MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The meeting of the Human Services and Aging Committee was called to order by Chairman R. Budd Gould at 12:30 p.m. on Tuesday, March 10, 1987 in Room 312-D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Strizich who was excused.

CONSIDERATION OF SENATE BILL 246:

Senator Williams, discussed SB185 and the Ombudsman position. He said this bill would establish an office for the service and specify an ombudsman's powers.

PROPONENTS:

CHARLES BRIGGS, state aging coordinator in the Office of the Governor, supported SB185. He stated this addressed the issue. He pointed out a federal requirement that the states provide assurance of access for the ombudsman. He said the ombudsman program is a key component in the federal Older Americans Act that must be in place in order to receive funds under the act. These funds provide for senior citizens services, nutrition, transportation, in-home care and other services. (Exhibit 1)

DOUG BLAKELY, state long-term care ombudsman in Helena, distributed an overview of SB185 (Exhibit 2). He said placement and access were the two main components. He pointed out that access is necessary in order to assist with information and problems. He said the bill does not expand the program in any way and only deals with access to facilities and not records. Access through other rules and laws through Health and SRS is not available through their licensing laws.

ELMER HAUSKIN, representing the American Association of Retired Persons, supported SB185.

HANK HUDSON, legal services developer in the Seniors' Office, discussed the responsibilities of the services. He mentioned that placement was currently attached to the Department of Rehabilitative Services and the state unit on aging to enhance the independence of the ombudsman and to meet some requirements in the federal legislation. He said that SB185 will allow the continuation of this arrangement. (Exhibit 3)

ROSE SKOOG, executive director of the Montana Health Care Association, supported SB185. She said that this was a current program that was working. The facilities have the opportunity to utilize this program to help residents. It is not uncommon for a facility to see a problem with a family member, funds, or eligibility problem that a resident is experiencing.

BILL LEARY, representing the Montana Hospital Association and the 33 attached nursing homes across the state, testified in support of SB185.

HELEN MCNIGHT, a member of the Montana Senior Citizens Association, supported SB185.

TOM RYAN, senior citizen, mentioned the patient bill of rights and its progress in the legislature. He said the two go together and recommended passing SB185.

BOB BARTHOLOMEW, supervisor from the state unit on aging, presented testimony supporting SB185. He pointed out that the bill will establish an office of Legal and Ombudsman Services, as required by the Older Americans Act. The bill also makes it possible for the Ombudsman to have access to facilities to resolve complaints and advise residents of their rights. (Exhibit 4)

DOUGLAS B. OLSON, attorney from Helena, spoke in support of SB185. He recommended strengthening the bill to meet federal requirements. He pointed out that federal law specifies what the definition of a long-term care facilities. The bill as it is presented, only addresses those facilities which are licensed by the Department of Health and Environmental Sciences. He stated that the bill ignores board and care homes, which are required under the federal act to be subject to review by the Ombudsman program. (Exhibit 5)

OPPONENTS:

LENORE F. TALIAFERRO, opposed SB185 because of some of the components in the bill. She said that the bill did not comply with the federal requirements. She presented written testimony and attachments outlining her position. She suggested amending the bill to adequately cover the federal act requirements (Exhibit 6).

SEN. WILLIAMS closed on SB185. He said that the Ombudsman program intended to continue to provide friendly visitor service to the residents in the facilities. They provide a complaint bureau, or a customer service function, solving problems rather than enforcement. He pointed out that

problems that facilities can not get involved in themselves, the Ombudsman program can.

QUESTIONS FROM THE COMMITTEE:

REP. BROWN asked Bob Bartholomew to address the concern that the bill is not broad enough to meet the federal definition. Bob Bartholomew replied that every year the program was reviewed by the administration on aging, which is the federal agency that funds the Ombudsman services meals on wheels and other services. He stated that the program is not out of compliance currently and would enhance the duties in Montana. This legislation would make the Ombudsman services more accessible and finally puts it in statute.

REP. SIMON questioned the purpose of the legislation and the language describing isolated and vulnerable condition, dependant on others for care and protection. Charlie Briggs replied that isolation referred to being within an institutional facility. Doug Olson commented on the statement of purpose that the problems with residents in nursing homes and the reasons for Ombudsman programs is that frequently they are disabled and have mental and physical disabilities. Rep. Simon asked whether a person in a normal hospital situation would also fit in that criteria, being isolated, vulnerable, sick and unable to make decisions. Charlie Briggs said that people in a hospital are only for a short-term stay and people in nursing homes would be a home type setting that they would need continued services. Rep. Simon asked for clarification of the legal services. Mr. Hudson replied that each area agency on aging is required under the Older Americans Act to provide legal assistance to senior citizens who demonstrate unusual need or inability to obtain it otherwise. He said the services of the private bar, attorneys and legal services association are coordinated to make sure that when it comes to their attention of someone needing legal services then that service is provided.

REP. NELSON asked Doug Blakely about the written testimony that referred to access to nursing homes and the problems with personal care homes. Doug Blakely replied that the personal care licensing was ongoing and that access to the facilities had to be clarified.

REP. SANDS questioned the contingency on federal funds if the program were created and then federal funds stop. Charlie Briggs said that because of the status of state general fund, language was put in the bill to reinforce intent that it is dependant upon federal funds. It is federally funded and not dependant on state funds.

CONSIDERATION OF SENATE JOINT RESOLUTION 8:

SEN. KEATING said that HJR8 dealt with the developmentally disabled population of the state. He said there was a shifting in the population after determining that they could be better served in the communities through group homes and programs. He pointed out that there is a large population of un-served and under served developmentally disabled citizens in the state. He suggested an interim study or task force to watch the programs that are in place and help them serve the developmental disabled and to watch the measure putting all the developmental services together.

PROPONENTS:

TOM CROSSER, with the Governor's Office of Budget and Program Planning, served as a task force chairman that proposed the recommendations. He listed the people involved and the groups that helped accumulate the data. Recommendations to centralize the DD functions within one state entity are being instituted. Supported work services for citizens that are developmentally disabled and establishing services in the delivery system, including adult congregate living services, group homes, and specialized services are being developed. The task force felt that the facility at Boulder was to play a significant part in the delivery of DD services. He said that the mission of the Montana Developmental Center should be tailored to meet the most severely handicapped individuals with the most serious behavior, medical and care problems. (Exhibit 7)

CHRIS VOLINKETY, lobbying on behalf of the developmentally disabled people, providers, and consumer, testified in support of SJR8.

QUESTIONS FROM THE COMMITTEE:

REP. SIMON asked Sen. Keating for clarification of the support work services. Sen. Keating said that the developmentally disabled are taught to earn income or progress in their life. A method of developing an assessment procedure determines those who need the most help, least help, those served by different procedures. He pointed out there are areas of non-served that must be brought into the process.

REP. SIMON asked about the need for this resolution. Sen. Keating replied that the developmentally disabled program needed to be coordinated to not duplicate services, be efficient and not let anyone drop through the cracks. He said the service is an obligation to be delivered in society under the statutes.

CONSIDERATION OF SENATE BILL 252:

SEN. PAT REGAN, Senate District 47, presented the bill that resulted from the Health Care Cost Containment Council Study. She mentioned one problem of "double dipping" so far as insurance was concerned. She explained this bill would help contain cost since insurance companies have to pay twice, premiums go up. She referred to Page 2, Section 3 and 4, that the insured should notify the insurance company of his intention to sue. The insurance company may elect to hold a portion of the cost of bringing this third party action. If the insurance company does so they are entitled to the subrogation right. If they choose not to do so then they cannot collect any more than 50 percent. The insurer right of subrogation may not be enforced until the person that has been insured has been fully compensated for his injuries. She said the bill is tort reform.

PROPONENTS:

STEVE BROWN, representing Blue-Cross Blue-Shield, supported SB252.

CARL ENGLUND, Trial Lawyers Association, testified in support of SB252. He explained that the bill had come into the Senate Judiciary Committee to allow the health insurer or the disability insurer the right to subrogation or the right to collect any amount that the injured person subsequently recovers from the third party that caused the accident. The amendments clarify that the insurer only gets the money that was paid out or a portion of it once the victim has been fully paid for his injuries. The amendments also adopt the rule that if the state fund, private carrier, or self insurer under work comp wants to participate in the third party action and pays some of the expenses then they have a full right to subrogation. If the injured person pursues the case on their own then the subrogation rights are diminished by the insurer because they are not taking any risk. The amendments clarify, by setting in statute, that a health insurer or disability insurer has the right of subrogation against amount recovered from a third party. He stated that this is actually a piece of tort reform legislation because it deals with collateral source rule. He pointed out that this bill may not reduce rates but have a downward impact on health insurance rates.

ROD SUNDSTED, chief of the state's labor relations employee benefits bureau in the Department of Administration, testified in support of SB252. He said the bureau administers the state employee and retiring elected official health plan.

OPPONENTS:

HARRY NEELY, representing the Montana Medical Association and attorney from Billings, opposes SB252. He stated that SB252 is not tort reform. Instead the MMA endorses and supports legislation passed by the House in HB567. HB567 deals with the question of duplicate payments. Often an injured person receives benefits under disability or other policy and also when there has been an error of omission, can sue a physician for malpractice. They then can claim the duplicate damage in that suit against that physician and recover a second time for the amount of damages that they have already recovered from their disability policy. He pointed out that this problem of duplicate payments constitutes an amount that is equivalent to 8% of the total premium costs attributable to casualty insurance in the tort system. Under HB567, the insured doesn't get the duplicate payment but do get credit for the premiums paid. SB252 also attempts to pay for the duplicate payment problem but the difference is it pays the money back to the disability carrier. HB567 pays the casualty carriers. What is the insured bargain for that has the disability insurance policy? The insured has made a bargain with the disability carrier and has said you the insurance company I hereby give you a premium if I fit within the terms of your policy you are going to give me some money, so the insured believes that the insurance company, the disability carrier is going to pay the benefits. The insurance does not bargain for the insurance company, the disability carrier to get its money back, to take its premium and also not have to make a payment on the claim. Under HB567, the insured gets the bargain for which they are entitled, they get what they paid for which is payment by that carrier. He pointed out that this causes the duplicate payment to be absorbed by the casualty carrier. This keeps the cost of casualty insurance up or continues to make it unavailable. Disability carriers have a larger base of insurance and is a more efficient form of insurance. A larger proportion of its dollar goes to the injured party. Casualty insurance is inefficient. He pointed out that about half of the cost goes to pay defense and plaintiff counsel and about 25 percent of the premium dollar goes to the injured parties. Duplicate payments has a more serious effect on the casualty area but if this cost is put on the disability carriers they are able to absorb it. Premiums would not be higher for the disability insured's because the disability carriers do not have the subrogation right. HB567 exempts from the deduction of duplicate payments anyone that has a subrogation right built into law. He explained that SB252 would build that into law and when a carrier was exerting its full 100 percent subrogation rights would exempt it from HB567. He urged the committee on behalf of the medical association to stick with

the policy decision made in passing HB567 and not adopt a contrary antithetical policy decision as proposed in SB252.

SEN. REGAN closed and suggested that this be explored further by the attorneys. She said the question is if you buy insurance whether your insurance company should get the benefit or should the person who injured you.

QUESTIONS FROM THE COMMITTEE:

REP. CORNE' asked Karl Englund to comment about Mr. Neely's testimony.

Karl Englund replied that a double payment would drive up the cost of the insurance. People who are prudent enough to buy their own health insurance and to pay premiums for that should have the benefit, not the people, the insurance carrier, or the individuals who caused the harm.

REP. CORNE' asked whether this bill was antithetical to HB567.

CARL ENGLUND replied that they work together. He said that this bill says if there is a double payment in terms of the health insurer or the disability insurer, they get that back. The other bill says that if there is going to be any sort of double payment that is not covered by this bill or not covered by work comp or not covered by other types of insurance then it is the casualty insurer that gets the credit for that. HB567 which deals with a reduction in the amount of the judgement that someone gets because they've already been paid.

CONSIDERATION OF SENATE BILL 246:

SEN. ESTHER BENGSTON, Senate District 49 Yellowstone County, discussed SB246 as a certificate of need bill. She said this revised and extends a certificate of need for the state of Montana until 1989. She said the thresholds for new equipment, new construction, and new services are adjusted. Batching requirements are put forth for review. There are new definitions in the bill and some fees charged for those making applications. She said there were 32 proponents and one opponent in the Senate hearing and included amendments proposed by the hospital association.

PROPONENTS:

SEN. TOM KEATING, citizen from Billings and on the board of directors for the Rimrock Foundation, spoke in support of SB246. He said the foundation is an alcohol and chemical dependency treatment center and has been involved in going

through the certificate of need process. He said that this measure for the certificate of need process is necessary for the delivery of health services in all communities in the state. Orderly development of the various health needs to be delivered and service in the community is needed.

REP. CAL WINSLOW, commented about the frustration of working with the certificate of need. He said the certificate of need was necessary. He informed the committee that medical assistance in Montana went from 33.7 million dollars for the biennium in 1975-76 to 330 million this biennium which is ten times more. He said that the majority of the costs involved are in the area of long-term care, nursing homes, and in-patient services.

SEN. PAT REGAN, Senate District 47 and member of the Health Cost Containment Committee, said the committee went on record as endorsing continuation of the certificate of need.

DAVE LEWIS, director of SRS, said that when certificate of need was eliminated in other states there is an increase in construction and cost. The medicaid budget has increased and would increase again without the certificate of need process. He recommended a do pass on SB246.

PAT MELBY, an attorney from Helena representing Rippendale, testified in support of SB246. He informed the committee that Rippendale was a successful bidder to purchase the Montana Youth Treatment Center and also had a certificate of need to build a child and adolescent psychiatric center in Butte. He pointed out history of the certificate of need. He distributed a list of other health care providers that are in favor of the bill. Delay in the procedure and planning required ensure that when a certificate of need was received that the need for the proposed service is definitely there and ensures that there is not duplication of services. (Exhibit 8)

DALE TALIAFERRO, bureau chief of health planning in the Department of Health and Environmental Sciences, distributed written testimony in support of the bill (Exhibit 9).

BOB DOOLAN, vice president of finance for Deaconess Medical Center in Billings, testified in support of SB246 to extend the certificate of need law without substitute amendments. He pointed out that specialized units should not be duplicated or patients would be divided between the two. This would result in poor care because each of the health care professionals would have fewer patients to maintain proficiency. He stated that open access market would result in financial casualties. He pointed out that all but one or two of the sixty hospitals are not-for-profit hospitals. He

explained that the capital was community dollars which can only be used for local community health purposes.

