### MINUTES OF THE MEETING HUMAN SERVICES AND AGING COMMITTEE 50TH LEGISLATURE

January 29, 1987

The meeting of the Human Services and Aging Committee was called to order by Chairman Budd Gould at 12:30 p.m. on January 29, 1987 in 312D of the State Capitol.

ROLL CALL: All members were present.

### CONSIDERATION OF HOUSE BILL 347:

REP. HARPER introduced the bill. He presented the bill to aid the Department of Health and Environmental Sciences to do their statutorily appointed duty to make sure the citizens of the state had an adequate supply of clean water and ways to dispose of sewage. He pointed out the loopholes that violators can use to avoid the intent of the acts. The bill provides for the administrative enforcement procedure for the Department of Health. He said that it costs the department more money to make the person comply with the law and that an incentive needs to be in place.

### PROPONENTS:

STEVE PILCHER, chief of the water quality bureau for Department of Health and Environmental Sciences, spoke in support of HB347. He said the department requested the bill due to a growing problem associated with implementation of Montana law regarding public water supply. He said that increasing flexibility was requested to respond to differing situations that posed a threat to public health and safety to persons dependant to public water supply. The magnitude of public health threat varies and the response should have the flexibility. He pointed out that problems can often be solved by a phone call, letter, or personal visit. fails the department requests authority for administrative order requiring compliance with the law. Violators would have the opportunity for a hearing before the department. He said the bill also requests the authority to seek a civil penalty through the district court system as a further enforcement tool to encourage compliance. He said corrective measures in three areas of non-compliance would be in the bill. These are water systems without notification and approval of the agency, approved plans but substandard system, and systems that pose a threat to public He pointed out that a lot of time was spent with systems that were illegally constructed. (Exhibit 1)

OPPONENTS: There were no opponents.

REP. HARPER closed on HB327. He said the bill was intended to give the department to tools to enforce the law.

#### QUESTIONS FROM THE COMMITTEE:

REP. CODY questioned Mr. Pilcher about the approval of systems whether allowances would be made.

STEVE PILCHER replied that the intent of the safe drinking water act requires a plan be submitted. He said that resources were not available to conduct on site inspections on each facility. Notification that the project is completed is required. He pointed out that some counties have adopted subsurface disposal system regulations that specifically require a representative from the county health department to inspect the system.

REP. CODY said she had concerns over the \$5,000 penalty. If the department has trouble communicating with the public, someone could get stuck with the \$5,000 due to lack of communication.

CHAIRMAN GOULD asked if drinking water and sewage water were in the same bill.

STEVE PILCHER replied that Montana law require the same review and approvals for waste water systems and water systems. He said engineers, if it is a public system, are required to certify within 90 days of completion of the system, placing his professional licence on the line, that the system that went in the ground was the same system that had been approved. He referred to HB347, page 3, line 21, section 2, concerning constructing according to the plan.

REP. SIMON pointed out the violation could add up for each day at \$5,000.

STEVE PILCHER said that was an option but was not realistic to seek the maximum civil penalty for each day. He said that was impractical but that actions could be taken if the engineer has falsely certified the completion of that project.

REP. RUSSELL asked Mr. Pilcher about the jurisdictional issue in regards to Indian reservations. Mr. Pilcher replied that problems were not allowed to drop through the cracks. He said if the agency does not have jurisdiction on tribal lands then the EPA does have jurisdiction and would enforce the same requirements. He pointed out that there would be no delay for the service. He said the Montana

Operations Office of the Environmental Protection Agency works on environmental programs.

REP. CORNE' asked about section 3, page 3, concerning determination by the department of systems not constructed according to approval if the department requires compliance including standards currently applicable to those systems. He said what if the system was constructed fifteen years ago.

STEVE PILCHER said they normally apply the standards that were in effect at the time the individual received the necessary approval. He said that enforcement capability would be strengthened for the department.

