMAN AND SENATOR BROWN have bills in the Senate having to deal with how medicaid and medicaid waiver could help those people. We are hoping to go ahead without the medicaid provision by having a whole year to work on this after it is approved and use foundations and set up a trust fund for low income people. Some would qualify and receive some medicaid.

REP. HANSEN: I thought one of those bills was dealing with personal care in homes rather than personal care homes.

TOM RYAN: Yes. Under the waiver, that is where some of these people would qualify.

REP. BRAND: How much need is there for this kind of unit?

HERBERT GEORGE: Surveys made by the Montana Peoples Association and HUD economic people have indicated that 100 units would be acceptable for insurance under the 221-B-4 which is the section under the National Housing Act which all housing for the elderly would be insured under. The need has been determined. HUD has imposed upon the sponsors that they will not insure the loan under 100 units for the elderly unless they also build this intermediate care facility to go along with it.

REP. BRAND: Are you going to have the money available if this bill passes?

HERBERT GEORGE: Not immediately. We don't at the moment have an application. We and HUD have indicated to them that we would accept an application. Montana Board of Housing does not sell bonds for the actual financing until such time that we are reasonably sure that the project is going forward.

REP. BRAND: On a priority list of money by use for housing, what is your number one priority?

HERBERT GEORGE: The single family program is entirely separate from this. We sell the bonds for a specific project and that would be earmarked for this project.

REP. DRISCOLL: Didn't they authorize \$3 million of housing bonds last session?

HERBERT GEORGE; I don't know but we are well under our limit.

VICE-CHAIRMAN FARRIS closed the hearing on SENATE BILL 128.

SENATE BILL 150

SEN. STORY, sponsor. Under Senate Bill 150, a privately owned public swimming pool would not have to have a lifeguard present if: (1) a sign is posted saying, "There is no lifeguard," and (2) a person, accessible to the pool and competent in water safety and CPR, is on the premises. SEN. STORY stated this bill was introduced to modify rules made by the Department of Health. As it is now written, it is a compromise with the Department of Health as to what that rule should state so that places like Chico Hot Springs does not have to have a lifeguard on duty if they have a sign "Lifeguard Not On Duty". The Senate Public Health Committee put in "one individual on the premises accessible to the pool currently certified as competent in water safety and CPR." We put this bill in because they were trying to enforce a rule that a lifeguard would have to be on duty. He asked that the Committee support this legislation.

VERN SLOAN, Department of Health, stated they are in favor of this legislation and support SENATE BILL 150.

OPPONENTS: None

SEN. STORY closed.

QUESTIONS:

REP. JAN BROWN: How does REP. DARKO'S bill that we passed in this committee tie in to this bill and how does it overlap?

REP. DARKO: This is to take one rule that he has problems with out of the rulemaking authority that has been granted the Department of Health.

REP. BRAND: Before you put this in, did your rulemaking say you had to have a lifeguard on duty?

SEN. STORY: For pools of a certain size that invited the public in on a paid basis--we did not see whether or not a person paid to go swimming had anything to do with whether or not it was safe.

REP. BRAND: You have to pay money to go to Chico Hot Springs.

SEN. STORY: Yes.

VICE-CHAIRMAN FARRIS closed the hearing on SENATE BILL 150.

EXECUTIVE SESSION

SENATE BILL 61

SEN. NORMAN, sponsor. Senate Bill 61 refines the legal definition of "death".

REP. WINSLOW: Moved SENATE BILL 61 BE CONCURRED IN.

The motion was voted on and PASSED UNANIMOUSLY.

REP. DOZIER said he would carry the bill in the House.

SENATE BILL 128

SEN. HAZELBAKER, sponsor. Senate Bill 128 clarifies the definition of "Housing development" as it relates to the function of the Board of Housing. The clarification would include single-family homes, multifamily projects, nursing homes and other similar facilities in the definition.

REP. KEYSER: Moved that SENATE BILL 128 BE CONCURRED IN.

REP. FARRIS: It was said in some of the testimony that the bond market has not now gone down far enough that the rates would offset it. What happens if the market goes up again.

REP. KEYSER: The bonds stay at the same rate.

REP. SOLBERG: How are they going to pay that off? How much are they going to charge?