ROSE SKOOG, executive director of the Montana Health Care Association, distributed information to the committee. She informed the committee the proposed amendment by the hospital association would do away with the certificate of need process. (Exhibit 10)

ELMER HAUSKIN, representing American Association of Retired Persons, testified in support of SB246 as a means of health care cost containment without amendment. He recommended a do pass without amendment. (Exhibit 11)

JIM AHRENS, president of the Montana Hospital Association, testified in opposition to the bill in the Senate but support the bill with amendments. He pointed out that eleven states do not have certificate of need laws. He said the MHA proposes that the review thresholds be amended upwards and that application fees be eliminated. The MHA recommended that all references to batching be removed from the bill. He stated that the certificate of need application should be measured against the state health plan not against other competing applications. He emphasized the importance of a phase-out plan for the Department of Health to end certificate of need by 1989 or report to the next legislature to see if the process is valid. He also suggested fairness and to make the process more timely. He said the amendments protect the public yet remove unnecessary regulations. (Exhibit 12)

OPPONENTS:

LARRY WHITE, president of Saint Patricks Hospital in Missoula, testified in support of the amendment. He pointed out the changed marketplace, or operating environment that has occurred in the community hospitals in the state. He said the not-for-profit community hospital and boards of trustees of volunteers have the capacity for making business decisions which can put their institutions in jeopardy and bankruptcy. He stated that the proposed law forces an institution to do business on an unlevel playing field because other providers can move into and provide services with the clarity and speed that hospitals cannot when faced with those regulations. The amendment proposed by the hospital association to have all providers of services covered including alternative delivery systems is essential. The thresholds for the certificate of need, specifically one dealing with services of $100,000 represents about one percent of the operating budget of the ten larger hospitals in this state. He urged the committee to evaluate public interest and needs.

JERRY LOENDORF, representing the Montana Medical Association, opposed SB246. He commented on the amendments that were submitted that included offices of doctors and dentists to be included in the certificate of review process. He pointed out that doctors and hospitals do not compete. Doctors are suppliers of patients to hospitals, not competitors. The certificate of need law would not save money by regulating doctors offices. He questioned health care providers that build an office building with non health care providers such as accountants, engineers. He stated that this amendment would bring offices into the maze and create additional expense for patients to pay. The certificate of need process has been supported in the past in the hopes it would save money. However, this has not been true. This particular law has added to the cost of health care because the process is both lengthy and expensive, taking years. He pointed out that the Department of Health has alot of expertise, but its decisions have always been subject to review.

ADDITIONAL PROPONENTS:

JERRY HUGHES, from Cut Bank and hospital and nursing home administrator, supports the certificate of need law without any amendments. He pointed out that as a hospital administrator, tax dollars and medicaid dollars were utilized. He said he was accountable to the public and could justify acquirements. A liaison and some requirement justifications to the state Department of Health are needed. He expects the state to control health care services in Montana. (Exhibit 13)

MARY MUNGER, chairman of the Montana Health Care Facility Authority, supported SB246. She said the facility was established by the legislature as one means to try to control health care costs. A primary function of the facility is to issue bonds to create money that is then loaned to non-profit health care facilities. The law requires certain procedures in the issuance of bonds. Proceeds can not be used by any facility unless they have been reviewed and approved the the appropriate regional and state health planning boards. If the health planning functions and the certificate of need are eliminated there would be no agency within state government that determines the need for any type of health care facility or services. The amendments put the financial thresholds so high that it would eliminate the certificate of need process. She urged the committee support the bill and not accept the amendments. (Exhibit 14)

ANN SCOTT, administrator of the Rocky Mountain Treatment Center in Great Falls, supported SB246. She pointed out

that in no other sector of the economy are there more regulations and more things that go against using a free market system to provide health care. The loss of certificate of need would be devastating to the chemical dependency delivery system in the state.

JOE RUDE, president of Health and Marketing West in Billings, gave his perspective to the committee. He said he has administered the certificate of need program for the state of North Dakota. He works as a consultant in the certificate of need process. He stated that the amendments are damaging to health care in Montana and detrimental to rural providers. He listed providers and rural hospitals that were opposed to the amendments and support of the senate bill. He said the intent of the legislation was to protect against unnecessary duplication. He cited examples showing unnecessary duplication which reduced the quality of care and increased cost. He pointed out that facilities will loose access to finance if they do not have a certificate of need.

STEVE WALDRON, representing mental health centers, said that one good thing for having a certificate of need process was the weeding of organizations.

MIKE MURRAY, representing 37 chemical dependency programs, urged support of the bill without amendment.

COURT HARRINGTON, representing WESTMONT and Montana Association of Home Health Agencies, requested support of the bill.

JOY MCGRATH, respresenting the Mental Health Association of Montana, urged a do pass on the bill.

JIM VAN ARSDALE, on the board of Deaconess Medical Center in Billings, supports the bill without amendments. (Exhibit 15)

ADJOURNMENT: There being no further business the meeting was adjourned at 2:45 p.m.

R. BUDD GOULD, CHAIRMAN

3-10hs

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date MARCH 10, 1987

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

EXHIBIT
DATE 3-16-87
SB # 185

TESTIMONY IN SUPPORT OF S.B.185
ESTABLISHING AN OFFICE OF LEGAL & OMBUDSMAN SERVICES
HOUSE HUMAN SERVICES & AGING COMMITTEE
MARCH 10, 1987

Mister Chairman, members of the Committee: I am Charles Briggs, State Aging Coordinator, Office of the Governor. I am here in support of Senate bill 185

#1 This bill is supported by the administration, as well as by the Governor's Advisory Council on Aging, Legacy Legislature, and a wide array of aging organizations.

#2 This comes as the result of a long process, especially of efforts the past two years. There has been ombudsman legislation introduced in every session since 1983. The administration bill in 1985 was recommended "do not pass" by this committee, & subsequently was defeated.

At the request of Sen. Williams, I & others agreed to work with Rose Skoog & the MHCA, as well as other interested parties. This was done principally through an ombudsman/legal services sub-committee of the Governor's Advisory Council on Aging. Membership included Sen. Williams & Ms. Skoog. MHCA, as will be noted, also developed a consumer advisory committee, whose membership included the state ombudsman. This bill represents the result of many long hours of hard negotiation.

#3 I would prefer to let others address key arguments in support of this bill, but I want to make a couple of additional points. 1st, the program has been - for several years - technically attached to S.R.S. But, beginning with a commitment from Gov. Schwinden in 1983, it began supervision within the Governor's Office. That still holds today.

It was recommended that in bill drafting the program be attached to the State Plan on Aging, (53-5-604), so that if aging services were transferred, as proposed, to a new Dept. of Family Services, it would follow the administration of that Plan. Legislative Council indicated it must be attached to an agency - hence, S.R.S., which presently is responsible for the planadministration. We expect to continue the same supervisory arrangement in the Governor's Office.

EXHIBIT F6
DATE 3-10-87
HB # 185

SENIORS' OFFICE
LEGAL AND OMBUDSMAN SERVICES

TED SCHWINDEN, GOVERNOR

P.O. BOX 232
CAPITOL STATION

STATE OF MONTANA

(406) 444-4676
1-(800) 332-2272

HELENA, MONTANA 59620

January 30, 1987

TO: House Human Services and Aging Committee

FROM: Doug Blakley, State Long-Term Care Ombudsman DB

RE: Seniors' Office of Legal and Ombudsman Services Bill

Major objectives of the bill

1. To provide a specific placement for both programs in the Seniors' Office (ie., the Ombudsman and Elderly Legal Services Developer Programs).
2. To ensure ombudsman access to all long-term care facilities.

Rationale for requesting the bill

First, the bill would provide a permanent placement for the office which would allow it to maintain its current placement. This is important for program continuity and independence.

On the issue of access to residents, this is the most basic prerequisite for an Ombudsman Program. Without guaranteed access, ombudsmen would not be able to meet their basic requirements of receiving, investigating and resolving complaints.

While access to nursing homes has not been a problem, it has been a problem in personal care homes. These facilities are typically family-operated businesses, and have been resistant to having "outsiders" visiting on a regular basis, providing residents with information and working on resident complaints.

The Older Americans Act requires states to "establish procedures for appropriate access by the ombudsman to long-term care facilities." No such procedure currently exists. We have been unable to gain access through SRS or DHES laws or regulations because of lack of clear authority by either department to grant access.

Components of the bill

* language to continue the current program placement;
* specific language requiring access for all ombudsmen;
* stipulations for the granting of access;
* enforcement requirements through DHES that correspond to other standards that long-term care facilities must meet.

It constitutes NO expansion of either program and requires no additional state dollars. The bill does not grant access to resident medical records for state or local ombudsmen.

Without the bill, residents could be denied assistance necessary to resolve problems. The bill also brings the state into compliance with federal requirements which can only be done through state statute.

EXHIBIT 5
DATE
SB

SENIORS' OFFICE
LEGAL AND OMBUDSMAN SERVICES

TED SCHWINDEN, GOVERNOR

P.O BOX 232
CAPITOL STATION

STATE OF MONTANA

(406) 444-4676
1-(800) 332-2272

HELENA, MONTANA 59620

THE ELDERLY LEGAL SERVICES DEVELOPER

The Seniors Office of Legal and Ombudsman Services is a State office consisting of the State Long-Term Care Ombudsman and the Legal Services Developer. The Seniors Office is administratively attached to the Governors Office. The activities of this office are funded through grants under the Older Americans Act, these grant funds are administered by the State Unit on Aging of the Department of Social and Rehabilitation Services.

The Legal Services Developer has the responsibility to develop, co-ordinate and monitor legal assistance to senior citizens in cooperation with the Area Agencies on Aging. In addition to developing direct legal assistance, other goals of the Legal Services Developer are; provide educational activities directed at senior citizens and those who provide services to senior citizens, assistance and advocacy within other State and Federal programs, and the collection and dissemination of information regarding the legal rights of senior citizens.

The Older Americans Act requires that the Legal Services Developer include the private bar, particularly any programs providing pro bono or reduced fee services, and Legal Service Corporation programs in its planning and coordination. Through this coordination the activities of the Legal Services Developer are designed to augment and not supplant currently available services. This act also requires that services be targeted to those senior citizens with the greatest social and economic need.

EXHIBIT # 4
DATE 3-10-87
SB # 185

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

TED SCHWINDEN, GOVERNOR

P.O. BOX 4210

STATE OF MONTANA

HELENA, MONTANA 59604

March 10, 1987

Chairman Budd Gould and
Members Human Services and Aging Committee
House of Representatives

RE: SB185/Office of Ombudsman and Legal Services
Introduced by Senators Williams, Halligan, Miles

Senate Bill No. 185 is a bill requested by the Department and I would like to briefly explain two important points about this bill.

1.) This bill will finally establish an office of Legal and Ombudsman Services, as required by the Older Americans Act.

As you know the Older Americans Act (OAA) establishes the network for services to Montana's elderly and makes it possible to provide such services as Home-Delivered Meals, Senior Center Activities, In-Home Services, etc. An important service specifically required in the OAA is Ombudsman and Legal Services and these advocate functions are vital to the disabled and elderly citizens who are least able to protect their rights.

2.) The bill also makes it possible for the Ombudsman to have access to long-term care facilities to meet with residents, to investigate and resolve complaints, and to advise residents on their rights.

In Montana we are fortunate to have a network that is able to provide meals, activities, and in-home care for the elderly.

We are also able to plan for the services needed by the rapidly escalating aged population, but we cannot forget those elderly and disabled who need an advocate to ensure that their rights are protected, that they receive quality care and that they have a safe environment.

Please support this bill as written to ensure an important Advocacy role within Montana's Aging Network.

Sincerely,

Robert Bartholomew

Robert Bartholomew, Supervisor
State Unit on Aging

RB:dh

EXHIBIT 2
DATE 3-10-87
HB # 185

DOUGLAS B. OLSON
ATTORNEY AT LAW
P.O. BOX 1695
HELENA, MONTANA 59624

March 10, 1987

House Human Services & Aging Committee
Montana House of Representatives
1987 State Legislature

re: Senate Bill 185
Ombudsman Program

Dear Chairman Gould and
Committee Members:

My name is Douglas Olson, I am an attorney residing in Helena and I am appearing before you today on my own behalf as a citizen interested in the welfare of senior citizens and at my own expense. I served as the attorney-developer of elderly legal services for the State of Montana and as the attorney for the state long-term care ombudsman program as mandated by the federal Older Americans Act for the period April 1981 to July of 1985. I served as the Chairman of the Elderly Assistance Committee of the State Bar of Montana upon its creation several years ago and presently serve as one of its committee members. I am also a member of the American Society on Aging and a member and board member of the Montana Gerontology Society.

I support the State of Montana enacting legislation expressly authorizing and recognizing an Office of Legal and Ombudsman Services for the Elderly. Past Montana Legislatures in 1983 and 1985 have considered bills that would have created "ombudsman" and legal services for the elderly programs but rejected them. The federal Older Americans Act of 1965 as amended by Congress in 1978, 1981 and 1985 requires the State of Montana as a condition to its receipt of federal funds to operate a multitude of federal programs for the elderly ranging from home-health care, nutrition services, transportation, legal services, etc., to provide assurances to the federal government that it has a "State plan" for implementation of these programs that meet requirements specified in the Older Americans Act and regulations adopted by the Commissioner on Aging. One of these requirements is that the State plan meets federal requirements for the operation of a State long-term care ombudsman program as specified in Title 42 United States Code Section 3027(a)(12).

Specifically what constitutes a "long-term care facility" is defined in the federal Older Americans Act (42 USC §3022 (3):

> "(3). The term "long-term care facility" means any skilled nursing facility, as defined in section 1861 (j) of the Social Security Act, any intermediate care facility

> as defined in section 1905(c) of the Social Security Act, any nursing home, as defined in section 1908 (e) of the Social Security Act, any catagory of institutions regulated by a State pursuant to the provisions of sections 1616(e) of the Social Security Act (for purposes of section 3027(a)(12)), and any other similar adult care home." (Emphasis Added).

The language underlined in the above federal definition for what constitutes a "long-term care facility" is commonly known as the "Keys" amendment to the Social Security Act. The federal Administration on Aging (AoA) in a Program Instruction to States #AoA PI-82-7 explained this amendment by saying:

> "The 1981 Amendments to the Act incorporated board and care homes as part of the definition of long-term care facilities and gave the Ombudsman Program responsibility for including such facilities in their program scope. ... Section 1616(e) of the Social Security Act - known as the Keys Amendment - requires States to regulate 'any catagory of institutions, foster homes, or group living arrangements in which ... a significant number of recipients of supplemental security income benefits is residing or is likely to reside.'" (Page 3, paragraph 1). (Emphasis added).

My concern with Senate Bill 185 is that the definition of what constitutes a "long-term care facility" as stated in Section 2, paragraph (2), found on page 2 lines 8-11, does not meet the federal definition as stated above. Specifically, Senate Bill 185 ignores the federal requirement that the ombudsman address board and care homes in Montana, specifically adult foster care homes. The definition in SB 185 says only:

> "(2) 'Long-term care facility' means a facility or part thereof that provides skilled nursing care, intermediate nursing care, or personal care, as these terms are defined in 50-50-101."

Section 50-50-101 of the Montana Codes Annotated describes only those facilities that are regulated by the Department of Health and Environmental Sciences. It does not address adult foster care homes which are licensed by the Department of Social and Rehabilitation Services (SRS). "Adult foster care homes" are board and care homes subject to regulation under section 1616(e) of the Social Security Act.

In my testimony before the Senate Public Health Committee on Senate Bill 185 and in additional information presented to the legislative staff assigned to that committee (Karen Renne?), I expressed my concerns that the definition of "long-term care facility" in SB 185 did not meet the federal requirements. Several Senators on the committee were concerned with this issue but were fearful that if an effort to amend the bill in the Senate to address this concern was made, the bill might not make it to the House before the transmittal deadline.