### CONSIDERATION OF HOUSE BILL 348:

REP. HARPER introduced HB348. He said the bill amends the Safe Drinking Water Act and clarifies that plans must be submitted to the department and must be approved.

### PROPONENTS:

STEVE PILCHER, representing the Department of Health and Environmental Sciences, testified in support of HB348. He stated that the bill provides clarification as to the intent of the public water supply law. He said there were numerous cases where construction had begun immediately after submitting plans. The bill clarifies that it is the intent to have the approval first before construction. He said that would allow for review and to insure that the system is properly engineered and safe from a public health standpoint and prevents wasted expenditures by constructing a system that does not meet standards.

OPPONENTS: There were no opponents.

### QUESTIONS FROM THE COMMITTEE:

CHAIRMAN GOULD asked Steve Pilcher about the average time frame for projects to be approved. Steve Pilcher replied that average time was one to three weeks or sooner if the situation warrants it.

REP. HANSEN asked about the application. Steve Pilcher explained that detailed plans and drawings and written specifications would be submitted to the office.

REP. PATTERSON asked about farmers and ranchers that maintain their own wells and septic tanks. Steve Pilcher said the bill deals with public systems.

REP. CODY questioned whether there was an engineer in the department that reviewed the applications. Steve Pilcher said that sanitarian engineers in the department reviewed the plans.

### CONSIDERATION OF HOUSE BILL 455:

REP. MILES, House District 45, introduced HB455. She said the bill was called the nursing home bill of rights and was at the request of the Governor's office. She said the bill would establish rights for long-term care residents. She pointed out that the rights have been adopted federally but needed state rights that could be extended to include personal care facilities and facilities not receiving federal funds. She said that the emphasis in the bill was to educate residents and staff about rights including training.

#### PROPONENTS:

CHARLIE BRIGGS, state aging coordinator from the office of Governor, testified in support of establishing in Montana law the resident rights for long-term care facilities. He said that this was priority bill at the request of the Governor.

ROSE SKOOG, Montana Health Care Association, spoke in support of the bill. She said this was a regulatory bill but the facilities recognized the rights.

DOUG BLAKELY, state long-term care Ombudsman, testified in support of the bill. He discussed the ombudsman program that would deal with problems with resident rights. He said this bill would meet consumer and resident needs.

MOLLY MONROE, representing American Association of Retired Persons, spoke in support of the bill. She said the bill is for the benefit of long-term care residents. She pointed out the importance of training employees.

DOUG CAMPBELL, from Missoula and state board member of Montana Senior Citizens Association, supports HB455.

OPPONENTS: There were no opponents.

REP. MILES closed on HB455. She said the legislation would benefit both the staff and the residents of the homes and clarifies rights.

### CONSIDERATION OF HOUSE BILL 462:

REP. MILES introduced HB462. She explained that the bill proposed amendments dealing with services with physically disabled people. She said the program, in order to receive federal monies, requires that the program serve individuals with both physical and mental disabilities. She pointed out an investigation by the region 8 rehabilitative services for a non-compliance situation because of limitations wording. She said the word "physically disabled" was changed to "severely disabled".

MAGGIE BULLOCK, from the Department of Social and Rehabilitative Services, explained the changes proposed in the bill.

JIM SMITH, Montana Association for Rehabilitation, discussed the organization of rehabilitation counselors and the support of the bill.

STEVE WALDRON, representing the community mental health centers in Montana, said the people who need the services and are not getting them through other programs are the mentally ill. He discussed the chronically mentally ill clients that have lost their normal support such as family, friends.

OPPONENTS: There were no opponents.

#### QUESTIONS FROM THE COMMITTEE:

REP. SIMON asked about the addition of people being served. Maggie Bullock replied that it does add an extra 350 people. She explained that it was a 90/10 match, 200 thousand dollars in federal and 28 thousand in state dollars.

REP. SQUIRES referenced page 6, line 22, about cooperation with the Board of Nursing and services provided whether activities were being coordinated.

