

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

MARCH 14, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman, Tom Hager on Monday, March 14, 1983 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. Woody Wright, staff attorney was also present.

Many visitors were also in attendance. See attachments.

CONSIDERATION OF HOUSE BILL 699: Representative Cal Winslow of House District 65, chief sponsor, of House Bill 699, gave a brief resume of the bill. This bill is an act to generally revise and clarify the licensing laws for dentists and dental hygienists; allowing more than one board member to attend the National Association meetings; providing a general rule-making statute for the board; revising license and examination qualifications and providing for continued competency for annual license renewal; revising the definition of the practice of dental hygiene; deleting the temporary license provision for dental hygienists; prohibiting a license fee on dental hygienists by a local government and clarifying the similar prohibition for dentist; and making rulemaking discretionary regarding auxiliary personnel; and providing an effective date.

Roger Tippy, representing the Montana Dental Association, stood in support of the bill with an amendment. The amendment seeks to reformulate the proper language with which the legislature can preempt local governments from exercising license jurisdiction over those professions which are centrally licensed by state authority. The legislature has intended to preempt all types of local governments from requiring any sort of annual business license of these professions. Recent developments have called this proposition into question. The A.G.'s office issued an opinion last summer to the effect that if the legislature intended a preemption clause to apply to local governments which have adopted home rule charters since 1974, it should have specifically said so. This is what the language of the introduced bill seeks to do. Mr. Tippy turned in a copy of his proposed amendments and also his written testimony for the Committee. See exhibits 1 and 2.

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Gary Mihelish, representing himself as a dentist and also the Montana Dental Association, stood in support of the bill. He stated that HB 699 is a compromise of what happened in the last session of legislature.

Dr. Robert Fritz, president of the Montana Board of Dentistry, stood in support of the bill. He stated that a copy of the proposed legislation had been sent to each licensed in-state dentist and dental hygienist requesting input. Input was received from two dental hygienists and four dentists. The board believes that this proposed legislation will benefit and protect the public as well as the profession. See exhibit 3.

Dr. William Thomas, representing the Board of Dentistry, stood in support of the bill.

Jeannette Buchanan, representing the Board of Dentistry, stood in support of the bill. The Board of Dentistry has the responsibility of assuring that dental hygienists and dentists have the skill to provide the public with adequate care. The board sets and approved requirements and standards of education and practice. Mrs. Buchanan handed in written testimony to the Committee see exhibit 4.

Mary Lou Abbott, representing the Montana Dental Hygienists Association, rose in support of the bill. She handed in written statements to the Committee. See exhibit 5.

Bill Verwolf, representing the City of Helena, stood in support of the bill with amendments which he offered. Mr. Verwolf offered written testimony and also a page of proposed amendments. See exhibits 6 and 7.

Al Thelen, city administrator for the City of Billings, stood to state that he supports the bill and opposed the proposed amendments of Mr. Tippy. He would support a business tax not a license. The cities do not try to regulate.

With no further proponents, the chairman called on the opponents, hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Stephens asked the Board who many delegates they can now send to the convention. Dr. Thomas stated that the convention is not the problem. They would like to be able to send two or three to informational meetings.

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Senator Marbut asked if the license fee would take away from the loval governments revenue if that part were not passed. Yes, it would take away from the revenue the city has to operate with in their budget.

Senator Christiaens asked Mr. Thelen if it not true that there is a court hearing pending in regards to failure to pay for a business license. Yes, this is the case involving an attorney.

Senator Stephens asked what would these people recieve for the business license. They would receive fire and police protection and parks.

Senator Hims1 asked if there is not a tax on equipment. Equip-ment is taxes on the personal property roles.

Senator Christiaens asked about "good moral character". The Board must have two letters of recommendation on file before a dental or dental hygienist license will be issue.

Representative Winslow asked the committee for their concurrence on this bill. He then closed the hearing on HB 699.

CONSIDERATION OF HOUSE BILL 321: Representative Carl Seifert of House District 26 at Polson, the chief sponsor of House Bill 321, gave a brief resume of the bill. This bill is an act to prohibit health services corporation membership plans from disallowing payment to a dentist for care of services in areas where medicine and dentisty overlap if the dentist is licensed to person such care or service.

Roger Tippy representing the Montana Dental Association, stood in support of the bill. He offered a page of questions and answers to the Committee. Mr. Tippy stated that the problem arose when Blue Shield Health Insurance plan would cover a particular service or procedure if a M.D. physican would do it but noe is a D.D.S. dentist would do it. Dentists consider this policy discriminatory.

This will prohibits health service corporations from dis-allowing payment to a dentist for any service they would reimburse a doctor for. See exhibit 8.

Dr. Stephen Black, a dentist from Bozeman, stood in support of the bill.

With no further proponents, the Chairman called on the opponents.

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Alan Kane, legal counsel for Blue Shield, stood in opposition to the bill. He stated that his group is concerned that the procedure would be abused. He stated that his group has been billed for many T.M.J. at the cost of between 700 and 800 dollars each and also many other high costing services. He stated that if the bill is passed he would like to see if amended on page 1, lines 14 through 16. to insert: "issued or renewed on October 1, 1983".

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

Senator Marbut asked if orthodontist would be covered under this. Only those things which a doctor and dentist can both do would be covered unless the insured had additional coverage.

Representative Seifert closed. He stated that this is simply a basic bill and would hope for the Committees' concurrence.