I called my concerns about Senate Bill 185 to the attention of Mr. Bill Benson, a former California State long-term care ombudsman who is now on the staff of the United States Senate Special Committee on Aging in Washington, D.C. It was his opinion that SB 185's definition did not meet the federal requirements of the Older Americans Act definition. This defect could subject the state to a loss of federal funds if it is not corrected according to Mr. Benson. The decision on what action would be taken would be up to the federal Administration on Aging.

Given this known deficiency in SB 185 what is my advice to this committee and the 1987 Montana Legislature? State administration of the federal Older Americans Act is contingent upon the state providing assurances to the federal Administration on Aging that it has a state plan that meets the federal requirements of the federal Older Americans Act. The state is not in a position to select those portions of the Act it wants to meet and ignore the rest. Therefore, Senate Bill 185's definition of what constitutes a "long-term care facility" should be amended to include board and care homes specifically, "adult foster care homes". The elderly citizens of Montana who reside in these facilities not only deserve to be served by the ombudsman program in Montana but federal law requires it. Unless you amend the definition in SB 185 to do this, operators of adult foster care homes are not required to cooperate with the Montana long-term care ombudsman program nor is the ombudsman authorized to investigate complaints or respond to requests for assistance from these persons.

The decision of whether or not the 1987 Montana Legislature passes a bill that is consistent with the federal Older Americans Act requirements for a long-term care ombudsman program is up to you. The alternatives are risking the loss of federal funds pursuant to the action of the federal Administration on Aging, leaving residents of Montana's adult foster care homes without an advocate (ombudsman) and re-addressing this issue in a subsequent session of the legislature I submit that this issue can and should be addressed by you now. This issue is now a matter of public record and I hope for the sake of the elderly residents of our state's adult foster care homes that you

amend Senate Bill 185 to include them in the definition of what constitutes a "long-term care facility".

Mr. Benson of the U.S. Senate Special Committee on Aging(which committee is now chaired by Senator Melcher of Montana) has advised me that both the U.S. House and Senate are expected to consider additional amendments to the federal Older Americans Act that will further strengthen and expand the federal requirements for state long-term care ombudsman programs during this calender year. Therefore, it is fair to say that Congress is concerned about how states are implementing their long-term care ombudsman programs and that more federal funds may be authorized to operate these programs.

I will be sending copies of my testimony today on Senate Bill 185 to Mr. Benson, to Congressman Biaggi of the House Committee on Aging, and to the federal Administration on Aging. I thank you for the opportunity to testify on Senate Bill 185 and I hope that it is amended so as to satisfy federal requirements. Our elderly residents deserve your consideration and protection.

Sincerely,

Douglas B. Olson

cc: Mr. Bill Benson
Congressman Biaggi
Administration on Aging

EXHIBIT
DATE
HB

Testimony SB 185, Long Term Care Ombudsman

Submitted by: Lenore F. Taliaferro

Position: Oppose

I strongly support the need for effective legislation which protects the frail and vulnerable elderly in Montana's long-term care facilities. I OPPOSE this legislation for the following reasons:

1. The definition of long-term care facilities in SB185 does not comply with the federal Older Americans Act (see attached excerpted references).

2. The program is to be placed within SRS which poses a potential conflict of interest issue. (See attached information).

3. Testimony has been provided that indicates that the program be administered and supervised by an agreement with the Board of Visitors. SB185 does not address this at all. SB185 does not address this in any way.

4. Montana has significant numbers of elderly in residential settings not licensed by DHES. No protection for these individuals is provided for within SB185.

5. SB185 creates an Office of Legal and Long-Term Care Ombudsman and does not speak to the function or responsibilities of the Legal Services Developer.

6. This bill falls short of the minimum responsibilities required under the Older Americans Act. SB185 addresses access, structure, and provides for the program CONTINGENT upon federal funding only.

RECOMMENDATIONS TO LEGISLATORS:

1. Request a definitive opinion from Administration on Aging to assure that Montana's bill is in compliance.

2. Request an independent legal opinion outside of current program personnel if opinion from AoA is not provided.

I served as the Long Term Care Ombudsman from 1981-1984; am currently involved with issues of the elderly as a concerned citizen and hold membership in the Montana Gerontology Society. I would have welcomed the opportunity to provide input into the bill's development had I been invited. Please vote "No Pass" on this specific bill.

97th Congress
2d Session

COMMITTEE PRINT

COMPILATION

OF THE

OLDER AMERICANS ACT OF 1965

AND

RELATED PROVISIONS OF LAW

As Amended Through December 29, 1981

PREPARED FOR USE BY THE

COMMITTEE ON EDUCATION AND LABOR

MAY 1982

CONTRACTING AND GRANT AUTHORITY

SEC. 212. None of the provisions of this Act shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency, with a profit-making organization to carry out the provisions of this Act and of the appropriate State plan.

(42 U.S.C. 3020c) As added October 18, 1978, P.L. 95-478, sec. 102(1), 92 Stat. 1516; redesignated December 29, 1981, P.L. 97-115, sec. 2(e), 95 Stat. 1596.

SURPLUS PROPERTY ELIGIBILITY

SEC. 213. Any State or local government agency, and any nonprofit organization or institution, which receives funds appropriated for programs for older individuals under this Act, under title IV or title XX of the Social Security Act, or under titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act, shall be deemed eligible to receive for such programs, property which is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.

(42 U.S.C. 3020d) As added October 18, 1978, P.L. 95-478, sec. 102(1), 92 Stat. 1516; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(k), 95 Stat. 1596.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING[1]

PART A—GENERAL PROVISIONS

PURPOSE; ADMINISTRATION

SEC. 301. (a) It is the purpose of this title to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve older individuals by entering into new cooperative arrangements in each State with State and local agencies, and with the providers of supportive services, including nutrition services and multipurpose senior centers, for the planning for the provision of, and for the provision of, supportive services, nutrition services, and multipurpose senior centers, in order to—

(1) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

(2) remove individual and social barriers to economic and personal independence for older individuals; and

(3) provide a continuum of care for the vulnerable elderly.

[1] Title III was completely revised by the Comprehensive Older Americans Act Amendments of 1978 (P.L. 95-478; 92 Stat. 1516). Although the revised title III is similar to the former title in certain respects, major changes were made by the Comprehensive Older Americans Act Amendments of 1978. These changes included (1) consolidation into the revised title III of programs contained in former title III (relating to social services), former title V (relating to multipurpose senior centers), and former title VII (relating to nutrition services); and (2) the establishment of separate authorizations for congregate nutrition services and home delivered nutrition services. Prior to the amendments made by the Comprehensive Older Americans Act Amendments of 1978, former title III had been extensively revised by the Older Americans Comprehensive Services Amendments of 1973 (P.L. 93-29; 87 Stat.

(b)(1) In order to effectively carry out the purpose of this title, the Commissioner shall administer programs under this title through the Administration on Aging.

(2) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, the Office of Community Services and such other agencies and departments of the Federal Government as may be appropriate.

(42 U.S.C. 3022) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1517; amended December 29, 1981, P.L. 97-115, secs. 3(a), 3(d), 95 Stat. 1596, 1597.

DEFINITIONS

SEC. 302. For the purpose of this title—

(1) The term "comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to—

(A) facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

(B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals; and

(C) use available resources efficiently and with a minimum of duplication.

(2) The term "information and referral source" means a location where the State or any public or private agency or organization—

(A) maintains current information with respect to the opportunities and services available to older individuals, and develops current lists of older individuals in need of services and opportunities; and

(B) employs a specially trained staff to inform older individuals of the opportunities and services which are available, and to assist such individuals to take advantage of such opportunities and services.

(3) The term "long-term care facility" means any skilled nursing facility, as defined in section 1861(j) of the Social Security Act, any intermediate care facility, as defined in section 1905(c) of the Social Security Act, any nursing home, as defined in section 1908(e) of the Social Security Act, any category of institutions regulated by a State pursuant to the provisions of section 1616(e) of the Social Security Act (for purposes of section 307(a)(12)), and any other similar adult care home.

(4) The term "legal services" means legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney), and includes

of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration;

(5) provide that the State agency will afford an opportunity for a hearing upon request to any area agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan;

(6) provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commissioner may impose to insure the correctness of such reports;

(7) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract;

(8) provide that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan;

(9) provide for establishing and maintaining information and referral services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and referral services under section 306(a)(4) will have reasonably convenient access to such services;

(10) provide that no supportive services, including nutrition services, will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services;

(11) provide that subject to the requirements of merit employment systems of State and local governments, preference shall be given to individuals aged 60 or older for any staff positions (full time or part time) in State and area agencies for which such individuals qualify;

(12) provide assurances that the State will—

(A) establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization which is not responsible for licensing or certifying long-term care services in the State or which is not an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), a long-term care ombudsman program which will—

(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of such residents;

(ii) monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in that State;

(iii) provide information as appropriate to public agencies regarding the problems of older individuals residing in long-term care facilities;

(iv) provide for training volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

(v) carry out such other activities as the Commissioner deems appropriate;

(B) establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order;

(C) establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis; and

(D) establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or

(ii) such disclosure is required by court order;

(13) provide with respect to nutrition services that—

(A) each project providing nutrition services will be available to individuals aged 60 or older and to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided;

(B) primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency (i) may award funds made available under this title to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart 2 of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this title, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subparagraph (II);

devices and through structural modifications or alterations of such residences;

(5) services designed to assist older individuals in avoiding institutionalization, including preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, letter writing services, and other similar services designed to assist such individuals to continue living independently in a home environment;

(6) services designed to provide legal services and other counseling services and assistance, including tax counseling and assistance and financial counseling, to older individuals;

(7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity and exercise;

(8) services designed to provide health screening to detect or prevent illness,[1] or both, that occur most frequently in older individuals;

(9) services designed to provide preretirement and second career counseling for older individuals;

(10) services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate the well-being of such individuals;

(11) services which are designed to meet the unique needs of older individuals who are disabled;

(12) services to encourage the employment of older workers, including job counseling and, where appropriate, job development, referral, and placement;

(13) crime prevention services and victim assistance programs for older individuals;

(14) a program, to be known as "Senior Opportunities and Services", designed to identify and meet the needs of older, poor individuals 60 years of age or older in one or more of the following areas: (A) development and provision of new volunteer services; (B) effective referral to existing health, employment, housing, legal, consumer, transportation, and other services; (C) stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; and (D) such other services as the Commissioner may determine are necessary or especially appropriate to meet the needs of the older poor and to assure them greater self-sufficiency; or

(15) any other services;

such services meet standards prescribed by the Commissioner and necessary for the general welfare of older individuals.

(b)(1) The Commissioner shall carry out a program for making nts to States under State plans approved under section 307 for the uisition, alteration, or renovation of existing facilities, including bile units, and, where appropriate, construction of facilities to ve as multipurpose senior centers which shall be community facilis for the organization and provision of a broad spectrum of serv-

[1] So in original. Should read "illnesses".

ices, including provision of health, social, nutritional, and educational services and provision of facilities for recreational activities for older individuals.

(2) Funds made available to a State under this part may be used, for the purpose of assisting in the operation of multipurpose senior centers, to meet all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

(42 U.S.C. 3030d) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1535; amended December 29, 1981, P.L. 97-115, secs. 3(d), 10(a)-10(c), 95 Stat. 1597, 1600-1601.

Part C—Nutrition Service

Subpart 1—Congregate Nutrition Services

PROGRAM AUTHORIZED

Sec. 331. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects—

(1) which, 5 or more days a week, provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

(2) which shall be provided in congregate settings; and

(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

(42 U.S.C. 3030e) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1536.

Subpart 2—Home Delivered Nutrition Services

PROGRAM AUTHORIZED

Sec. 336. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week, provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

(42 U.S.C. 3030f) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1536.

CRITERIA

Sec. 337. The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the Association of Area Agencies

Excerpt from HCH Program Guidelines

for groups with commercial purposes, like selling insurance, or other purposes which might be inimical to the interest of residents, but this argument may be used to resist allowing access for legitimate groups. There is also the problem of whether by limiting access to specified individuals and groups you exclude other legitimate visitors.

Questions regarding which residents or which parts of facilities visitors may have access to generally center on whether visitors may inspect non-resident areas, under what circumstances a visitor may inspect the living area of an individual resident, and whether (and under what circumstances) a visitor may see a resident's medical records. (See Chapter XVIII, "Access to Records," for more on this).

States also must determine which facilities the specified groups will have access to. The 1981 amendments to the Older Americans Act expanded the definition of long-term care facility to include not only nursing homes but "any category of institutions, foster homes, or group living arrangements in which . . . a significant number of recipients of supplemental security income benefits is residing or is likely to reside."[10] The Older Americans Act, however, is only directed to the Long-Term Care Ombudsman Program. States will have to determine whether other parties will have the same access as or more limited access than the ombudsman.

(iii). Ombudsman Access Provisions. The third type of statute is that which creates access for long-term care ombudsman programs. Because ombudsmen are agents of and accountable to the State, their access rights can be made much broader, without the safeguards meant to restrict unscrupulous or insensitive visitors.

NATIONAL
ASSOCIATION
OF STATE UNITS
ON AGING

600 Maryland Avenue, SW
Suite 205
Washington, DC 20024
(202) 484-7182

NASUA

March 4, 1987

Lenore F. Taliaferro
1026 Ninth Avenue
Helena, Montana 59601

Dear Ms. Taliaferro:

This letter is in response to your inquiry of February 25, 1987 concerning the proposed Montana bill for the Long-Term Care Ombudsman Program. I attempted to contact you at what was given to me as your work phone, but found the number was not working.

As far as giving a definitive opinion as to whether this bill is in compliance with The Older Americans Act, I am unable to fulfill that request. Such a request is beyond my scope and is appropriately directed toward the Administration on Aging, who is the administrative body that makes compliance decisions. Another source to consult would be an attorney for a legal opinion.

Since the efforts of Ombudsman and Legal Service Developer Support Project have just started, we are not thoroughly knowledgeable about how ombudsman programs are structured and their enabling laws. We do know from the (1984) Administration on Aging's "National Summary of State Long-Term Care Ombudsman Reports" that 12 of the states have placed the responsibility for this activity outside of the state unit. These sponsoring agencies have most often been a special committee established by legislation, in the Governor's office or elsewhere in the State Human Services governmental structure.

I am enclosing for your information two chapters from the Administration on Aging Technical Assistance Manual. These chapters, which are not to be taken as regulatory in nature, explain various concepts used in enabling and access legislation. You will note there is much variety in approaches, probably due to states exercising the options available in constructing their programs.

I hope this information is of assistance to you.

Sincerely,

Jean K. Wood

Jean K. Wood

State of Montana
Office of the Governor
Helena, Montana 59620

TED SCHWINDEN
GOVERNOR

March 9, 1984

MEMORANDUM

TO: Governor's Council On Aging Members
Area Agencies on Aging
Interested Parties

FROM: Charles Briggs
State Aging Coordinator

RE: 1984 Reauthorization of the Older Americans Act Forum

As you know, the Governor's Office on Aging held a statewide forum on February 22, 1984 to ask aging citizens, service providers, and the general public their recommendations concerning reauthorization of the Older Americans Act. Attached is a summary of the recommendations, including consensus suggestions and differing opinions. Tapes of the hearing are housed at the Department of Social and Rehabilitation Services in Helena. I have also included copies of written comments submitted prior to March 1.