REP. KEYSER: They have had an innerworking with HUD on some loan money that comes in as well as the money they really need from the bond market. Three years ago, HUD had actually o.k.'d the project and they did not get the money from HUD at that time. The Peoples organization have projected a per day charge of \$26.84 which is \$1.96 under the 80% estimate of the medicaid payments. If they can sell that bond at what the bonds are now, they feel they can make a payback on it. They had anticipated a total development expenditure of \$7 million. It will have to be increased as they go along.

REP. DOZIER: If this meets all the requirements, is there some HUD senior citizen housing money that can be applied back in payment towards the loan. The other thing--I noticed this does not have an effective date. Do they not anticipate doing anything before October.

KEYSER: I think their intention was they would like to get started as soon as possible. I assume they felt that they could get by until the October deadline.

REP. BRAND: Wasn't a private company involved with this to begin with?

REP. KEYSER: That fell through.

REP. BRAND: Do they still have money invested?

REP. KEYSER: It is my understanding they do not.

REP. BRAND: I was told there was some private money put down by this private company so that they could go ahead and try to get some bond money and have people come in and see what cost factors would be. Are they going to have to pay those bills back.

REP. KEYSER: The People organization raised a lot of the money themselves to make the initial buy of this property from the state after the other deal fell through. They made that as a donation within their group themselves and were able to come up with enough to take deed to the property. The one thing you have to remember--there isn't going to have to be a lot of new building because of the existing buildings.

REP. HANSEN: The term "personal care projects" really bothers me. I have been trying to separate personal care home and personal care services. As I understand, the waiver he is talking about is for personal care services which would not apply to buildings, rent, etc.

REP. KEYSER: But it would apply to the care received in the unit, would it not?

REP. WINSLOW: The medicaid waiver they send in does have an area in there to help people in personal care homes.

REP. HANSEN: How would personal care projects be different?

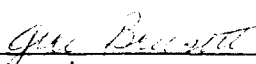
REP. BRAND: I would suggest we put this into a subcommittee and try to answer questions such as nursing care money and financing that they are putting together and how much in bills they need to repay.

REP. BRAND: Made a substitute motion to postpone for the day.

The meeting adjourned at 1:30 p.m.



CHAIRMAN MARJORIE HART



Secretary

VISITOR'S REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL SENATE BILL 61

DATE 3-4-83

SPONSOR SENATOR NORMAN

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE HUMAN SERVICES

COMMITTEE

BILL SENATE BILL 128

DATE 3-4-83

SPONSOR SENATOR HAZELBAKER

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL SENATE BILL 150

DATE 3-4-83

SPONSOR SENATOR STORY

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

March 4

19 83

MR. **SPEAKER**

We, your committee on **HUMAN SERVICES**

having had under consideration **SENATE** Bill No. **61**

third reading copy (**blue**)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT REFINING THE DEFINITION OF
DEATH; AMENDING SECTION 50-22-101, MCA."**

Respectfully report as follows: That **SENATE** Bill No. **61**

BE CONCURRED IN
DO PASS

STANDING COMMITTEE REPORT

March 7

19 82

MR. **SPEAKER**

We, your committee on **HUMAN SERVICES**

having had under consideration **SENATE** Bill No. **128**

third reading copy (**blue** color)

**A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPAND THE DEFINITION OF
"HOUSING DEVELOPMENT" FOR PURPOSES OF PROGRAMS ADMINISTERED BY THE
BOARD OF HOUSING; AMENDING SECTION 90-6-103, MCA."**

Respectfully report as follows: That **SENATE** Bill No. **128**

BE CONCURRED IN
DO PASS

STANDING COMMITTEE REPORT

March 23, 19 23

MR. ~~SPEAKER~~

We, your committee on HUMAN SERVICES

having had under consideration SENATE Bill No. 150

third reading copy (blue)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT FOR PRIVATELY OWNED PUBLIC SWIMMING POOLS NO LIFEGUARD IS REQUIRED IF WARNING IS GIVEN; AMENDING SECTION 50-53-107, MCA."

Respectfully report as follows: That SENATE Bill No. 150

BE CONCURRED IN

DEEMUSCK