CONSIDERATION OF HOUSE BILL 200: Representative Bob Ream of House District 93 in Missoula, chief sponsor of House Bill 200 gave a brief resume of the bill. This bill is an act to authorize the Department of Health and Environmental Sciences to cooperate with the federal government in implementation of the federal comprehensive environmental response, compensation, and liability act of 1980 to remeday the release of hazardous sustances and contaminants into the environment; providing for funding of hazardous waste programs; and providing an immediate effective date.

Representative Ream stated that this bill enables the state, in cooperation with the federal government, to begin remedial cleanup actions of hazardous chemical waste sites listed on the EPA's national priority list. This bill authorizes use of funds for all Montana priority sites for the next biennium, from the junk vehicle trust fund. Representative Ream turned in several typed pages explaining the bill. See exhibit 9.

Vic Anderson of the Department of Health and Environmental Sciences, stood in support of the bill. Mr. Anderson handed in written testimony to Committee. See exhibit 10.

Medoy Fuchs, representing the Milltown Water Users Association, stood in support of the bill. She stated that this a much needed legislation. She handed in three pages of signatures of people from her area in favor of the bill. See exhibits 11 through 13.

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Edward Zulegen, representing the Missoula City-County Health Department, stood in support of the bill. He read a letter from the Missoula City-County Health Department and also signed by the Missoula City-County Board of Health stating their support of the bill. This bill provides the enabling legislation necessary for the State of Montana to obtain ninety percent financing from EPA to investigate and remedy risks from hazardous waste sites. See exhibit 14.

Karen Barclay, representing Multitech, stood in support of the bill. She stated that they support HB 200 and the proposed amendments to utilize the RIT for continued funding. Mrs. Barclay offered written testimony to the Committee. See exhibit 15.

Lucianne Brieger, representing the Montana Environmental Information Center, stood in support of the bill. With this bill the state would have the lead role in cases where a responsible party has not been identified. The state should have as much authority as possible guaranteeing citizen involvement, and to guarantee that the best methods are used to assure the best clean-up and to assure long-term solutions are found and used. Ms. Brieger handed in written testimony to the Committee. See exhibit 16.

Joan Miles, representing the Lewis and Clark County Health Department, stood in support of the bill. Her department is very concerned especially in light of the fact that ASARCO is possibly going to be named as a site in the very near future.

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

Senator Marbut asked if there are any disposal sites in Montana. There are no sites in Montana, however, Idaho and Oregon both have federally approved sites. If a site is established in Montana it would have to meet federal guide lines.

Senator Marbut asked if Section 2 is federal language, and was told that is the case.

Senator Hager asked if there had been any problem with the funding coming from the junk vehicles. This was suggested by the administration.

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Representative Ream closed. For Missoula's Milltown residents this bill would provide a way to obtain safe drinking water that has not been available for over a year. It would offer great relief to many individuals who have searched for funding equipment or services to eliminate the health hazards presented by an arsenic-contaminated water supply. During the past year, the Milltown residents have explored numerous avenues in search of clean water. Knowing the many difficulties they encountered in these endeavors, passage of this legislation gains even greater significance. This legislation offers a means to eliminate both current and potential serious health and safety problems resulting from releases of hazardous wastes. He asked the Committee for the concurrence on this bill.

DISPOSITION OF HOUSE BILL 200: A motion was made by Senator Jacobson that HB 200 receive a BE CONCURRED IN recommendation from the Committee. Motion carried unanimously. Hager to carry.

DISPOSITION OF HOUSE BILL 321: A motion was made to amend HB 321 on page 1, line 16, strike: "in effect" and Insert: "issued or renewed". Motion carried unanimously.

A motion was made by Senator Hacobson that HB 321 receive a BE CONCURRED IN as amended recommendation from the Committee. Motion carried unanimously. Senator Jacobson will carry.

DISCUSSION ON HOUSE BILL 699:


A motion was made by Senator Marbut that the amendments presented by the City of Helena be adopted.

The pros and cons of the amendments were discussed.

Senator Marbut withdrew his motion.

ANNOUNCEMENTS: The next meeting of the Public Health, Welfare and Safety Committee will be held on Wednesday, March 16 in Room 410 of the State Capitol Building.

ADJOURN: With no further business the meeting was adjourned.



CHAIRMAN, TOM HAGER

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date: 1/4/83

[illegible]

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
GARY MIHELISH	MONTANA DENTAL ASSOC.	699	✓	
ALAN CAIN	MT. PHYSICIANS' SERVICE	HB 321		✓
KAREN BARCLAY	Multitech	HB 200	✓	
Bill Verwoelt	City of Helena	HB 699	Amendment	
Ernie Dush	Milltown Mt.	HB 200	✓	
Ether Dush	Milltown Mt.	HB 200	✓	
Shirley Hurt (Milled)	"	HB 200	✓	
Storia E. Nyquist	Milltown Water Users Assn	200	✓	
Matt Kasperaba	Pine Grove ^{Male} monk		✓	
A. J. Blythe	Mont. Dent. HBA.	HB 699	✓	
Jim Johnson	MT. Dental Assn	321 699	✓	
B. J. Gurney	Bo of Dentistry	699	✓	
Vic Andersen	Dept of H & ES	HB 200	✓	
Luci Bieger	Mt. Emu. Imp. Cntr	H 200	✓	
Edward D. Zuloaga	MSA Co Health Dept	HB 200	✓	
Kenneth Buchanan	Board of Dentistry	699	✓	
Dr. Robert Fritz	Board of Dentistry	699	✓	
Villem S. Bloomer, DDS	Board of Dentistry	HB 699	✓	
Dawn A. North	LWU	HB 200	✓	
Roger Tippy	Montana Dental Assn.	HB 699 HB 321	✓	
Joan Miles	Levens + Clark Health Dept	HB 200	✓	