These recommendations have been sent to the House Human Resources Sub-Committee, the Senate Sub-Committee on Aging, the Montana Congressional Delegation, and the U. S. Commissioner on Aging, among others. They will be entered as testimony on the House Reauthorization Bill, H.R. 4785, which will have a hearing March 15, and with the Senate reauthorization legislation.

Thank you for your involvement and interest. If you have any questions throughout the process in Congress, please don't hesitate to contact me and I will try to provide you with current information. I can also be reached by phone, toll-free: 1-800-332-2272.

Attachment

Ombudsman and Legal Developer:

1. Raise minimum allocation of Title III funds to states for Ombudsman from $20,000 to $30,000 to correspond to increased responsibilities dealing with long-term facilities.

2. State must address concerns, such as ensuring Ombudsman access to patient records and access to facilities, as well as new responsibilities pertaining to personal care facilities and foster homes.

3. There needs to be greater development of legal services in PSA's. No recommendation to return to pre-'81 requirement of 50% of service resources being targeted to legal, in-home and access services. Age 60 should be a required age minimum for OAA legal services, and a means established to ensure that the economically and socially needy receive service.

4. Return to pre-'81 funding level for legal services under Administration on Aging.

5. Legal advocacy should be transferred from Title IV to III to ensure program continuity.

Title IV:

1. National priorities cannot be met with present funding level.

2. Ensure equitable distribution of training funds to rural sectors within federal regions.

Title V:

1. Clear consensus that administration of Older Workers Employment Program remain with Department of Labor and not be transferred to Administration on Aging. Concern expressed by Green Thumb and Farmers Union that such a transfer would:

   a. incur a loss of technical expertise in Labor;

   b. change focus from being an employment program to an aging one.

Title VI:

1. Return Title III administration to federal government, because of problems in having one portion of reservation elders served by Title VI through Washington, D.C., the other by Title III in Helena. Inter-Tribal Policy Board, however, has reservations about such a change as they fear there may be a loss in local control or deterioration in statewide planning.

13. Develop and provide training on an on-going basis for State and local Long Term Care Ombudsman Program staff and volunteers.

14. Identify and develop additional funding and staffing resources for the Ombudsman Program.

15. Act as a spokesperson for the State Long Term Care Ombudsman Program, including developing and providing testimony and comments on proposed legislation, regulations, policies or rule changes affecting the institutionalized elderly.

16. In addition to the above items, the State Long Term Care Ombudsman may conduct other activities related to the protection and dignity of residents of nursing and boarding homes in accordance with federal and State laws, regulations and policies.

Excerpt from AoA Program Guidelines – May 1982

State Long Term Care Ombudsman Qualifications

A. Experience and competency in:

1. organizing and administering services,
2. coordinating with related services,
3. supervising and training staff and volunteers,
4. community organizing,
5. effective written and oral communication,
6. issue identification and analysis, and
7. techniques of interviewing, negotiation and client representation.

B. Knowledge and understanding of:

1. the needs and problems of the institutionalized elderly and their families,
2. the State and local long-term care system,
3. social service and public benefit programs related to the institutionalized elderly, and
4. medical and social processes of aging.

C. Education and Experience:

Master's degree in health, social sciences, social work or a related field or other relevant professional degree and three years of experience with at least two years in aging or long-term care.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

Vol. 132 WASHINGTON, TUESDAY, OCTOBER 7, 1986 No. 137

Senate

STATE LONG-TERM CARE OMBUDSMAN ADVOCACY IMPROVEMENT ACT

Mr. GLENN. Mr. President, I rise today to introduce legislation to strengthen the State Long-Term Care Ombudsman Program, an extremely important nationwide program that protects the rights of the elderly who reside in nursing homes and other long-term care facilities. This legislation, the State Long-Term Care Ombudsman Advocacy Improvement Act of 1986, would amend the Older Americans Act to improve State and local long-term care ombudsman programs which operate in every State in our country.

I am pleased to be joined in introducing this bill by several of my distinguished colleagues from the Special Committee on Aging, including Chairman JOHN HEINZ, and Senators LAWTON CHILES, JOHN MELCHER, CHRIS DODD, QUENTIN BURDICK, HOWARD METZENBAUM, JEFF BINGAMAN, PAULA HAWKINS, ARLEN SPECTER.

The Ombudsman Program, which is now entering its 12th year, began in 1975 as a demonstration project, and was formally authorized in the 1978 amendments to the Older Americans Act [OAA]. During the 1987 reauthorization of the OAA, I expect that we will consider improvements to the Ombudsman Program. The legislation we are introducing today is intended to guide the course of discussion over the next several months with State and national organizations that will play key roles in amending the OAA. I intend to reintroduce the State Long-Term Care Ombudsman Advocacy Improvement Act early in the 100th Congress and look forward to broad support.

Similar to ombudsmen throughout the world, the primary purpose of State long-term care ombudsmen is to investigate complaints and resolve problems. In this case, the complaints are those made by or on behalf of residents of nursing homes and other adult residential care facilities, such as board and care homes.

Each State has an ombudsman program usually operated by the State agency responsible for OAA funds. Most States have also established local or substate ombudsman offices that typically are run by community-based senior citizen organizations and other nonprofit or governmental agencies. The program represents an effective partnership between the State and local organizations; the State providing the authority and direction for ombudsman activities and the local offices providing most of the day-to-day contact with nursing home residents.

A major objective of the Ombudsman Program is to develop a regular presence in nursing homes. This typically is done by relying upon trained volunteers to visit the facilities weekly. Thus the ombudsman becomes acquainted with the facility, its management and employees, and most importantly with the elderly residents, as well as their visitors and family. This presence in the facility enables the ombudsman to establish credibility and trust with residents, employees and others so often necessary for the frail and vulnerable to voice their problems and concerns. As a result, many problems are raised with ombudsmen that would otherwise not surface. Since some 50 percent of nursing home residents have no family, there may be no one else to voice concerns on their behalf. Furthermore, regular visits by an ombudsman often prevent incidents from occurring or slippages in care or complicance with standards.

Ombudsmen have a broad mandate in responding to complaints; they are not limited to complaints about care standards. They may also respond to complaints about adverse decisions or inaction by governmental agencies, problems with guardians, or theft of personal property. Ombudsmen, since they do not have formal enforcement or sanction authority, have great flexibility in resolving problems. They often serve as brokers, linking the complainant with various entities which may resolve their problem.

The role of ombudsmen visiting facilities on a regular basis contrasts with that of State licensure and en-

forcement officials who typically visit facilities only for annual inspections and in response to complaints filed with their office. Thus, their actual time in a given facility is usually limited and consequently, they rarely become acquainted with individual patients or employees, except facility management. Furthermore, the scope of ombudsman activity is broader than that of licensing authorities whose role is primarily of a regulatory nature.

The growth in the Ombudsman Program has been remarkable. There are now over 500 local programs throughout our Nation. According to the Administration on Aging, between 1982 and 1984, the number of volunteers increased some 57 percent to nearly 5,200. The number of complaints handled by the program throughout the country during that time increased by 75 percent from approximately 41,000 to 71,000. Of these, 67 percent were partially or fully resolved.

As a result of this growth and the program's significant impact on quality of care and residents' rights problems, a number of national groups have strongly recommended strengthening the Ombudsman Program. This includes the recommendations made by the Senate Aging Committee as a result of the hearings in 1985 on "Medicare's Prospective Payment System" and this year on nursing home care. The Institute of Medicine, in its major report "Improving the Quality of Care in Nursing Homes," released in February of this year, recommended a series of amendments to the OAA to improve the Ombudsman Program. More recently, the Senate Labor and Human Resources' Subcommittee on Aging held a hearing on reauthorization of the OAA, at which several major national aging organizations recommended improvements in statutory language governing the program.

Mr. President, the State Long-Term Care Ombudsman Advocacy Improvement Act would strengthen the Ombudsman Program's capacity to assist long-term care facility residents in several important ways. First, it would establish a new part D in title III of the OAA, thus giving the program greater focus, eliminating competition for funding with the many other title III-B social services and providing a framework for future expansion.

Second, local or sub-State programs would receive formal recognition in the OAA. When the program was enacted in 1978, there were few local programs, but it is time to recognize the tremendous role that the community-based programs now play. The role of the State in designating local offices would be improved and the State ombudsman's responsibility for designating and training representatives of his or her office would be clarified.

Third, the tools necessary to effectively respond to and resolve complaints would be strengthened. Access to facilities, to facility residents and to their records, with the resident's consent, would be assured. Immunity would be provided for good faith performance of official duties and the States would make available legal counsel and representation to ombudsmen carrying out their duties. Furthermore retaliation against residents and employees who voice complaints or provide information to ombudsmen would be prohibited as would willful interference with the performance of official duties. And, licensure and certification agencies would be required to share essential information with ombudsman programs.

Fourth, the ombudsman's role as a voice for the frail and voiceless would be clarified by improving existing language concerning the ombudsman's responsibility to provide information and recommendations regarding issues affecting facility residents to the public, to governmental agencies, and to State and Federal legislative bodies.

Fifth, to keep the program focused on solely representing the interests of the clients they serve, conflict of interest language would be improved and States would have to assure that the programs under their jurisdiction are free of conflicts of interest, and that mechanisms are in place to identify and resolve conflicts.

Sixth, the ombudsman's ability to continue to assist clients who move from nursing homes to hospitals would be improved by assuring access to Medicare and Medicaid hospital patients.

Finally, the responsibilities of the Administration on Aging (AOA) with respect to the Ombudsman Program would be clearly spelled out. The AOA would be required to ensure that adequate staff are assigned to work on this program. The AOA would be required to establish a technical assistance and training capacity for ombudsman programs as well as to evaluate the program and provide substantive reports to Congress.

Our legislation does not address expansion of the Ombudsman Program into other long-term care settings, including home health care. There is growing interest, which I share, in the need to establish ombudsman services for clients of home care services. I believe, however, that such expansion should not occur without additional funding to serve new populations. The program currently has a large respon-

WITNESS STATEMENT

NAME Lenore F. Taliaferro BILL NO. SB 185

ADDRESS 1026 NINTH AVE DATE 3/10/87

WHOM DO YOU REPRESENT? Self

SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Ombudsman Bill as proposed does not adequately protect elderly in all long-term care facilities as defined within Older Americans Act. (See written testimony & supportive documentation provided to committee members).

I strongly support & have for the past six years the need for comprehensive protective Ombudsman legislation.

Lenore F. Taliaferro

CS-34 Concerned Citizen, LTCO - 11/2/81 - 1/20/84

EXHIBIT #7 Tom Crosser
DATE 3-10-87 OBPP
SJR # 8 SJR 8

SJR 8 is an outgrowth of work done by the Developmental Planning Taskforce

In March, 1986, the Developmental Disabilities Planning and Advisory Council (DDPAC) created the Developmental Planning Task Force. The Task Force's primary mission is to determine what the unmet needs of Montana's DD population are and how these needs can best be met.

The Developmental Planning Task Force is a nine-member committee appointed by DDPAC. Members represent a broad spectrum of interests and backgrounds, with most possessing extensive experience in, or knowledge of, developmental disabilities. Members include:

Myself

Representative Francis Bardanouve

Gail Gray, Office of Public Instruction,

Richard Heard, Montana Developmental Center,

Jerry Hoover, Department of Institutions,

Senator Thomas Keating, Montana Senate,

Gary Marbut, DDPAC,

Dennis Taylor, SRS

Rena Wheeler, Special Training for Exceptional People,

Chrys Anderson, an independent consultant, provides administrative and technical assistance to the Task Force. Many individuals and organizations throughout the state provided crucial information on which many of the Task Force recommendations are based.

After extensive work gathering and interpreting information about the state's developmentally disabled population, the Task Force formulated seven recommendations. These recommendations are the long-term answer to the question "how do we best meet the needs of the unserved and underserved developmentally disabled population in the State of Montana?".

The Task Force recommendations are:

1. Consolidate all services for persons with developmental disabilities under a single administrative authority. (this recommendation is ~~contained in a seperate joint resolution~~ being addressed in Cal Winslow's DDPC bill)

2. Develope supported work services for citizens with severe disabilities.

3. Establish services to fill gaps in the current service delivery system. There is a need to develop specialized service and support organizations, supported living services, adult congregate living services and additional group homes. Also, new and perfected programs must be established to serve older citizens with developmental disabilities and those with intensive medical and behavioral needs.

* The Montana Developmental Center at Boulder is considered an integral part of this service delivery system and should be given the specific mission of providing intensive services to persons with severe behavior, medical or care needs. In addition, the Center should provide programs to deal with naive offenders and offer professional resource assistance to community-based DD

service programs.

Eastmont Human Services Center should become an exemplary geriatric program for Montana's senior citizens with developmental disabilities.

4. Improvements should be made in community services in the areas of case management, respite care, and staff training. In addition, independent review of community placement and treatment should be initiated.

5. The Developmental Disabilities Division of the Department of Social and Rehabilitation Services should be designated as the lead agency for a new state grant program for handicapped infants and children.

6. The public should be educated about of naive offenders. Policies and procedures should be implemented to identify and treat these disabled citizen.

7. Services should be expanded to meet the needs of all Montana citizens with developmental disabilities.

Although current budget problems will impede progress in this area, the long-term objectives can be phased gradually to minimize immediate costs, while maintaining the integrity of the proposed system.

SJR 8 presents what I believe to be the roadmap for future development of our DD service delivery system. The recommendations of the taskforce are not cast in stone. They do represent a major, unified step towards the future. With continued hard work by those involved in DD services, positive progress will occur.

EXHIBIT 8
DATE 3-16-87
HB #246

SENATE BILL 246

The following health care facilities support Senate Bill 246:

1. Rivendell of Billings, Inc. - Billings
   Adolescent Psychiatric Hospital (formerly state owned Montana Youth Treatment Center)

2. Rivendell of Montana, Inc. - Butte
   Child and Adolescent Psychiatric Hospital (construction to start this spring)

3. Rimrock Foundation - Billings
   Chemical Dependency Inpatient Treatment Facility

4. Parkview Convalescent Care - Billings
   Long Term Care Facility (Groundbreaking 2/12/87)

5. Valle Vista Manor - Lewistown
   Long Term Care Facility

6. Broadwater Health Center - Townsend
   Combined Hospital and Long Term Care Facility

7. Ruby Valley Hospital - Sheridan
   Rural Hospital

8. Helena Nursing Home - Helena
   Long Term Care Facility

9. Laurel Nursing Home - Laurel
   Long Term Care Facility (construction is proceeding on a new facility)

Patrick E. Melby
Luxan & Murfitt
Fourth Floor, Montana Club Building
P.O. Box 1144
Helena, MT 59624
Telephone: 442-7450

EXHIBIT 9
DATE 3-16-87
HB #246

March, 1987

TESTIMONY FOR SB 246
DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES

Chairman Gould and Members of the Committee. I am Dale Taliaferro, Health Planning Bureau Chief in the Department of Health and Environmental Sciences.