REP. MILES said there was no need for a fiscal note because it was not expanding the amount of money that was committed but expanded the people that could be considered eligible. She said that if the ten percent match was not expended on the state level then the federal money would not be available and there would be no money to administer the program. She pointed out the act was subject to available funds.

#### EXECUTIVE ACTION ON HOUSE BILL 462

REP. GILBERT moved DO PASS on HB462. He proposed an amendment, page 4, line 11, to strike the word "services" and insert "subject to available appropriated funding, services".

REP. KITTSELMAN moved to insert the proposed language. The question was called. The motion PASSED unanimously.

REP. GILBERT moved DO PASS AS AMENDED on HB462. The question was called. The motion PASSED unanimously.

### EXECUTIVE ACTION ON HOUSE BILL 347:

REP. HANSEN moved DO PASS.

REP. SANDS moved to amend the bill, page 1, line 17, strike "believes" and insert "reasonable cause to believe". Rep. Sands WITHDREW the amendment and instead moved to insert the word "finds". He commented that this would be subject to judicial review. The question was called. The motion PASSED unanimously.

REP. HANSEN moved to DO PASS AS AMENDED. Rep. Corne' proposed amending page 3, line 19, 20, "currently applicable" to say "at the time of approval" referring to construction plans. Lee Heiman suggested on line 19 to strike the word "currently" and line 20 after the word "systems" insert "applicable at the time of original approval" and on page 22 take out the word "applicable".

REP. SIMON added "at the time of construction". Lee Heiman read "including compliance with standards applicable at the time of construction of those systems".

The question was called on the amendment. The motion PASSED 15-3. (Roll Call #1)

REP. HANSEN moved DO PASS AS AMENDED. She pointed out that registered sanitarians were required to report violations to the Department of Health. She said the sanitarians had qualifications to correct the problem. The question was called. The motion FAILED 8-10 on a roll call vote. (Roll Call  $\pm 2$ )

REP. KITTSELMAN moved to reverse the vote to DO NOT PASS AS AMENDED. The question was called. The motion PASSED unanimously.

### EXECUTIVE ACTION ON HOUSE BILL 348:

REP. CODY moved DO PASS on HB348. The question was called. The motion PASSED with three NO votes. (Roll Call #3)

### EXECUTIVE ACTION ON HOUSE BILL 327:

REP. KITTSELMAN discussed the bill. He said the bill takes the right of a parent away to decide who has the body of an

infant child. It also exonerates the coroner or the state pathologist from legal liability for mutilation or violation of a dead infant. Rep. Kittselman moved to TABLE HB327. The question was called. The motion FAILED 9-9 with a roll call vote. (Roll Call #4)

CHAIRMAN GOULD recommended waiting on a fiscal note before any further action.

ADJOURNMENT: There being no further business the meeting was adjourned at 3:04 p.m.

BUDD GOULD, Chairman

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# DAILY ROLL CALL

# HUMAN SERVICES AND AGING COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1/20 29,1987

NAME	PRESENT	ABSENT	EXCUSED
REP. BUDD GOULD, CHAIRMAN	/		
REP. BOB GILBERT, VICE CHAIRMA	n /		
REP. JAN BROWN			
REP DUANE COMPTON	/		
REP. DOROTHY CODY	/		
REP. DICK CORNE'	/		
REP. LARRY GRINDE	. /		
REP. STELLA JEAN HANSEN	/		
REP. LES KITSELMAN	/		
REP. LLOYD MC CORMICK	/		
REP. RICHARD NELSON	/		
REP. JOHN PATTERSON	/		
REP. ANGELA RUSSELL			
REP. JACK SANDS			
REP. BRUCE SIMON			
REP. CAROLYN SQUIRES	/		
REP. TONIA STRATFORD	<b>/</b>		
REP. BILL STRIZICH	/		