(Please leave prepared statement with Secretary)

of Helene 1

BEFORE THE COMMITTEE ON PUBLIC HEALTH
MONTANA SENATE

House Bill 699) STATEMENT IN SUPPORT
) OF AMENDMENT

Mr. Chairman and committee members, I am Roger Tippy of Helena, appearing for the Montana Dental Association in support of House Bill 699 with an amendment.

The amendment seeks to reformulate the proper language with which the legislature can preempt local governments from exercising license jurisdiction over those professions which are centrally licensed by state authority. The legislature has intended to preempt all types of local governments from requiring any sort of annual business license of these professions, we submit.

However, recent developments have called this proposition into question. The Attorney General's office issued an opinion last summer to the effect that if the legislature intended a preemption clause to apply to local governments which have adopted home rule charters since 1974, it should have specifically said so. This is what the language of the introduced bill seeks to do.

The House committee struck the words "or business tax" from the bill. This may have been done out of concern that some local government may seek to rely someday on a payroll tax or some similar revenue measure. Dentists do not seek extension of the preemption policy to taxes of this nature, and accept the amendment as far as it strikes reference to a tax as opposed to a license fee. We ask that you reinstate the word "business" in front of "license fee," to clarify that the term license fee is not limited to professional practice licenses.

Further, the dentists would ask that you amend the preemption phrase to include the words "or upon office space used for the practice of dentistry." This is requested in response to one city government which has adopted a new ordinance licensing the use of building space for office purposes, without reference to what those purposes may be, and demanding a license fee from the exempted professions.

Amend House Bill 699, third reading bill, as follows:

Section 4, page 8, line 7
following: "impose a"
insert: "business"

Section 4, page 8, line 10
following: "chapter"
insert: "or upon office space used for the
practice of dentistry"

Section 8, page 15, line 23
following: "impose a"
insert: "business"

NAME: GARY L. MICELISH

DATE: 3-14-83

ADDRESS: 907 HELENA AVE., HELENA

PHONE: 492-4990

REPRESENTING WHOM? MONTANA DENTAL ASSOCIATION

APPEARING ON WHICH PROPOSAL: HB 699

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HB 699

Mr. Chairman and members of the committee, my name is Dr. Robert Fritz, I am the President of the Montana Board of Dentistry, Department of Commerce.

For the record, I wish to inform the Committee that the Board sent a copy of the proposed legislation to each licensed in-state dentist and dental hygienist requesting input. We received input back from two dental hygienists and four dentists.

The Board would ask that each of you keep in mind that the practice of dentistry and dental hygiene is a privilege granted under the laws of the state of Montana and is not a natural right of individuals, therefore, the board goals are to maintain quality dental care for the public and to provide supervision of all dental practitioners and dental hygiene practitioners in the public interest.

The Board believes that this proposed legislation will benefit and protect the public as well as the profession.

Dr. Thomas and Jeannette Buchanan, both members of the Board of Dentistry, are here to provide the committee with specific statements of what this legislation will accomplish.

I also make myself available for questioning by the committee.

THANK YOU...

3-14-83

Hobson, Montana

423 5331

Board of Dentists

HB 689

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mrs. Jeanette S. Buchanan RDM DATE: 3-14-83

ADDRESS: Box 220 Columbia Falls MT 59912

PHONE: 842-5997 F-Sat-Sun.-Mon

REPRESENTING WHOM? Board of Dentistry

APPEARING ON WHICH PROPOSAL HB 699

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY BEFORE THE COMMITTEE ON
PUBLIC HEALTH, WELFARE AND SAFETY
SENATE
MONTANA LEGISLATURE

RE: Hearing on House Bill 699

DATE: March 14, 1983

A STATEMENT OF SUPPORT by the dental hygienist member of the Board of Dentistry.

Mr. Chairman and Committee Members:

I am Jeannette S Buchanan, R.D.H. a licensed and practicing dental hygienist in the state of Montana. I am currently serving on the Board of Dentistry for Montana and on the Board of Directors of the Western Regional Examining Board, a testing service for dental hygiene and dentistry. I am the chartering member and a past president of the Montana Dental Hygienists' Association and a past president of the American Dental Hygienists' Association.

I am writing in support of House Bill 699 which was introduced by Representative Cal Winslow of Billings District 65.

The Board of Dentistry has the responsibility of assuring that dental hygienists and dentist have the skill to provide the public with adequate care. The Board sets and approves requirments and standards of education and practice.

The amendment to 37-4-401 states more clearly the practice of dental hygiene.

The amendments to 37-4-402 are consistant with changes to 37-4-301 for dentistry. These give the Board more information on which to determine qualifications of the applicant for licensure.

The amendment to 37-4-404 deletes paragraph (3) which has a provition for tempory license in dental hygiene without reciprocity. It has been the experience of the Board that in practice this has not been satisfactory in assuring adequate care to the public. This would be constistant with 37-4-306 for dentistry.