Senate Bill 246 provides renewal of the Certificate of Need law with several revisions. These revisions are designed to focus the law on those projects that have the most impact on health care costs. The overall number of reviews will be less than in the past and many reviews will be less complicated under this law. The changes were made at the request of the Statewide Health Coordinating Council, the Governor's Health Care Cost Containment Council, and numerous health care providers.

The thresholds for review of construction are raised from $750,000 to $1,500,000 and for new equipment from $500,000 to $750,000. These changes recognize inflation in medical construction and equipment costs and eliminate reviews of routine renovations and updating of equipment.

The "batching" process which provides for competitive hearings will only be used for reviews of construction of new inpatient capacity or purchase of major medical equipment. This change will reduce the time period and cost of many reviews. These are cases where our legal staff advises us that any provider could legally force a competitive review anyway. Batching makes this process less complicated and less costly for all participants.

The review process is being changed to provide more opportunity for local input and reduce the complexity of hearings. This is to be accomplished by eliminating the Department's preliminary decision, which requires extra time, and holding informal local hearings rather than the current highly structured hearings during the review process. A full hearing will only be held when a reconsideration of a Department decision is conducted.

Fees are included in this bill to offset a portion of the cost of the program. The fee structure proposed is projected to collect about $50,000 to $60,000 per year.

States that have not either continued their Certificate of Need laws or some other kind of restriction of health care facility construction have experienced rapid expansion of health care facilities. Excess building of nursing homes and specialty hospitals are usually the most serious problems.

I, or members of the Department staff, will be glad to answer any questions concerning this bill or related issues that the Committee may have.


PREPARED BY
THE MONTANA HEALTH CARE ASSOCIATION
FOR
HOUSE HUMAN SERVICES AND AGING
MARCH 10, 1981

EXHIBIT #11
DATE 3-10-87
HB #246

AARP

1986-1987
MONTANA STATE LEGISLATIVE COMMITTEE

CHAIRMAN
Mr. Joseph W. Upshaw
2016 Highland
Helena, MT 59601
(406) 442-5956

VICE CHAIRMAN
Mr. Wilbur Swenson
806 6th Street
Havre, MT 59501
(406) 265-9067

SECRETARY
Mr. John C. Bower
1405 West Story Street
Bozeman, MT 59715
(406) 587-7535

HEARING BEFORE THE HOUSE HUMAN SERVICES COMMITTEE - March 10, 1987

RE: SB 246

BY: Molly Munro - 442-3090
ELMER HAUGEN - 4443-2319

The American Association of Retired Persons wishes to go on record in support of SB246 as a means of health care cost containment, WITHOUT AMENDMENT.

The present situation in our state whereby four hospitals could each be vying for an MRI (MAGNETIC RESONATING IMAGER)--and could possibly ultimately each spend over $3 million purchasing their own machine--is a good example of the necessity for the certificate of need.

We urge that you give SB 246 a "do pass" out of your committee, without amendment.

EX-B #12
DATE 3-10-87
SB #246

STATEMENT

OF

THE MONTANA HOSPITAL ASSOCIATION

ON

SENATE BILL 246

BEFORE

HOUSE COMMITTEE ON HUMAN SERVICES AND AGING

March 10, 1987

March 10, 1987

TESTIMONY ON SENATE BILL 246 BEFORE HOUSE HUMAN SERVICES AND AGING COMMITTEE.

Testimony presented by Montana Hospital Association

CHAIRMAN GOULD, MEMBERS OF THE COMMITTEE, FOR THE RECORD, I AM JAMES AHRENS, PRESIDENT OF THE MONTANA HOSPITAL ASSOCIATION. OUR ORGANIZATION OPPOSED THIS BILL IN THE SENATE. WE BELIEVED MANY OF THE CIRCUMSTANCES THAT MADE CON A DESIRABLE PUBLIC POLICY OPTION IN THE 70'S DO NOT EXIST TODAY. THE FEDERAL GOVERNMENT HAS REALIZED THAT THE HEALTH CARE ECONOMY HAS CHANGED DRAMATICALLY IN THE PAST FEW YEARS. IT WITHDREW ITS FINANCIAL SUPPORT FROM STATE CON PROJECTS ON OCTOBER 1, 1986. THE FEDERAL MATCH WAS ABOUT 60 PERCENT. YOUR COLLEAGUES IN OTHER STATES HAVE ALSO WITHDRAWN THEIR SUPPORT FROM CON. ELEVEN STATES DO NOT HAVE CON LAWS. THEY ARE ARIZONA, IDAHO, UTAH, MINNESOTA, NEW MEXICO, TEXAS, KANSAS, LOUISIANA, AND MISSISSIPPI. CALIFORNIA'S LAW SUNSET JANUARY 1, 1987 AND WYOMING REPEALED ITS CON LAW JUST LAST WEEK. IN COLORADO A CON REAUTHORIZATION BILL THAT COVERS LONG-TERM CARE BEDS ONLY WILL BE HEARD BEFORE A LEGISLATIVE COMMITTEE THIS WEEK. THE CURRENT COLORADO LAW WILL SUNSET JUNE 30, 1987. CLEARLY, THE TREND IS AWAY FROM REGULATION BY CERTIFICATE OF NEED.

THE MONTANA HOSPITAL ASSOCIATION, FRANKLY, WOULD RATHER NOT HAVE A CON LAW IN MONTANA. WE REALIZE, HOWEVER THAT MANY PEOPLE HAVE A LEGITIMATE CONCERN ABOUT THE COST OF HEALTH CARE, PARTICULARLY AS IT EFFECTS STATE FUNDING THROUGH THE MEDICAID BUDGET. IN AN EFFORT TO RECOGNIZE THOSE CONCERNS AND AT THE SAME TIME LIMIT SOME OF THE MORE BURDENSOME ASPECTS OF CON, I WOULD LIKE TO PROPOSE THE FOLLOWING AMENDMENTS, ON BEHALF OF THE 55 MEMBERS OF THE MONTANA HOSPITAL ASSOCIATION.

FIRST, THE MHA PROPOSES THAT THE REVIEW THRESHOLDS BE AMENDED UPWARDS. IN THE BILL THE THRESHOLDS ARE $100,000 FOR OPERATING EXPENSES ON NEW SERVICES, $750,000 FOR EQUIPMENT AND $1,500,000 FOR CONSTRUCTION. HOW WERE THESE NUMBERS

SELECTED? THEY WERE PULLED OUT OF THE AIR. THEY WERE ARBITRARILY CHOSEN. WHO IS TO SAY THAT OTHER NUMBERS WOULD NOT DO AS WELL? MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, IF CON IS TO ACHIEVE ITS END OF REDUCING HEALTH CARE COSTS BY LIMITING CAPITAL INVESTMENT, IT MUST FOCUS ON MATERIAL EXPENDITURES. CON SHOULD ONLY BE CONCERNED WITH "BIG TICKET" PURCHASES. THE COMPETITIVE MARKETPLACE SHOULD BE ALLOWED TO DISTRIBUTE CAPITAL EXPENDITURES FOR SMALLER TICKET ITEMS. RAISING THRESHOLDS WOULD PROVIDE THE CITIZENS THE PROTECTION THEY DESIRE FROM THE CONSTRUCTION OF NEW LONG-TERM CARE FACILITIES OR PSYCHIATRIC HOSPITALS. YET IT WOULD ALLOW THE MARKET TO FUNCTION FOR CAPITAL INVESTMENTS OF LESS MAGNITUDE. WE PROPOSE AMENDING THE NEW SERVICE THRESHOLD TO $1,000,000, THE EQUIPMENT THRESHOLD TO $3,000,000 AND THE CONSTRUCTION THRESHOLD TO $3,000,000.

SECOND, MHA PROPOSES THAT THE APPLICATION FEES BE ELIMINATED. IF YOU ACCEPT THE AMENDMENTS TO THE CAPITAL THRESHOLDS AND LEAVE IN THE APPLICATION FEES, THE LOWEST FEE TO FILE A CON WILL BE $9,000. THE APPLICATION FEE UNNECESSARILY ADDS TO THE COST OF THE PROJECT. HEALTH CARE PROVIDERS, WHETHER HOSPITALS, NURSING HOMES OR AMBULATORY SURGERY CENTERS, WILL FINANCE THESE COSTS FROM PATIENT REVENUES. IT IS, IN THE FINAL ANALYSIS, PATIENTS AND NURSING HOME RESIDENTS WHO PAY THE CON APPLICATION FEES. THE DEPARTMENT OF HEALTH PUT THE FEES IN THIS BILL TO HELP DEFRAY THE LOSS OF FEDERAL FUNDING. IF YOU BELIEVE THAT THE CERTIFICATE OF NEED PROCESS IS A LEGITIMATE BENEFIT TO THE PEOPLE OF MONTANA, THEN ITS COSTS SHOULD BE BORNE BY ALL OF THE PEOPLE OF MONTANA. WHY SHOULD HEALTH CARE CONSUMERS PAY MORE THROUGH A HIDDEN TAX, FOR A PUBLIC GOOD THAT IS CLAIMED TO BENEFIT NOT ONLY TODAY'S CONSUMERS BUT TOMORROW'S AS WELL?

THIRD, MHA PROPOSES THAT ALL REFERENCES TO BATCHING BE REMOVED FROM THE BILL. BATCHING IS A PROCEDURAL PROBLEM. THIS IS THE WAY IT WORKS. A HEALTH FACILITY DEVELOPS A PLAN, A BUSINESS PLAN, IF YOU WILL. IT PERFORMS MARKET STUDIES TO DETERMINE THE NEED FOR A PARTICULAR SERVICE. IT PERFORMS FINANCIAL FEASIBILITY STUDIES TO MAKE CERTAIN THAT IT AND THE COMMUNITY CAN AFFORD THE

SERVICE. WHEN ALL OF THE STUDIES ARE COMPLETED AND THE DECISION BY THE BOARD AND ADMINISTRATION IS TO PROCEED WITH THE PROJECT, THE FACILITY SENDS A LETTER OF INTENT TO THE DEPARTMENT OF HEALTH. THE DEPARTMENT THEN ANNOUNCES TO THE FACILITY'S COMPETITORS THE INTENT OF THE APPLICANT AND ALLOWS, IF NOT ENCOURAGES, THEM TO SUBMIT COMPETING APPLICATIONS FOR REVIEW. THE ORIGINAL FACILITY HAS ALREADY DETERMINED THE NEED FOR THE SERVICE. PART OF THAT DETERMINATION IS MADE ON THE BASIS OF THE STATE HEALTH PLAN. SO EVERYBODY, (THE FACILITY, ITS COMPETITORS AND THE DEPARTMENT) KNOWS THAT A NEED MOST LIKELY EXISTS, BUT THAT ONLY ONE PROJECT WILL BE APPROVED. THE FIGHT IS ON FOR WHO WILL WIN THE PRIZE. THE PROCEDURE IS ADVERSARIAL, ACRIMONIOUS, ANTICOMPETITIVE AND INCREASINGLY LITIGIOUS.

MHA BELIEVES THAT CON APPLICATIONS SHOULD BE MEASURED AGAINST THE STATE HEALTH PLAN, NOT AGAINST OTHER COMPETING APPLICATIONS. IF COMPETITION IS DESIRED THEN ONE MAKES THE CASE FOR ELIMINATING THE CON PROCESS ITSELF. CONs SHOULD BE AWARDED TO THE FACILITY THAT SHOWS ENTERPRISE AND VISION, THE FACILITY THAT PERFORMS THE INITIAL GROUND-UP PLANNING, NOT TO THE FACILITY THAT FILLS OUT THE BEST APPLICATION. HEALTH PLANNING AFTER ALL IS NOT ABOUT FILLING OUT APPLICATIONS TO THE DEPARTMENT'S SATISFACTION. IT IS ABOUT KNOWING AND BEING IN TOUCH WITH YOUR COMMUNITY AND RESPONDING IN A TIMELY FASHION TO ITS WANTS AND NEEDS.

FOURTH, WE RECOMMEND THAT THE DEPARTMENT OF HEALTH BE INSTRUCTED BY LAW TO PHASE-OUT ITS OPERATION BY JUNE 30, 1989. WE PROPOSE THAT THE DEPARTMENT CANDIDLY ASSESS ITS PERFORMANCE, STIPULATE A PHASE-OUT PLAN AND PROJECT THE CONSEQUENCES OF LETTING CON SUNSET IN 1989. A REPORT WOULD BE DUE TO THE NEXT LEGISLATURE IN JANUARY 1989. THIS REPORT WILL HELP THE 51ST LEGISLATURE JUDGE WHETHER OR NOT TO REAUTHORIZE THE CON IN 1989.

FIFTH, WE RECOMMEND THAT THE BILL CREATE A "LEVEL PLAYING FIELD" WHERE ALL

HEALTH CARE PROFESSIONALS COMPETE WITH THE SAME CONSTRAINTS. HMOs SHOULD BE CLEARLY DEFINED AS COMING UNDER THIS LAW. WE USE THE TERM ALTERNATIVE DELIVERY SYSTEM TO COVER THE WHOLE RANGE OF NEW DELIVERY ORGANIZATIONS -- HEALTH MAINTENANCE ORGANIZATIONS, PREFERRED PROVIDER ORGANIZATIONS, PREFERRED PROVIDERS ARRANGEMENTS AND SO ON. FURTHERMORE, MHA SUGGESTS THAT THE LAW BE CHANGED TO INCLUDE PHYSICIANS' AND DENTISTS OFFICES UNDER THE LAW. PRESENTLY THEY ARE SPECIFICALLY EXCLUDED FROM THE DEFINITION OF HEALTH CARE FACILITIES.

WE ARE NOT INTERESTED IN CREATING BURDENSOME NEW REGULATORY PROBLEMS FOR PHYSICIANS. INDEED, MOST OF THE ACTIVITIES OF PRIVATE OFFICES AND CLINICS WILL BE EXCLUDED, IF YOU ADOPT THE NEW THRESHOLDS PROPOSED IN THE AMENDMENT. WE FEEL THAT HMOs, PHYSICIANS AND OTHERS WHO OFFER SERVICES IN COMPETITION WITH PROVIDERS WHO ARE REQUIRED TO OBTAIN CONs FOR PROVIDING THE SAME SERVICES SHOULD BE SUBJECT TO THE SAME REGULATORY CONTROLS.

FINALLY, WE ARE INTERESTED IN SHORTENING THE PROCESS. TIME REALLY IS MONEY. THE DEPARTMENT HAS IN SEVERAL AREAS AMENDED THE BILL TO LENGTHEN THE TIME FRAME OF REVIEW. WE WOULD STRIKE THOSE AMENDMENTS TO MAKE THE PROCESS MORE TIMELY AND LESS COSTLY TO THE APPLICANT.