# STANDING COMMITTEE REPORT

	· 	JANUARY 20,	7ه 19
Mr. Speaker: We, the commi	ttee on HUMAN SERVICES	AND AGING	
report HOUSE BILL N			
☐ do pass ★ do not pass	☐ be concurred in ☐ be not concurred in	as amended     □ statement of	intent attached
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### ROLL CALL VOTE

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REP. BOB GILBERT, VICE CHAIRMAN		V
REP. JAN BROWN		
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REP. DICK CORNE'		
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REP. LLOYD MC CORMICK		
REP. RICHARD NELSON		
REP. JOHN PATTERSON	V	
REP. ANGELA RUSSELL		
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Secretary characteristics	,	
MOTION: REP. CORNE' moved to amend page 3. line	19 and 20	)
to read "including compliance with standards ap	plicable a	at the
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with 15 favorable and 3 opposing votes.		

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### ROLL CALL VOTE

HUMAN SERVICES AND AGING	COMMIT	TEE	
DATE JAN 29, 1987 BILL NO. HB # 347	NUMBER	_2	
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REP. JAN BROWN			<del></del>
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motion carried.	<del></del>	<del></del>	<del></del>

# STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on				onHUMAN	SERVICES	AMD	AGING	
report	HOUSE	BILL	NO.	348				
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### ROLL CALL VOTE

COMMITTEE

HUMAN SERVICES AND AGING

DATE JAN 29, 1987 BILL NO. HB # 348	NUMBER 3	
NAME	AYE	NAY
REP. BUDD GOULD, CHAIRMAN	·/	
REP. BOB GILBERT, VICE CHAIRMAN		
REP. JAN BROWN	V	
REP. DUANE COMPTON	/	
REP. DOROTHY CODY		
REP. DICK CORNE'		
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REP. CAROLYN SQUIRES		
REP. TONIA STRATFORD		
REP. BILL STRIZICH		
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Secretary	Chairman	
MOTION: REP. CODY moved DO PASS - the mot	ion CARRIED	with
13 favorable and 5 opposing votes		
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# STANDING COMMITTEE REPORT

				J.	ANUARY 29,	19 <sup>97</sup>
Mr. Speaker: We, the o	committee on _	HUMAR	SERVIC	E3 A	ND AGING	
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# STANDING COMMITTEE REPORT

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)	Mr. Speaker: We, the co	ommittee on	HAMEL	SERVIC	es and	AGING	
	report_HOUSE BILL	NO. 462					
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# ROLL CALL VOTE

HUMAN SERVICES AND AGING	COMMITTEE	
ATE <u>JAN 29, 1987</u> BILL NO. <u>HB # 327</u>	NUMBER 4	
NAME	AYE	NAY
REP. BUDD GOULD, CHAIRMAN	V/	<del></del>
REP. BOB GILBERT, VICE CHAIRMAN		
REP. JAN BROWN		
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REP. BILL STRIZICH		
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Secretary	Chairman	<del></del>
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OTION: REP. KITSELMAN moved to TABLE the b	ill - the mot	tion
FAILED on a 9 - 9 tie vote.		
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XHIBIT = >	
DATE 1-29-59	
1B # 547	

### DHES TESTIMONY IN SUPPORT OF HB 347 & HB 348

The Department of Health & Environmental Sciences requested these two bills to deal with growing problems associated with implementation of "Montana Laws Regarding Public Water Supply." In HB 347 we are seeking additional flexibility in our ability to respond to situations which pose a threat to the health and safety of persons dependent on a public water supply. Obviously the magnitude of a public health threat varies from case to case and our enforcement response should have the same flexibility. Normally a problem can be corrected by a phone call, letter or visit from our staff. If that should fail we are asking for the authority to issue an administrative order requiring compliance. The alleged violator would also have the opportunity for a hearing before the Montana Board of Health & Environmental Sciences.