Amendments to 37-4-406 are constistant with the changes to 37-4-307 for dentistry. These more clearly define procedures for license renewal, giving the Board authority by which to develop means to assure continued competency in providing adequate care to the public. This is an area of growing complaint from the consumers of dental care.

Amendments to 37-4-408 relieves the Board of making mandatory rules for unlicensed auxiliary personnel.

Thank you for this opportunity to appear before you. I am available to answer any question you may have.



Montana Dental Hygienists' Association

*Mary Ann Elliott
6-7-41*

THE SENATE COMMITTEE ON PUBLIC HEALTH

Montana Legislature

HOUSE BILL 669

STATEMENT IN SUPPORT BY THE MONTANA DENTAL HYGIENISTS' ASSOCIATION

Section 5. 37-4-401. It is the opinion of the Montana Dental Hygienists' Association that the previous wording in this section was awkward, confusing, and not descriptive of the services performed by a dental hygienist. The proposed amended section is a clear, concise statement outlining the practice of dental hygiene.

Subsection 2. This line eliminates the confusion regarding the allowable functions of root planing and subgingival curettage. These procedures are considered surgical procedures, but are standard allowable functions of the dental hygiene profession, justified through education and licensure.

Section 6. 37-4-401. (5h) (7). The amended sections equate licensing procedures for dental hygienists with those of dentists. The MDHA wishes to establish licensing procedures which are standard for all members of the licensed dental profession in Montana.

Section 7. 37-4-404 (3). The MDHA supports the deletion of temporary licenses for dental hygienists due to the fact that no temporary licenses are granted to the dental profession. This is in accord with our feelings regarding standardization of licensure. The increased availability of the state board exam has enabled applicants the opportunity to take the exam several times a year, thus decreasing the need for temporary licenses.

Section 8. 37-4-406 (1-8). These subsections allow for further standardization of licensure regulation comparable to the corresponding sections concerning dentists. MDHA feels that all licensed dental professionals should be subject to identical licensing regulations.

NAME: Bill Verwoof DATE: 3-14-83

ADDRESS: Helena

PHONE: 442-9920

REPRESENTING WHOM? City of Helena

APPEARING ON WHICH PROPOSAL: HB 699

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: _____

Amend to remove restrictions on local
government licenses as shown on attached.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Exhibit 6

CITY OF HELENA

TESTIMONY ON HB 699

There are two bills before this Legislature (HR 465, and HB 699) that include a proposal to extend the prohibition of local government licensing to those local governments with self government powers. We did not testify against these bills in the House of Representatives committee hearings because this change was a minor portion of a larger bill, and was not noticed in time.

While we agree that local governments should not be regulating the industries involved through ethical or professional requirements for licensing, there is no reason that these businesses should be exempt from a local general business license. Local governments issue general business licenses under police powers and to aid in financing the extra costs associated with services provided to business areas. The exemption of these businesses does not seem appropriate where their neighbor's business, for example a retail store, is required to be licensed.

The local government licenses in no way duplicate or expand the regulatory function performed by the State in its licensing requirements for these professions.

The local government also does not license the individuals but the business itself.

We recommend, therefore, that the provision prohibiting licensing by local governments in each of these bills be amended out in its entirety.

We are not opposed to any other sections of these bills.

The amendments we propose are as shown on the attached sheet.

PROPOSED AMENDMENTS TO HB 699

Page 1, Line 15, 16, and 17

Delete: "prohibiting a license fee ~~or-business-tax~~ on dental hygienists by a local government and clarifying the similar prohibition for dentists;"

Page 1, Line 15 and 16

Insert: "Removing prohibition of local governments from requiring business licenses;"

Page 8, Lines 6 through 10

Delete entire paragraph (Section 37-4-307 (7)) of

Page 15, Lines 22 through 25

Delete entire paragraph (Section 37-4-406 (8))

NAME:

Al Teller

DATE:

ADDRESS:

PO Box 1198

PHONE:

657-8430

REPRESENTING WHOM?

city of Bell

APPEARING ON WHICH PROPOSAL:

699

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

Want to eliminate the
restriction on local govt taxing
the dentist profession.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

QUESTIONS AND ANSWERS ON HB321

Exhibit 8
Roger Lipp

1. WHAT IS THE PROBLEM?

Blue Shield health insurance plans will cover a particular service or procedure if an M.D. physician does it but not if a D.D.S. dentist does it. Dentists consider this policy discriminatory.

2. HOW DOES THE BILL ADDRESS THE PROBLEM?

It prohibits health service corporations from disallowing payment to a dentist for any service they would reimburse a doctor for.

3. WHAT ARE SOME PROCEDURES IN THIS AREA OF OVERLAP?

Oral surgery, setting fractures of the jaw, treating inflammation of the saliva glands, adjusting the temporomandibular joint (TMJ) are examples.

4. HOW DOES THIS AFFECT BLUE CROSS?

Not at all, because Blue Cross has already agreed with the Montana Dental Association to put this policy into effect.

5. WHY DIDN'T BLUE SHIELD AND THE DENTISTS WORK OUT A SIMILAR UNDERSTANDING?

Last year Blue Shield rejected the dentists' request to adopt this policy, stating that it would increase utilization of certain services and force costs up.

6. WILL THIS BILL INCREASE THE COST OF HEALTH INSURANCE?

No! If a Blue Shield group does not wish to cover a particular procedure, such as treating inflammation of the saliva glands, its contract with Blue Shield states that the procedure is excluded - physicians won't be paid for it and dentists won't be paid for it.