IN SUMMARY LET ME REITERATE THAT THE MONTANA HOSPITAL ASSOCIATION FEELS THAT THE COMPETITIVE NATURE OF HEALTH CARE IN 1987 NO LONGER WARRANTS A REGULATORY DEVICE LIKE CERTIFICATE OF NEED. HOWEVER, IF THERE IS TO BE A CON LAW IN THIS STATE IT SHOULD NOT CONTAIN UNNECESSARY REGULATIONS. EVENTS IN HEALTH CARE HAVE TRANSPIRED VERY QUICKLY. EVEN THOUGH WE ARE IN A DIFFERENT ENVIRONMENT, THERE ARE THOSE WHO DO NOT RECOGNIZE IT, THOSE WHO ARE UNWILLING TO BELIEVE IT, AND THOSE, WHO FOR SELFISH GAIN, DENY IT. IN THE SENATE, SENATOR JACOBSON SAID, "I AM NOT CONVINCED THAT CON CONTROLS COSTS, BUT IT IS DYING TWO YEARS TOO SOON." PERHAPS SHE IS RIGHT. MAYBE IT IS TWO YEARS TOO SOON. IF THE LEGISLATURE AND THE PUBLIC ARE NOT CONVINCED THAT IT IS TIME TO ALLOW THE LAW TO SUNSET, IT IS TOO SOON.

THEREFORE, MHA SUPPORTS THE REAUTHORIZATION OF CON, BUT THE BILL MUST BE AMENDED TO REMOVE BURDENSOME PROCEDURAL FLAWS LIKE BATCHING AND TO EASE MONTANA INTO THE TIME WHEN CON WILL SUNSET. CHAIRMAN GOULD, MEMBERS OF THE COMMITTEE, I STRONGLY URGE YOU TO ACCEPT THESE AMENDMENTS:

1. INCREASE THE THRESHOLDS
2. ELIMINATE THE APPLICATION FEES
3. ELIMINATE BATCHING
4. REQUIRE A PHASE-OUT PLAN
5. CREATE A "LEVEL PLAYING FIELD"
6. MAKE THE PROCESS MORE TIMELY.

THESE AMENDMENTS PROTECT THE PUBLIC AND YET REMOVE UNNECESSARY REGULATIONS. THEY WILL MAKE A MUCH BETTER LAW. THANK YOU.

CON AMENDMENTS

A. Eliminate batching and competitive reviews. In order to eliminate batching, the following amendments must be made:

1. Page 2, lines 16 through 25, strike in their entirety.
2. Page 3, lines 1 and 2, strike in their entirety.
3. Page 3, lines 16 through 20, strike in their entirety.
4. Page 4, lines 16 through 21, strike in their entirety.
5. Page 24, line 17, strike "and consolidation".
6. Page 25, lines 13 through 18, strike in their entirety.
7. Page 26, lines 14 through 21, strike in their entirety.
8. Page 27, lines 24 and 25, strike in their entirety.
9. Page 28, lines 1 through 4, strike in their entirety.
10. Page 28, lines 16 through 20, strike in their entirety.
11. Page 29, lines 7 through 10, strike in their entirety.

B. Increase new service operating expense threshold. Amend:

1. Page 20, line 20, strike "$100,000" and insert "$1,000,000" in lieu thereof.

C. Increase equipment threshold. Amend:

1. Page 24, line 4, strike "$750,000" and insert "$3,000,000" in lieu thereof.

D. Increase construction threshold. Amend:

1. Page 24, line 6, strike "$1,500,000" and insert "$3,000,000" in lieu thereof.

E. Improve the timeliness of the process. Amend:

1. Page 28, line 13, strike "90" and insert "60" in lieu thereof.
2. Page 28, line 14, insert a period (.) after "sent".
3. Page 29, line 5, insert a period (.) after "person".
4. Page 29, lines 5 and 6, strike "or when considered appropriate by the department."
5. Page 35, line 6, strike "30" and insert "20" in lieu thereof.

F. Create a phase out plan for 1989 sunsetting of CON. Amend:

1. Insert "New section. Phase out plan. The department will begin a planning process no later than July 1, 1988 that documents the effectiveness of certificate of need, details how certificate of need will be phased out, and documents the effect on the health system of the elimination of certificate of need. The department will provide a report to the legislature no later than the fifth day of the 1989 legislative session."

G. Eliminate application fees. Amend:

1. Page 37, lines 4 through 14, strike in their entirety.

H. Create a "level playing field" for all competitors (improve definition of "person" and "health care facility"). Amend:

1. Page 5 lines 15 and 16, strike "The term does not include offices of private physicians or dentists." in its entirety.

2. Page 10, line 13, strike "health maintenance organization" and insert "alternative delivery system" in lieu thereof and insert "private office," before "or".

3. Page 13, lines 1 and 2, strike "The term does not include offices of private physician or dentists." in its entirety.

4. Page 17, line 21 insert "alternative delivery system, private office," between "estate," and "or".

5. Page 21, line 24 insert "alternative delivery system, private physician or dentist office," before "or".

EXHIBIT 15
DATE 3-10-87
HB #246

TALKING PAPER - CERTIFICATE OF NEED

LAW - SB NO. 246

INTRODUCTION: MY NAME IS GERALD E. HUGHES AND I AM THE HOSPITAL AND NURSING HOME ADMINISTRATOR AT GLACIER COUNTY MEDICAL CENTER AND LONG TERM CARE FACILITY IN CUT BANK MONTANA. I HAVE BEEN IN THE STATE OF MONTANA, EMPLOYED AS A HOSPITAL ADMINISTRATOR, SINCE DECEMBER 1982. PRIOR TO THAT, I SERVED AS A HOSPITAL ADMINISTRATOR IN THE UNITED STATES AIR FORCE FOR TWENTY-THREE YEARS, OF WHICH SIX OF THOSE YEARS WERE SPENT IN THE HEALTH PLANNING OF TWO NEW MEDICAL FACILITIES FOR THE UNITED STATES AIR FORCE AND ONE NEW 500 BED HOSPITAL FOR THE IMPERIAL IRANIAN AIR FORCE IN IRAN AS A MEMBER OF A UNITED STATES AIR FORCE MEDICAL MOBILITY TEAM, AUTHORIZED BY THE U.S. STATE DEPARTMENT. MY EXPERIENCE AS A HOSPITAL ADMINISTRATOR AND HEALTH PLANNER IS ABOVE THE AVERAGE EXPERIENCE OF THE MONTANA ADMINISTRATOR.

I STRONGLY SUPPORT A CERTIFICATE OF NEED LAW FOR THE STATE OF MONTANA AND RESPECTFULLY URGE FAVORABLE CONSIDERATION OF SENATE BILL NUMBER 246.

AS YOU ARE AWARE, THE CERTIFICATE OF NEED IS A REGULATORY DEVICE INTENDED TO ADDRESS A NUMBER OF PROBLEMS ASSOCIATED WITH THE ALLOCATION OF HEALTH RESOURCES.....UNNECESSARY DUPLICATION OF SERVICES, EXCESS CAPACITY, HIGH HEALTH CARE COSTS, AND UNEVENLY DISTRIBUTED HEALTH SERVICES.

THE CERTIFICATE OF NEED LAW IS A VALUABLE PLANNING AND "CONTROL" MECHANISM FOR THE STATE OF MONTANA IN ASSURING THE PUBLIC THAT WE ARE CORRECTLY DETERMINING THE NEED FOR HEALTH SERVICES.

EXHIBIT 14
DATE 3-10-87
B

MONTANA HEALTH FACILITY AUTHORITY

DEPARTMENT OF COMMERCE

TED SCHWINDEN, GOVERNOR

1520 EAST SIXTH AVENUE

STATE OF MONTANA

(406)444-5435

HELENA, MONTANA 59620

Mr. Chairman, members of the committee, I am Mary Munger, the current chairman of the Montana Health Facility Authority and on behalf of the Authority Board, speak in support of S.B. 246.

The Health Facility Authority was established by the legislature in 1983 as one means of trying to control health care costs. Our primary function is to issue bonds to create money which is then loaned to non-profit health care facilities which are defined in the statute that created the Authority and in the statute you are considering today.

The law requires the Authority to follow certain procedures in the issuance of bonds and in the use of the bond proceeds. One of those procedures, specifically, and I'm quoting from the law, is "the Authority may not allow proceeds of any bonds or notes to be expended for any facility unless such facility has been reviewed and approved by the appropriate regional and state health planning boards and has received any approval required by Title 50, chapter 5, part 3." -- the certificate of need process.

If the health planning functions and certificate of need process are eliminated, as would happen without S.B. 246, there would be no agency within state government evaluating the need for health care facilities or services.

I urge your support of S.B. 246.

IT IS ALSO VERY HELPFUL TO HOSPITAL ADMINISTRATORS AND BOARDS OF TRUSTEES IN FORMULATING THEIR PLANNING TO MEET COMMUNITY AND HEALTH NEEDS. BUT IT IS A "PAINFUL" PAPER WORK PROCESS AND CONSIDERABLE PART OF ITS FRUSTRATION. INDEED, WITHOUT A CERTIFICATE OF NEED PROCESS - THERE IS NO CONTROL OVER HOSPITALS, NURSING HOMES, OR ANYONE WHO DESIRES TO EMBARK UPON THE HEALTH CARE SCENE IN MONTANA. I WANT YOU TO THINK ABOUT THAT - THERE IS NO CONTROL IN THE STATE OF MONTANA, WITHOUT A CERTIFICATE OF NEED LAW, IN DETERMINING HEALTH SERVICES A COMMUNITY NEEDS OR DOES NOT NEED, WHETHER THEY MEET A STANDARD OF ACCEPTABLE QUALITY OR WHETHER THEY WERE OFFERED AT A FAIR PRICE.

AS A HOSPITAL ADMINISTRATOR AND NURSING HOME ADMINISTRATOR, I KNOW OFTEN RAISES PUBLIC RESENTMENT OVER THE COST OF HEALTH CARE AND ALLEGATIONS OF INEFFICIENCY AND UNNECESSARY DUPLICATION OF SERVICES. THE PUBLIC DOUBTS OUR PLANNING ABILITY AND OFTEN TIMES WITH GOOD REASON. WE HAVE DIFFICULTY IN RECRUITING AND RETAINING PHYSICIANS SERVICES, NURSING SERVICES, AND THERE IS EVEN DIFFICULTY IN SMALL RURAL HOSPITALS IN KEEPING ADMINISTRATORS FOR ANY LENGTH OF TIME.

THE PUBLIC HAVE THE CERTIFICATE OF NEED LAW TO THANK FOR CLOSELY MONITORING AND CONTROLLING ALLOCATION OF HEALTH SERVICES IN MONTANA. INDEED, WE HOSPITAL ADMINISTRATORS NEED TO JUSTIFY AND BE ACCOUNTABLE FOR THE DELIVERY OF HEALTH SERVICES, MANPOWER, AND FACILITIES, ESPECIALLY WHEN WE ARE SPENDING "TAX" DOLLARS.

[illegible] AND WANT TO SUBMIT THE CERTIFICATE OF NEED LAW WILL FAIL FOR THE "MARKET" WILL DRIVE OUT UNNECESSARY DUPLICATION OF SERVICES AND ONLY THOSE ECONOMICALLY VIABLE PROJECTS WILL BE ENTERED INTO.

I BELIEVE THAT WITHOUT A CERTIFICATE OF NEED LAW IN THE STATE OF MONTANA THAT MANY ESTABLISHED NURSING HOMES AND SMALL HOSPITALS - ESPECIALLY WHERE WE HAVE COMBINATION FACILITIES (HOSPITAL AND NURSING HOME UNDER THE SAME ROOF) SUCH AS GLACIER COUNTY MEDICAL CENTER COULD BE JEOPARDIZED BY A LARGE PROFIT OR NONPROFIT HEALTH CARE CORPORATION OR CHAIN ENTERING THE COMMUNITY AND COMPETING FOR THE HEALTH CARE BUSINESS. THIS COULD FORCE THE LOCAL HOSPITAL AND NURSING HOME TO CLOSE, OR TO SPEND ELABORATE AMOUNTS OF MONEY TO COMPETE TO HOLDING THEIR PATIENT POPULATION.

IN OCT.1980, COLUMBUS HOSPITAL OF GREAT FALLS PURCHASED A PRIVATE INTERNAL PHYSICIAN'S PRACTICE IN CUT BANK, MT. AND ARE ACTIVELY COMPETING WITH THE LOCAL PHYSICIANS FOR PATIENT BUSINESS AND THE MEDICAL CENTER FOR PATIENTS. (NEWS CLIPS) THIS DEMONSTRATES THAT LARGE HOSPITALS WILL OUTREACH TO SMALL RURAL COMMUNITIES TO FILL THEIR EXCESS BEDS AT THE EXPENSE OF THE RURAL HEALTH CARE SYSTEM IRREGARDLESS OF THE NEEDS OF THE LOCAL COMMUNITY. WE WHO SUPPORT THE CERTIFICATE OF NEED LAW ARE NOT SO NAIVE AS TO BELIEVE THE "MARKET" WILL PREVENT UNNECESSARY DUPLICATION OF SERVICES. A SMALL RURAL HOSPITAL COULD BE FORCED TO REDUCE SERVICES AND POSSIBLY BE FORCED TO [illegible] THE CERTIFICATE OF NEED WAS SUBSETTED.

THOSE WHO ARGUE IN SUPPORT THE CERTIFICATE OF NEED LAW WILL TELL YOU THE STATE GENERAL FUND MONEY SHOULD NOT BE USED TO SUPPORT CON, YET THEY WON'T TELL YOU HOW MUCH STATE GENERAL FUND MONEY WILL BE USED IN THE UNNECESSARY DUPLICATION OF SERVICES IF CON IS SUPPORTED.

OUR PAYROLL (TAKE HOME PAY) BY CUT BANK EMPLOYEES AT GLACIER COUNTY MEDICAL CENTER AVERAGES $74,803.91 PER MONTH AND IF WE PROJECT THIS FOR A YEAR - $897,670.92 GOES BACK INTO GLACIER COUNTY. OUR ACCOUNTS PAYABLE - THINGS WE PURCHASE TO OPERATE THE MEDICAL CENTER AND NURSING HOME AVERAGES $55,836.00 PER MONTH AND $670,032.00 PER YEAR. WE SPEND APPROXIMATELY 31% , $207,711.00 IN CUT BANK, 30% OR $201,009.00 IN MONTANA AND 39%, $261,312.00 OUTSIDE OF MONTANA.

FORTUNATELY IN CUT BANK, MONTANA, OUR CITIZENS REALIZE THE IMPORTANCE OF THEIR RURAL HOSPITAL AND NURSING HOME AND SUPPORT HEALTH CARE AT HOME! THEY ALSO REALIZE THE ECONOMIC IMPORTANCE IN UTILIZING THEIR MEDICAL FACILITIES FOR THE BENEFIT OF GLACIER COUNTY. THEY ALSO SUPPORT COST CONTAINMENT AND FROWN ON THE UNNECESSARY DUPLICATION OF SERVICES.

IN SUMMARY, THE CERTIFICATE OF NEED LAW WILL SERVE MONTANA WELL AND MONTANIANS WILL BE ASSURED THAT HEALTH SERVICES WILL NOT BE UNNECESSARILY DUPLICATED. IF THE CERTIFICATE OF NEED LAW IS DELETED, BY THE TIME THE NEXT LEGISLATIVE SESSION MEETS AND REGROUPS ON THIS ISSUE MASSIVE DAMAGE CONTROL WILL BE REQUIRED.