This bill also requests the authority to seek a civil penalty through the district court system as an enforcement tool to encourage compliance. A review of four years of enforcement actions found that nearly 1/3 of our court actions required subsequent re-filing to achieve compliance. When a violator knows that the worst that can happen to them is that they will be required to bring their system up to the same standards that others must meet, there is little incentive to comply. Even if they are found guilty of a misdemeanor and are required to pay agency costs, the cost of continued violation is less than the cost of compliance. A civil penalty would serve not only as a penalty for the person found guilty by the court but also as a deterrent to others. If the majority of public water supplies are willing to spend the money necessary to comply with reasonable standards, then the person who

violates the requirements must not gain an economic benefit from noncompliance.

Another important feature of the bill is that it provides authority to require corrective measures in three areas of non compliance.

- 1. systems constructed without agency approval
- 2. systems which were not constructed in accordance with approved plans
- 3. systems which pose an imminent threat to public health

A considerable amount of our time and effort is spent dealing with systems that were illegally constructed. If people find that they can ignore the requirements of the law either by not telling us about a system or by telling us one thing and doing another, we have no control over public health protection. This legislation makes it clear that corrective measures must be taken to comply with applicable standards. Likewise, it makes it clear that systems posing a public health risk must take the necessary action to provide public health protection.

House Bill 348 simply provides clarification as to the intent of the Public Water Supply Law. The intent is to prohibit any construction on a new or modified system until plans and specifications are approved by DHES. Some persons have interpreted existing language to allow construction to proceed as soon as plans are submitted for review. The purpose of approval prior to construction is quite simple. First it is intended to ensure a good system from a public health and engineering standpoint, and secondly it is intended to prevent wasted expenditures on systems that do not meet current standards and would require rebuilding at a later date.



DATE 1-29 FT HB -4 348

Rep. Budd Gould, Chm. Human Services and Aging Comm.

Testimony on HB-348

Mr. Chairman, members of the Committee, for the record I am Richard Parks. I own a sporting goods store and outfitting business in Gardiner Montana. I am today representing two organizations. The Fishing and Floating Outfitters Association of Montana, of which I am President, has 227 members statewide. We are obviously vitally concerned by issues which touch on water quality as they have a direct impact on the viability of our businesses. I am also representing the Bear Creek Council, the Gardiner-Jardine affiliate of the Northern Plains Resource Council which also concerns itself with the maintenance of air and water quality amoung other concerns in this area on the northern boundry of Yellowstone National Park. I wish to support HB-348 as we believe it corrects weaknesses in the current law. Thank you.

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ELMER HAUSKEN	·	HB DATE: 29 Jan 87
1400 Highland Stree	et, Helena Montana 5	9601
8319		
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ON WHICH PROPOSA	AL:	
SUPPORT? X	AMEND?	OPPOSE?
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	American Support American Support American Support American Support American Support American	American Association of Re  ON WHICH PROPOSAL:  SUPPORT? X  AMEND?  Mr. Chairman, members of the committee, f Retired Persons (AARP. I am also a Sen aid volunteer registered Lobbyist for tommittee.  s you to pass the legislation in HB455 e Facilities in Montana. It is paramoun trained and taught the necessary methody. They must be able to communicate with reserve all levels of integrity.  nt the rights and rules be posted in a d the occupants be informed of them, to es have been communicated Communicated

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

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HUMAN	SERVICES	AND	AGING	COMMITTER

BILL NO.	HOUSE BILL NO.347	DATE JANUARY 2	9, 1987	
SPONSOR _	REP. HARPER			
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

	HUMAN	SERVICES	AND	AGING	COMMITTEE			
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BILL NO. HOUSE BILL NO. 34	DATE DATIONAL	29, 1907	<del></del>
SPONSOR REP. HARPER	<del></del>		
NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM. 
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HUMAN	SERVICES	AND	AGING	COMMITTER

BILL NO. HOUSE BILL NO. 45	DATE DANUARY	29, 1987	
SPONSOR REP. MILES			
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HUMAN	SERVICES	AND	AGING	COMMITTEE

BILL NO. HOUSE BILL NO. 46	2 DATE JANUARY	29, 1987	
SPONSOR REP. MILES			
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.