SLB black

DATE: _____

115 Wkash, Blvd.

587.0767

MTA

321, 699

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Exhibit 9

HOUSE BILL 200
STATE HAZARDOUS WASTE CLEANUP FUND

"An act to authorize the Department of Health and Environmental Sciences to cooperate with the Federal Government in implementation of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to remedy the release of hazardous substances and contaminants into the environment; and providing an immediate effective date."

This bill enables the state, in cooperation with the Federal Government, to begin remedial cleanup actions of hazardous chemical waste sites listed on the Environmental Protection Agency's (EPA) national priority list.

This bill authorizes use of funds for all Montana priority sites for the next biennium, from the junk vehicle trust fund.

Below you will find an outline of issues surrounding and creating the need for this legislation.

A) EPA Priority List

1) 418 sites nationwide

Four in Montana:

Anaconda

Libby

Milltown

Silver Bow Creek

State Hazardous Waste Cleanup Fund
Page Two

B) Federal 'Superfund'

- 1) created by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).
- 2) derived from taxes on petroleum and chemical production and from the general revenue fund.
- 3) gives 90% federal funding to cooperating states who assure:
 - a) 10% state or local funding - state must be authorized for 100% of the budget.
 - b) a hazardous waste disposal site meeting requirements of Presidential and Solid Waste Disposal Act.
 - c) future maintenance of removal and remedial actions.
- 4) allows EPA to sue the party responsible for the toxins for up to three times (3x) the clean-up costs.

C) CERCLA

- 1) complements the Resource Conservation and Recovery Act of 1976 (RCRA) which establishes management to prevent health hazards from toxic waste.
Both CERCLA and RCRA are Federal statutes.
- 2) authorizes the management of currently hazardous sites.

State Hazardous Waste Cleanup Fund
Page Three

D) Montana has a hazardous waste act similar to RCRA, but no statute enabling the clean-up of exposed wastes.

E) Update on Montana sites

1) known responsible parties, clean-up underway - no appropriation or authorization of state funds needed:

- a) Anaconda smelter - Anaconda Company cooperating;
- b) Libby - St. Regis Company cooperating.

2) no known responsible parties, therefore, requiring state/federal cooperation to provide remedial action and investigate waste origin. Authorization and appropriation of state funds needed.

- a) Milltown - Arsenic and heavy metals in ground water;
- b) Silver Bow Creek - Arsenic, heavy metals and phosphate in tailings and stream water.

F) Funding

1) For 1984-85, bill authorizes expenditures from Junk Vehicles Trust Fund, 75-10-532, MCA. Solid Waste Bureau budget proposal ~~earmarks \$220,000 for the Milltown and Silver Bow Creek Projects~~ - all unspent monies shall revert to the junk vehicle

State Hazardous Waste Cleanup Fund
Page Four

ERA at the end of the biennium. The balance of the junk vehicle account stands at about \$1.5 million.

- 2) after 1985 - Resources Indemnity Trust Fund interest could be used.

- a) 15-32-102, MCA

"It is the policy of this state to provide security against loss or damage to our environment from the extraction of non-renewable natural resources."

- b) 15-38-203, MCA

"any funds made available under this chapter shall be used and expended to improve the total environment, and rectify damage thereto."

- c) of the \$35 million dollar trust account, only interest may be spent. A 1981 amendment authorized 30% of the interest for water development. The remaining 70% reverts to the general fund. Interest grows about \$3 million per year. After the 1984-85 biennium, Superfund monies could be appropriated from the interest.

Duties of the Department of Health and Environmental Sciences during the remedial actions includes:

- 1) data gathering and lab samples;
- 2) identification of responsible parties;
- 3) negotiation/enforcement coordination with responsible parties;
- 4) identification of cleanup options;
- 5) compiling detailed cost analysis;
- 6) conducting cost/benefit analysis;
- 7) coordinating of cooperative agreement with EPA;
- 8) monitoring cleanup contractors or consultants;
- 9) coordinating public participation activities.

NAME:

Eric R. Andersen

DATE:

3/14/83

ADDRESS:

Gogswell Bldg

PHONE:

9-2821

REPRESENTING WHOM?

DHES

APPEARING ON WHICH PROPOSAL:

HB 200

DO YOU:

SUPPORT?

L

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STATE SUPERFUND

In 1980 the U.S. Congress passed the "Comprehensive Environmental Response, Compensation, and Liability Act" (CERCLA, sometimes called "Superfund") to address the need for clean-up and remedial actions at sites impacted by past actions involving the dumping of hazardous substances. This legislation was introduced and passed to supplement the federal "Resource Conservation and Recovery Act of 1976" (RCRA), which deals with the present tense management (or mismanagement) of hazardous waste materials. RCRA prevents the development of environmental damage from present and future hazardous waste activities, while CERCLA is designed to address the problems resulting from past dumping practices.

Montana has state legislation comparable to RCRA--the Montana Hazardous Waste Act, Title 75, Chapter 10, Part 4, MCA--and has an active hazardous waste regulatory program within the Department of Health and Environmental Sciences (DHES), but has no clean-up fund or statutory authority comparable to CERCLA. The EPA has delegated to DHES the authority to operate the RCRA hazardous waste program in Montana. Unlike RCRA, CERCLA does not provide for delegation of the full program to individual states, but it does provide, in Section 104(c) and (d), that a state must enter into contracts or cooperative agreements with the federal government on a site-by-site basis before CERCLA dollars may be spent on site remedial activities.