Please support the CON law

Glacier County Medical Center
502 2nd St. SE
Cut Bank, MT 59427
(406) 873-2251

February 12, 1987

Senate Public Health, Welfare & Safety Committee
Dorothy Eck, Chairman

Dear Committee Members:

As a practicing Radiologist in the State of Montana I strongly support a "Certificate of Need Law" for the State of Montana and urge your favorable consideration of Senate Bill Number 240.

Sincerely,

Robert T. Swenson, M.D.
Radiologist
Glacier County Medical Center

RTS/ts

Glacier County Medical Center
602 2nd St. SE
Cut Bank, MT 59427
(406) 873-2251

February 12, 1987

Senate Public Health, Welfare & Safety Committee
Dorothy Eck, Chairman

Dear Committee Members:

As a practicing Physician in the State of Montana I strongly support a "Certificate of Need Law" for the State of Montana and urge your favorable consideration of Senate Bill Number 260.

Sincerely,

[signature]

Lawrence W. Hammer, Jr. M.D.
Glacier County Medical Center

LWH/jd

Glacier County Medical Center
502 2nd St. SE
Cut Bank, MT 59427
(406) 873-2251

February 12, 1987

Senate Public Health, Welfare & Safety Committee
Dorothy Eck, Chairman

Dear Committee Members:

As a practicing Physician in the State of Montana I strongly support a "Certificate of Need Law" for the State of Montana and urge your favorable consideration of Senate Bill Number 240.

Sincerely,

Mark A. Kelly, D.O.
Glacier County Medical Center

MAK/ld

Exhibit #1

FRIDAY, OCT. 3, 1986 3rd YEAR N.

Dr. Shepard's Practice Terminated

The Columbus Hospital of Great Falls announced Thursday that it has terminated the practice of former Cut Bank physician, Dr. Phillip Shepard. Negotiations on the sale of the practice have been under way for several months, and were concluded Sept. 1, reports Laura Jones, Columbus Hospital Public Relations Director. In a news release from the Great Falls hospital, the new clinic will be called the "Cut Bank Family & Specialty Care Clinic," and will be managed by Dennis Payne, a Columbus hospital representative. Current employees, Marianne Wilson and Vicki Wilkins, will continue in their positions at the clinic, and will serve as on-site managers. Currently, Dr. Rosemary Kellogg is in the clinic on Monday, Wednesday & Thursday of each week. Other specialists who have current patients at the clinic in the part on a routine basis include: Dr. Glenn Adams, rheumatologist; Dr. O.M. Walker, cardiologist; Dr. R.M. Ullman, opthalmologist; and Dr. John Stone, urologist. The release continued saying that the hospital hopes to attract other specialists from Great Falls to appear in Cut Bank, and also that it intends to recruit a full-time physician. "Purchase of the clinic represents the Sisters of Providence continued commitment to provide and expand the level of medical care available to Cut Bank residents," the release noted.

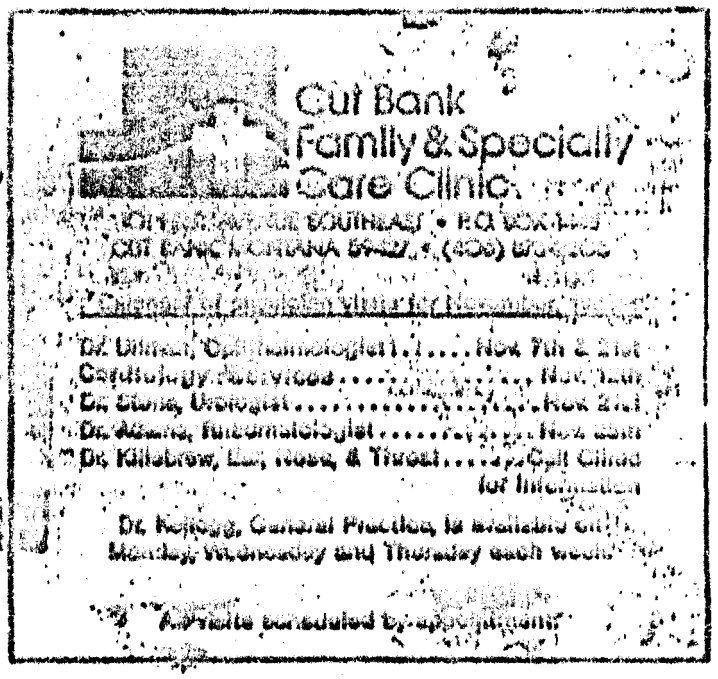
Exhibit 22

TUESDAY, OCT. 7, 1980 33rd Year NO. 11

New Clinic Disturbs GCMC Officials

Representatives of the Columbus Hospital in Great Falls a the Glacier County Medical Center met Monday afternoon at the local hospital to discuss the new Cut Bank Family & Specialty Care Clinic. Officials at the Columbus hospital announced last week that they had purchased the building from former Cut Bank physician Dr. Phillip Shepard, striking a sour note with GCMC Administrator Jerry Hughes and his staff over what the purpose of the purchase really means. The hastily-called press conference, which was scheduled to be a private meeting between Hughes & Gordon Sullivan of the Columbus hospital, turned into a question and answer session with Hughes, Sullivan & Bonnie Peyatte, another Columbus Hospital representative. In addition to local media representatives, others present were County Attorney Jim Nelson, County Commissioner Don Hoops, Director of Nursing Vivian Nelson, Dr. John Wallace and Bonnie Burns, Vice President of the Cut Bank Area Chamber of Commerce. Hughes accused the Columbus officials of threatening the local hospital and local doctors by bringing in their own doctors to provide medical services for Cut Bank & the surrounding area. Hughes said that while the GCMC has supported the Columbus Hospital in the past, "We have to oppose any kind of competing enterprise on our back door." Hughes said the decision to purchase the local clinic for $78,000 was fourfold: to fill their (Columbus Hospital) beds, to provide work for their specialists, to make money for Columbus Hospital and to compete for patients. Sullivan, meanwhile, said the main reason for the purchase was to provide a place for Great Falls specialists to practice in Cut Bank. Sullivan noted that Columbus had been approached 18 months ago by Dr. Shepard to provide him specialists in various fields. The request was granted, Sullivan said, and nine months later, Shepard asked Columbus officials if they would be interested in purchasing his practice, or could they find a buyer. Sullivan added that while Columbus was not in the business of buying or selling practices, it would aid in trying to find a buyer. Much more surfaced, including a request to GCMC, Sullivan said Columbus agreed to the purchase to help protect its interests in the Cut Bank area. That, he said, would give the Great Falls specialists a place to practice at various times in northern Montana, while also providing a place for Dr. Rosemary Kellogg to practice three days each week. "We're looking for making more than a beneficial relationship...We want to put something together to make local health care go well," Sullivan said. "We want to do what you want us to do. We don't want to go into competition with your practices. We would like to be only a supporting hospital 100 miles away." Hughes disagreed, saying that Columbus is being forced to find other means for more revenue because of declining census. After more than 2 hours of discussion, Sullivan proposed that an advisory board be set up between the two groups to work out problems, and to set limitations. The proposal was met with some opposition, although the GCMC officials said they would take the request back to the County Commissioners for further discussion.

Exhibit 33



Cut Bank
Family & Specialty
Care Clinic

[illegible] SOUTHEAST • P.O. BOX [illegible]
CUT BANK, MONTANA 59427 • (406) [illegible]

[illegible]

Dr. Ullman, Ophthalmologist.....Nov. 7th & 21st
Cardiology Services.....Nov. 14th
Dr. Clark, Urologist.....Nov. 21st
Dr. Adams, Rheumatologist.....Nov. 28th
Dr. Killebrew, Ear, Nose, & Throat.....Call Clinic
for Information

Dr. [illegible], General Practice, is available on
Monday, Wednesday and Thursday each week.

Appts. scheduled by appointment

EXHIBIT #4

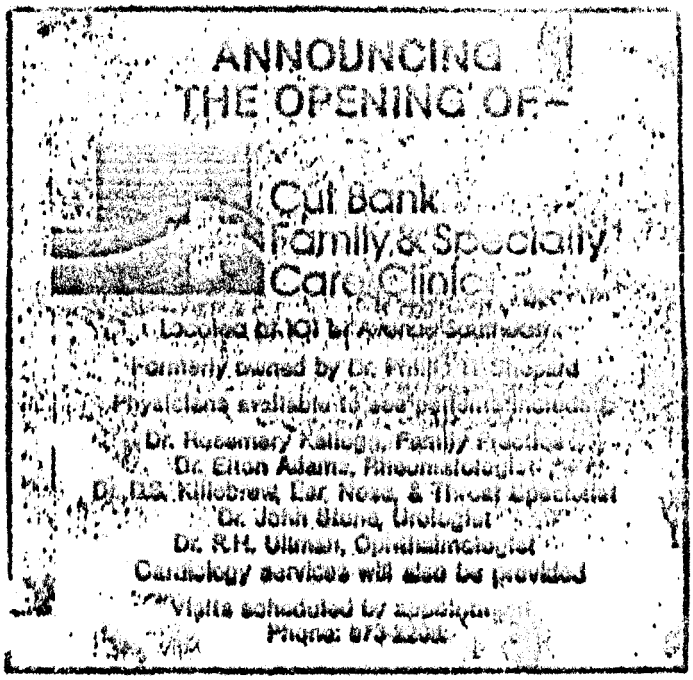

ANNOUNCING
THE OPENING OF
Cut Bank
Family & Specialty
Care Clinic
Formerly owned by Dr. Phillip Thornhill
Dr. Rosemary Kellogg, Family Practice
Dr. Elton Adams, Rheumatologist
Dr. Ida Killebrew, Ear, Nose, & Throat Specialist
Dr. John Blong, Urologist
Dr. R.H. Ullman, Ophthalmologist
Cardiology services will also be provided

Exhibit 33

Cut Bank
Family & Specialty
Care Clinic

101 1ST AVENUE SE*P.O. BOX 1449 CUT BANK, MT. 59427(406) [illegible]

THE CUT BANK FAMILY AND SPECIALTY CARE CLINIC
is pleased to invite you to their
GRAND OPENING CELEBRATION DECEMBER 1st thru [illegible]
You are invited to attend special free educational activities
throughout the week or just drop by for
coffee, cookies, and free handouts.

DECEMBER 1st, Monday-	EYE DAY: FILM- [illegible] Eye II, a film regarding eye problems, shown at 12:30 p.m.
DECEMBER 2nd, Tuesday-	ARTHRITIS DAY: FILM- Living With Osteoarthritis, shown at 12:30 p.m.
DECEMBER 3rd, Wednesday-	CANCER DAY: FILM- Taking Control, Your diet and cancer treatment, Interferons, shown at 12:30 p.m.
DECEMBER 4th, Thursday-	RESPIRATORY DAY: FILM- Air Pollution In Your Home, shown at 12:30 p.m.
DECEMBER 5th, Friday-	CARDIOLOGY DAY: FILM- How To Live The High Cost Of Living, Pressure, shown at 12:30 p.m.
DECEMBER 6th, Saturday-	HEALTH FAIR AT NORTHERN LIGHTS SHOPPING CENTER

Exhibit #0

Clinic slates grand opening festivities

This is "Grand Opening Celebration Week" at Cut Bank Family and Specialty Care Clinic in Cut Bank. Free educational handouts, coffee, cookies, magnets, lanyards and a health fair are all part of the celebration which started Monday, Dec. 1, and continues through Saturday, Dec. 6.

Thursday and Friday two educational luncheons, scheduled for 12:30 p.m. showings, are available for viewing by the public. Thursday's film will be "Air Pollution in Your Home" and the last film of the week, "How to Take the High Out of Blood Pressure", will be shown on Friday.

The Health Fair, which will be held at the Northern Village Shopping Center from 9 a.m. to 6 p.m. on Saturday, will feature free testing along with free handouts and giveaways. Members of the clinic staff and local EmTs will be testing blood pressure, blood sugar, lung capacity and oxygen absorption, said Bonnie Paynich, manager of the clinic.

According to Paynich, the North Central Mercy Flight is also scheduled to be at the mall site between 1-3 p.m. Saturday afternoon. "This will give individuals in the outlying areas an opportunity to register with the North Central Mercy Flight, establish the landing coordinates and put them on file. That way, if a farmer or rancher is having chest pains, for example, he can call his doctor, the doctor can call 'Life Flight' and they will know exactly where to go to pick up the patient," Paynich added that the patient can then be flown either to Glacier County Medical Center or Great Falls.

There will be a blood pressure display board and tables set up at the health fair to distribute brochures on health information along with magnets and hand-aid holders.

The staff and management of the clinic, which was purchased by Columbus Hospital earlier this fall, invites the public to attend any or all of the activities going on during the grand opening celebration. The Cut Bank Family and Specialty Care Clinic is located at 101 First Avenue S.E.

EXHIBIT #7

NEWS RELEASE

OVER THE ADMINISTRATORS DESK AT GCHC

My strong concern over the recent purchase of Dr. Shepard's Private Practice by Columbus Hospital was that it is a real threat to our rural hospital - Glacier County Medical Center and Long Term Care Facility here in Cut Bank. Some urban hospitals are buying solo rural practices, replacing the retiring physician with one or two young ones and gaining both referrals and effective control of the small rural hospital. We need our Hospital/Nursing Home here in Cut Bank and I don't want to see it reduced to the status of a hospital without beds. In this situation, our hospital would function as an outpatient diagnostic clinic hospital, which admits inpatients only for emergencies and some obstetrics. We don't plan to let this happen! We need to continue providing full support to both our local hospital and local physicians. We believe consulting specialists available at the hospital best serve the citizens of Glacier County. So, we all need to be competitive and aware of the real intentions of large urban hospitals in our community and when you need medical care - see your local physician and insist always to use your Medical Center. If you need referral to a large hospital, we will help you arrange for that care we are unable to render.

Let's be supportive of your Medical Center and local physicians - they will be there when you need them.

Gerald E. Hughes
Administrator
Glacier County Medical Center/Long Term Care Facility

10-14-86

EXHIBIT
DATE

MONTANA HEALTH FACILITY AUTHORITY

DEPARTMENT OF COMMERCE

TED SCHWINDEN, GOVERNOR

1520 EAST SIXTH AVENUE

STATE OF MONTANA

(406)444-3435

HELENA, MONTANA 59620

Mr. Chairman, members of the committee, I am Mary Munger, the current chairman of the Montana Health Facility Authority and on behalf of the Authority Board, speak in support of S.B. 246.

The Health Facility Authority was established by the legislature in 1983 as one means of trying to control health care costs. Our primary function is to issue bonds to create money which is then loaned to non-profit health care facilities which are defined in the statute that created the Authority and in the statute you are considering today.

The law requires the Authority to follow certain procedures in the issuance of bonds and in the use of the bond proceeds. One of those procedures, specifically, and I'm quoting from the law, is "the Authority may not allow proceeds of any bonds or notes to be expended for any facility unless such facility has been reviewed and approved by the appropriate regional and state health planning boards and has received any approval required by Title 50, chapter 5, part 3." -- the certificate of need process.

If the health planning functions and certificate of need process are eliminated, as would happen without S.B. 246, there would be no agency within state government evaluating the need for health care facilities or services.