CERCLA established a federal "Superfund," provided by a tax on petroleum and chemicals production, which may be used for site clean-up and remediation activities. Use of the fund requires that the state make three assurances: 1) pay 10 percent of planning and clean-up costs; 2) guarantee that an approved hazardous waste disposal site is available for clean-up wastes; and 3) pay for any necessary long-term monitoring and care.

Superfund dollars are spent when a responsible party cannot be found and/or cannot afford to do the necessary clean-up. Before any clean-up is started, a detailed investigation must be performed to determine the exact cause of the problem and the extent, develop options as to how to address the clean-up, and develop projected costs for each of the clean-up options.

Montana presently has four hazardous waste sites on the Superfund National Priority List (Silver Bow Creek, Anaconda smelter, Libby ground water, and Milltown ground water).

The DHES estimates the front-end administration, planning, engineering contracts, and matching requirement to cost \$208,562 for the 84-85 biennium. This amount with the 90 percent matching funds available from EPA will fund \$2,083,280 worth of site investigation and remedial action during the biennium.

The DHES does not presently have funding or personnel available to even investigate each of these sites to determine what the options or costs for clean-up or remedial actions are. One person will have to be hired on an as-needed basis to implement any action on any of the potential sites. That person's duties would include:

- 1) Data gathering including laboratory samples

- 2) Identification of responsible parties
- 3) Negotiations/enforcement coordination with responsible party, if applicable
- 4) Identify clean-up options
- 5) Identify detailed costs for options
- 6) Perform cost/benefit analyses for options
- 7) Coordinate cooperative agreements with EPA
- 8) Monitor contracts with consultant and/or contractors
- 9) Conduct all necessary public participation activities

Superfund provides for lawsuits that enable EPA to sue a responsible party for up to three times the cost of clean-up if the responsible party refuses to accept the liability. In most cases this threat is encouragement enough to get the responsible party to finance any necessary testing, planning and clean-up. But in the cases where no one can be identified, the costs incurred by the state will not be reimbursed.

Funding

The DHES proposes that for the 84-85 biennium the funds be appropriated from the junk vehicle earmarked revenue account established by Section 75-10-532, MCA. Any unspent money will be returned to the junk vehicle earmarked revenue account at the end of the biennium.

The Anaconda smelter and Libby ground water sites have known responsible parties, so DHES does not anticipate incurring any costs for clean-up. There will be some professional and legal staff time required to monitor the clean-up activities. The Milltown and Silver Bow Creek projects are not as straightforward, and no responsible parties have yet been identified. The following budget describes where the requested funds will be spent.

Proposed Budget

	<u>FY1984</u>	<u>FY1985</u>
Personal Services	25,485	26,274
Operating Expense	1,015,496	1,015,496
Equipment	529	--
Total	1,041,510	1,041,770

Source of Funding

Junk Vehicle Account	104,151	104,411
EPA	937,359	937,359
Total	1,041,510	1,041,770

Of the total, approximately \$125,282 is for professional and consultant services that are to be spent according to the following estimate for each site each year:

<u>Project Phase</u>	<u>State</u>	<u>EPA</u>	<u>Total</u>
Investigation	9,396.15	140,603.85	150,000.00
Remedial Option Development	9,396.15	140,603.85	150,000.00
Implementation/Clean-up	12,528.20	187,471.80	200,000.00
Totals	31,320.50	468,679.50	500,000.00

With the 90 percent EPA/10 percent State cost sharing formula, the DHES needs \$1,041,510 spending authority to handle the expenditure of both the state share (\$104,151) and the EPA share (\$937,359) for FY1984. For FY1985 the DHES requests \$1,041,770 spending authority to cover State (\$104,411) and EPA (\$937,359) shares.

DATE: 3/14/83

Box 355, Milltown, Mont

258-6082

Miltoon Water Users Assn

NB 200

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WE THE UNDERSIGNED SUPPORT IMMEDIATE PASSAGE OF THE STATE
SUPERFUND BILL (H.B. 200) AND THE STATE HAZARDOUS WASTE
BILL (S.B. 56) SO THAT MILLTOWN CAN HAVE CLEAN WATER.

Exhibit 11

NAME

ADDRESS

Jechy Fascione	2025 Kensington Mla
Diana Schwab	7940 Zangg
Ingrid Erickson	7935 Zangg
Jim Erickson	7935 Zangg
Robert A. How	7930 Zangg
Hazel Karkanen	Box 86 Milltown
Mary Kuntz	865 W. Riverside Dr
Ruth A. Thorsvult	6790 Hwy 10 E
Pearl Thorsvult	Box 155 Milltown
Julia B. Van Halt	Box 144 Milltown
Mr. James A. Dixon	2417A West Central, Mla
Velma Leimann	2225 W. 1st Ave, Mla
James A. Wilson	2717A West Central Mla, Mont
Edward A. Ziegen	1335 Clark St Mla MT
Charles E. Gendron	Box 113 Milltown West Riverside
Frederick O. Giles	7700 Flagler Rd #19 Mla, Mont
Candida P. Kang	7700 Flagler Rd. Mla, Mont
Yvonne E. Nyquist	10500 Highway 10E Mla, Mont
Charles T. Nyquist	10500 Highway 10E Mla, Mont
Mary Wicklund	Box 5101 Ponder MT

Signatures collected by Missoula Peoples Action, March 8, 1983

Exhibit 12

WE THE UNDERSIGNED SUPPORT IMMEDIATE PASSAGE OF
THE STATE SUPERFUND BILL (H.B. 200) AND THE STATE
HAZARDOUS WASTE BILL (S.B. 56) SO THAT MILLTOWN CAN
HAVE SAFE DRINKING WATER.

NAME

ADDRESS

Daniel Johnson	Box 513 Bonanza, MT	59823
Larry Perrine	Box 142 Milltown	59851
Ernst Storch	Box 509 Bonanza, MT	59823
Donnie Dush	Box 223 Milltown MT	59851
Arthur Dush	Box 223 Milltown MT	59851
Michael E. Hurt	Box 194 " "	"
Howard Perrine	Palomares	59823
W. H. Brown	Rt 4 W. Riverside	MSLA, MT 59801
John L. Miller	Rt 4 W. Riverside	MSLA, MT 59801
John W. Smith	Bonanza, Mont.	
Charles Jackson	Bonanza, Montana	
Josephine Kivick	Milltown, Mont Box 25	
Leola E. Kivick	" " "	
Jim Harrison	4350 EDGEWOOD	MSLA, MT 59802
Lee B. Jarvep	955 9th St. West Riverside	
Lisa Kluscher	Box 8771 MSLA	59807

Signatures collected by Missoula Peoples Action, March 8, 1983

Mike Karlson	Box 303 W. Riverside	MT 59851
Pat. Scriven	7890 ZANCK DR.	MT 59802
Metro Matt	1205 - 2nd st Pine Grove	
	MSLA Mont.	59802

C. J. Helit R

WE THE UNDERSIGNED SUPPORT IMMEDIATE PASSAGE OF THE STATE
SUPERFUND BILL (H.B. 200) and the STATE HAZARDOUS WASTE
BILL (S.B. 56) SO THAT MILLTOWN CAN HAVE SAFE WATER.

NAME

ADDRESS

Larry E. Moberg	935 3rd St RTH
Mr. [unclear] Bonner	
Kenneth A. Wade	Milltown, MT 59851-0246
Mae Levesque	Milltown MT 59851
Bill [unclear]	Milltown MT 59851
Sharon G. Smith	Milltown, mt. 59851
William H. McHenry	950-5th St., W. Rd 3d Missoula MT
John Keller	Box 323 Milltown MT. 59802 2nd St.
Harold Lamm	9520 Cross St Bonner, MT
Ruby B. Larson	Piltzville 9520 Cross St Missoula, MT
Rick D. Larson	46 1st W Bonner, MT 59802
Albert W. Dufresne	3190 BUTTREY LN. MISSOULA
Anne E. [unclear]	2190 Buttreys Lane
Kenneth G. Grette	Box 523 Bonner MT
Beverly G. Hendell	9523 Cross St Piltzville
Joe Devlin	Box 519 Bonner MT
Kay Devlin	Box 519 Bonner MT
Kelsey Devlin	Box 519 Bonner MT

Signatures collected by Missoula Peoples Action, March 8, 1983

NAME :

DATE: 14 Mar 83

ADDRESS:

PHONE: 721 5700

721 5700

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL: HB 200

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS: _____

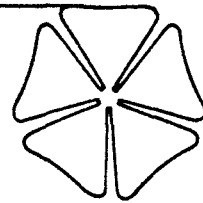
COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Er Hilut 14

MISSOULA CITY-COUNTY HEALTH DEPARTMENT

301 West Alder • Missoula, Montana 59802 • Ph. (406) 721-5700



March 14, 1983

MEMO TO: Senate Public Health Committee

FROM: Missoula City-County Health Department
Missoula City-County Board of Health

SUBJECT: House Bill 200

The Missoula City-County Health Department and the Board of Health fully endorse HB 200. Passage of this Bill is critical to Montanans trying to cope with the serious problems associated with abandoned hazardous waste sites. At this time, the Environmental Protection Agency (EPA) has identified four such sites in Montana for priority attention under the Federal "Superfund" law. In addition, EPA is considering several other Montana areas as potential Superfund candidates.

This Bill provides the enabling legislation necessary for the State of Montana to obtain ninety percent (90%) financing from EPA to investigate and remedy risks from hazardous waste sites. Without this financial assistance, remedial action might not be feasible in many instances. Through the cooperative agreements made possible by this Bill, Montanans may gain employment as consultants or contractors engaged in the many activities needed to clean up chemical wastes.

For Missoula's Milltown residents, this Bill would provide a way to obtain safe drinking water that has not been available for over a year. It would offer great relief to many individuals who have searched for funding, equipment or services to eliminate the health hazards presented by an arsenic-contaminated water supply. During the past year we have seen Milltown's residents explore numerous avenues in their search for clean water. Knowing the many difficulties they encountered in these endeavors, passage of this legislation gains even greater significance.

Again, we offer full support for passage of HB 200. We feel confident that this legislation provides a means to eliminate both current and potential serious health and safety problems resulting from releases of hazardous wastes.

APPROVED:

BOARD OF COUNTY COMMISSIONERS

Barbara Claus Chairman
Deb Palmer

Phil Tourangeau
Phil Tourangeau, Chairman
Board of Health

Elaine Bild
Elaine Bild, Director
Environmental Health

NAME: Karen Barclay DATE: 3-14-83

ADDRESS: PO Box 4078 Butte 59702

PHONE: 406-494-6319

REPRESENTING WHOM? Multitech

APPEARING ON WHICH PROPOSAL: NB 200

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: We support NB 200 And the proposed
amendment to utilize the RIT for
continued funding.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



Exhibit 15

MULTITECH, INC.

TECHNOLOGY SERVICES

TO: Chairman and Members of the Public Health, Welfare, & Safety Committee

FROM: Karen Barclay

RE: Testimony in Support of House Bill 200, 48th Legislative Session - 1983

The State of Montana has been a national leader in ensuring adequate environmental protection and in mandating measures to protect the health and safety of its citizens.

Following in that tradition, H.B. 200 is a timely and important piece of legislation which will allow the people of Montana to receive the benefits of federal legislation designed to provide for the disposal and control of hazardous substances at specific sites where they pose significant health hazards.

Existing federal "superfund" legislation provides for cleanup of hazardous waste sites based on 10% state matching funds with 90% provided by the existing superfund. Initially about 400 potential superfund sites nationwide were designated by EPA; four of the sites are in Montana. Late in 1982 EPA ranked these sites and published a list of the top 100 hazardous waste sites in the country; two of these were in Montana including the top ranked site in the western states - Silver Bow Creek.

Recent events in such places as Times Beach, Missouri have shown what can happen when potentially hazardous conditions are left unmitigated. There, flooding coupled with dioxin contamination have turned the potential problem sites into imminent health and safety hazards. An example here in Montana is the recent findings of arsenic and heavy metals contamination in the drinking water of Milltown residents. As in these examples, hazardous waste problems do not take care of themselves but in many cases the conditions deteriorate with time. Often the problem is not recognized until it threatens public health and safety or poses irreversible damage to the natural environment.

In summary, we strongly support this bill to allow the State of Montana to take an active role in directing the necessary investigations and implementing remedial measures for cleanup of hazardous waste sites in Montana. The legislature will be meeting it's responsibility in protecting the health and welfare of present and future generations. Passage of this bill is a necessary first step in allowing the State of Montana to receive federal matching funds to ensure the protection of public health and safety from hazardous wastes.

Post Office Box 4078, Butte, Montana 59702

(406) 494-6319/FTS 587-6319

MEIC Testimony in Favor of HB 200

3/14/83 Senate Public Health Lucianne Brigger

The Montana Environmental Information Center supports HB 200 to allow the state Solid Waste Management Bureau's hazardous waste program to cooperate with the federal Environmental Protection Agency in implementing the "Superfund" program. Our reasons follow:

1. In view of EPA and state evaluations of hazardous waste sites in Montana, there is no question as to the compelling need to expedite implementation, in Montana, of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

2. That implementation cannot begin without this bill, nor can the state help in implementing the law without this enabling legislation. The state must have this cooperative agreement to participate.

3. The state must put up a 10% match for federal money to be spent here. The state must put money up front on cases where a responsible party has not been identified. This is the case for at least 2 sites in Montana, and more such sites may be discovered. If a responsible party were identified later, the state could be reimbursed for its expenses.

4. An appropriation to this fund is essential, and must be guaranteed for years after the next biennium. Therefore, we support Rep. Ream's amendment to earmark a designated percentage of the RIT fund for the Superfund program, ^{the Hazardous Waste Program.}

5. With this bill, the state would have the lead role in cases where a responsible party has not been identified. The state should have as much authority as possible to guarantee citizen involvement, and to guarantee that the best clean-up methods are used to assure longer-term, rather than short term solutions.

6. Work at the Milltown site can begin immediately upon passage of this bill, and work at other sites will be expedited. The sooner the state has its program and appropriation in order, the sooner work will begin with EPA.

We urge your immediate adoption of HB 200.

NAME: Jim Dunn

DATE: 3/14/83

ADDRESS: Federal Building

PHONE: 9-5414

REPRESENTING WHOM? EPA

APPEARING ON WHICH PROPOSAL: H.B. 200

DO YOU: SUPPORT? _____

AMEND? _____

OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Dawn A. North DATE: 3/14/83

ADDRESS: 914 Breckenridge Helena, Montana

PHONE: 443-4284

REPRESENTING WHOM? League of Women Voters of Montana

APPEARING ON WHICH PROPOSAL: HB 200

DO YOU: SUPPORT? ✓ AMEND? ✓ OPPOSE?

COMMENTS: Mr. Chairman and members of the
committee the League of Women Voters of Montana
supports the participation of Montana in the
Superfund (CERCLA) program. However in regards
to the funding we generally do not support special
earmarked accounts.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

MARCH 14, 19 83

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE Bill No. 200

REAM (HAGER)

Respectfully report as follows: That HOUSE Bill No. 200

blue copy

~~DOXMASSE~~ BE CONCURRED IN

J.C.

STANDING COMMITTEE REPORT

MARCH 14,

1983

MR. **PRESIDENT:**

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**

having had under consideration **HOUSE** Bill No. **321,**

SEIFERT (JACOBSON)

Respectfully report as follows: That **HOUSE** Bill No. **321,**
blue copy be amended as follows:

1. Page 1, line 16.

Strike: "in effect"

Insert: "issued or renewed"

**And as amended,
BE CONCURRED IN**

~~DO PASS~~

HC