I urge your support of S.B. 246.

EXHIBIT #15
DATE
B

WITNESS STATEMENT

NAME [illegible] BILL NO. 246

ADDRESS [illegible] DATE 3/

WHOM DO YOU REPRESENT? [illegible]

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

[illegible]

CS-34

SB 246 Proponents for
House Human Services and Aging Committee
March 10, 1987

Name	Representing
Senator Bengtson	Sponsor
Cal Winslow	House
Tom Keating	Senate, Rimrock/Billings
Dale Taliaferro	Health Planning, DHES
Dave Lewis	Department of Social and Rehabilitation Services
Pat Regan	Senate, Governor's Health Care Cost Containment Advisory Council
Bob Doolan	Billings Deaconess
Joe Rude	Laurel Nursing Home
	Ruby Valley Hospital Sheridan
	Sheridan Memorial Hospital Plentywood
	Broadwater Medical Center Townsend
	Frances Mahon Deaconess Hospital, Glasgow
	Health and Marketing West, Inc.
Gerry Hughes	Glacier County Medical Center, Cut Bank
Rose Skoog	Montana Health Care Assn.
Cort Harrington	West Mont Home Health
Mary Munger	Health Facility Authority
Steve Waldron	Montana Council of Mental Health Centers

Ann Scott	Rocky Mountain Treatment Center, Great Falls
Tom Ryan	Montana Senior Citizens
Ada Weeding	Montana Statewide Health Coordinating Council
Elmer Hausken	AARP
Joy McGrath	Montana Mental Health Assn.
Pat Melby	Rivendell Hospital Rimrock
George Fenner	Department of Health and Environmental Sciences
Charles Briggs	Governor's Office

EXHIBIT
DATE
B # 246

CHARLES BRIGGS, STATE AGING COORDINATOR
OFFICE OF THE GOVERNOR
PROPONENT TESTIMONY CONCERNING S.B.246
RENEWAL OF CERTIFICATE OF NEED
HOUSE HUMAN SERVICES & AGING COMMITTEE
MARCH 10, 1987

Mister Chairman, Members of the Committee:

I am here today to testify in behalf of **Senate Bill 246**, renewing the certificate-of-need requirements for health care facilities for the next two years. The renewal was supported by the Governor's Health Cost Containment Advisory Council after considerable study of the issue.

Also, the Governor's Advisory Council on Aging has placed health cost containment as its top policy priority consideration. The Aging Council has in the past supported strengthening the certificate-of-need process. Changes in federal reimbursements systems, as well as increased competition in health care, may eventually remove the need for regulation of this kind. However, as a nation and certainly as a state we have not reached that time. The need for proposed facility construction must be justified to the public.

It is my opinion that if the certificate-of-need law is permitted to expire this year, we may well see the development of excess facilities and services - and resulting extra costs for consumers and the State. As an advocate for older Montanans (who comprise less than 12% of the population yet incur more than 30% of medical costs), I believe regulation through what is termed "consensus planning" by consumers and providers is our best, short-range choice for controlling medical facilities costs.

I also wish to add that I strongly support the bill in its present form, without additional amendments which might dilute the effectiveness of the process or the means proposed for its funding.

EXHIBIT #1
DATE 3-10-87
SB #246

SENIORS' OFFICE
LEGAL AND OMBUDSMAN SERVICES

TED SCHWINDEN, GOVERNOR

P.O. BOX 232
CAPITOL STATION

STATE OF MONTANA

(406) 444-4676
1-(800) 332-2272

HELENA, MONTANA 59620

March 10, 1987

TO: House Human Services and Aging Committee

FROM: Doug Blakley, State LTCO DB

RE: In support of SB 246 - Certificate of Need Bill

Health care consumer and advocate groups approach the certificate of need process with a great deal of ambivalence. This is because it has both positive and negative consideration for the health care consumer. On one hand, the certificate of need process limits the number of health care providers, which can reduce the competition between providers and thereby reduce the quality of services. On the other hand, it acts as a budgetary restraint on federal and state budgets (ie., Medicaid budgets) by limiting duplication and an oversupply of services, and thereby holding down the overall cost of health care. This especially important in the nursing home area where 60-70% of all residents are Medicaid recipients.

With regards to nursing homes, the certificate of need process may allow a marginal or poor nursing home to exist because it is the only home in the area and consumers have no where else to go. The absence of competition means little pressure to offer better services. On the other hand, the certificate of need, in limiting an uncontrolled expansion of beds, gives government a greater degree of control over their Medicaid budgeting process since they can plan for a specific number of beds.

In the face of these opposing forces, consumer and advocate groups have to assess the current level of services in their state and see which of these conflicting forces is more adversely affected. In other states, an undersupply of nursing home beds has lead to discrimination against Medicaid recipients in obtaining or retaining a bed in nursing homes. This has lead these groups to oppose certificate of need laws since the process was not responsive to the needs of consumers. An undersupply of beds has not been a critical problem in Montana, so we have seen access and Medicaid discrimination as a problem.

Problems relating to reimbursement (such as understaffing and a concomitant problem with obtaining needed services) have been a more prevalent problem in Montana. Removing constraints for

EXHIBIT #17 2-1-89
DATE 3-16-87
SB #246

adding additional beds would mean low occupancy rates in nursing homes, which in turn would mean greater potential for under-staffing. It would also increase the pressures on the Medicaid budget since additional facilities mean additional Medicaid funds having to go to pay for capital expenditures. Finally, there would also be a reduced likelihood that nursing homes would be granted rate increases to keep up with inflationary pressures, adding yet another economic pressure on facilities.

Therefore, in my opinion, concerns about the pressures on the Medicaid budget, on the rates facilities are reimbursed and the care residents receive would outweigh the benefits that consumers would receive from increased competition. Thus, given the current situation in Montana, I feel the certificate of need process is benefiting both consumers and the state, and should be continued.

EXHIBIT #18
DATE 3-10-87
SB # 246

March 10, 1987

TESTIMONY BEFORE THE HOUSE COMMITTEE ON HUMAN SERVICES AND AGING

Chairman Gould and Members of the Committee:

My name is George Fenner. I am Administrator of Health Services Division of the Department of Health and Environmental Sciences.

Certificate of Need statutes and regulation should be allowed to continue in Montana. Most Montanans are concerned, scared or angry about the cost of medical care, which continues to rise despite the efforts of many. Certificate of Need on the state side and DRG's on the federal side have been the only effective means of restraining costs while at the same time improving access in a controlled manner. Certificate of Need programs have attempted to give local communities some say in the development of their health care facilities and, across the country, have saved consumers billions of dollars by blocking needless and duplicative medical projects. In some places, Certificate of Need has been very effective. In Montana, it has been effective; however, the provider groups have made the argument that consumers want the latest in high tech, high cost medicine available in their community and they don't mind duplicating very expensive technology and service because they state they need it to be competitive. What they don't say is they want it despite what the cost to consumers may be. And the costs will continue to rise due to under utilization because of over availability, a vicious circle.

One begins to realize how effective Certificate of Need has been when you begin to identify those who oppose it. You find very few consumers; it is only certain key providers who have a vested interest in developing

a competitive edge regardless of cost and do not wish to be restrained by some regulatory process designed to protect the public. Certificate of Need is not a cost containment program. It is rather a cost management program.

There is one thing for sure. In states that have lifted CON requirements: There is an instant explosion of new health care facility construction unrelated to need which dramatically increases the need for state government to appropriate millions of additional Medicaid dollars. Hospitals strive to be the first, the most high tech, the highest volume provider of these new services to gain the publicity that goes with the specialty. There is economic motivation, public relations motivation, relative market share motivation to construct these new facilities which attract the super docs. What it costs the government or the patient becomes irrelevant.

You will hear from the opponents that the cost of pursuing Certificate of Need is prohibitive. Let me assure you that the cost of applying for a Certificate of Need is no more costly than any prudent applicant would encounter in building a well planned project if there were no Certificate of Need requirement. The cost has been generated by the applicant in developing applications that contain an overabundance of data and resource material not pertinent to the application. They employ consultants of national reputation to testify to material that is already available in the texts or locally. They retain legal counsel who have national and international reputations to represent them. Yes, those are expensive cost items, but they are not necessary or required by the process and can not be fairly attributed to the cost of the Certificate of Need requirements.

ARIZONA

In Arizona, the state legislature repealed CON ~~for nursing homes~~ in 1982. In the four years since, the number of nursing home beds in the state jumped by 76% -- 79 nursing homes in 1982 to 129 in 1986. Seventy-five per cent are skilled nursing facilities compared to 20% for the nation. Since CON deregulation, construction of 14 new hospitals has begun at a cost of 169 million dollars, and will provide 1,285 additional beds at a time when significant decreases in hospital utilization are occurring statewide. Six new open heart surgery programs and 3 additional cardiac cath labs have started.

UTAH

CON was allowed to sunset on December 31, 1984. One month later, 6 new private psychiatric hospitals were under construction. Prior to deregulation, 1,900 of the state's 4,400 acute care beds were deemed unnecessary because of a low occupancy rate of 56%. It is estimated that, by 1987, occupancy rates will fall to 47% and the state will have 2,700 empty beds. Presently Utah has 2,111 long-term care beds under some stage of construction.

INDIANA

Indiana revised its Certificate of Need law on July 1 of 1986 to "reduce the regulatory burden by limiting the number of projects subject to CON review." As a result, 8,053 additional beds will become certified for Medicaid purposes.

KANSAS

In the year following repeal of the Kansas state CON law in 1985, the number of nursing home beds under construction rose by 28%. Capital

expenditures for health care facility construction have increased 550% -- 5.7 million to 36.7 million dollars. The previous figures are considered conservative and do not include projects such as two new heart transplant centers for a county of approximately 400,000 people.

The idea that every physician and every hospital deciding what is in their best interest, and that will result in what's best for the community, is not borne out by experience.

If the Certificate of Need is allowed to sunset, I would predict that soon we will have a chicken in every pot, a car in every garage, and a hospital or nursing home bed for every Montanan.

I urge your favorable consideration of SB 246.

EXHIBIT #10
DATE 3-10-87
SB # 246

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624

(406) 443-5341

Testimony Before the House Human Services Committee, March 10, 1987

SB 246 -- Revise and Clarify Certificate of Need

For the record my name is Earl Reilly from Helena. I am also Vice-President and Legislative Chair of the Montana Senior Citizens Association (MSCA). On behalf of our membership of over 7000 seniors across the state I would like to express our support of SB 246 that would revise and clarify the certificate of need requirements while providing for a time extension of the CON laws.

MSCA's main focus over the past three years has been health care cost containment aimed at improving the affordability and accessibility of health care. CON laws, which were developed largely as a cost-containment measure in response to rapidly escalating health care costs, provide a solid base for controlling costs. With health care costs still increasing at 7% when the inflation rate is under 2%, MSCA believes that SB 246 is needed now as much as ever. Please vote to extend the CON another 2 years.

EXHIBIT
DATE 3-10-87
SB # 246

WITNESS STATEMENT

NAME DAVID LACKMAN BILL NO. SB 246

ADDRESS 1400 Winne Avenue, Helena, Montana 59601 443-3494 DATE 3/10/87

WHOM DO YOU REPRESENT? Montana Public Health Association

SUPPORT XXXXX OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY. (Bengston) Extend and Revise Certificate of Need Law. Tues. 3/10 12:30 Rm 312D House Human Services
Comments:

The theme of the 1987 annual meeting of the American Public Health Association is to deal with the profit motive in health care. Certificate of Need is essential in the planning process. My prediction is that without it, chaos would reign in Montana. "For Profit" would take over in many cases. Competition in the market place is allright in business; not in health services. Those presently opposed to Certificate of Need, I predict, will come to regret their stand should it be sunsetted.

My experience in estimating costs of laboratory tests, both in the private and public sectors, has been very sobering. In this ~~this~~ I ~~have~~ had help from fiscal accountants. Even allowing 20% for profit, we arrived at figures considerably below those currently prevailing in the market place.

(My degree is in the medical sciences with a major in immunology; and minor in pathology- so I am somewhat familiar with clinical pathology; and the dollars involved .)

THANK YOU

VISITORS' REGISTER

EDUCATION AND CULTURAL RESOUCES COMMITTEE

BILL NO. SB185 DATE 3/10/87

SPONSOR Senator B. Williams

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Lenore F. Talistorro	Self	need for effective legis.	X the bill
Robert Barthelmess	Dept of SRS	✓	
Helen McCormick	MSCA	✓	
Charles Brooks	Governor's Office	✓	
Bill Leary	Mt. Hosp Ass'n	✓	
Doug Wilson	self	✓ w/ amendments	
Rose Skaug	MT. HEALTH Care Ass'n	✓	
Molly Raunig	AARP	✓	
Doug Blakley	St Ombudsmen Prog	✓	
Earl Kelly	M.S.C.A.	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. SENATE BILL #252 DATE MARCH 10, 1987

SPONSOR SENATOR REGAN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
DENNIS M. TAYLOR	HELENA	X	
Rita Schilling	Billings,	X	
Steve Brown	Blue Cross - Blue Shield	X	
ROD SUNDSTED	D of A	X	
[illegible]	Helena	X	
Chuck Butler	Blue Cross/Blue Shield	X	
Jean Kovan	IHH		

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. SENATE JOINT RES. #8 DATE MARCH 10, 1987

SPONSOR SENATOR KEATING

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
DENNIS M. TAYLOR	HELENA	X	
GREG A. OLSEN	HELENA	X	
CHRIS ANDERSON	HELENA	X	
Jerry Thacker	Billings	X	
Cris Volinkaty	DD-Missoula	X	
Ruth Sylvester	Billings	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. SENATE BILL #246 DATE MARCH 10, 1987

SPONSOR SENATOR BENGTSON

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Jim Van Arsdale	Billings	✓	
Ann H. Scott	Great Falls	✓	
Robert B. Duncan	Billings	✓	
GERALD E. HUGHES	CUT BANK, MT.	✓	
ELMER HAYSKEN	HELENA - AARP	✓	
Jim T Lovick	Helena		✓
Mary D. Murzyn	Helena	✓	
George M Feaver	DHES	✓	
Helen McKnight	Helena MSCA	—	
Dale Tollefson	Helena (DHES)	✓	
Dave Lewis	SRS	✓	
Tom Bryan	SENIORS	✓	
EARL J. REILLY	HELENA M.S.C.A.	✓	
Steve Walkan	Mental Health Centers	X	
Wanda Addy	Helena	✓	
Jon Lovick	Helena	✓	
K. Joseph Rude	Billings	✓	
Bill Gatz	DHES	✓	
DAVID JACKMAN	MT Public Health Assn	✓	

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VISITORS' REGISTER

EDUCATION AND CULTURAL RESOUCES COMMITTEE

BILL NO. SENATE BILL NO. 246 DATE MARCH 10, 1987

SPONSOR SENATOR BENGTSON

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Pat Melby	Rivendell	✓	
Frank Bonfo	Governor's Office	✓	
LAWLENCE L. WHITE, JR.	ST. PATRICK HOSPITAL	✓	
Roland R. Fisher	MT Hosp. Assoc	✓	
Malcolm E. Leary	MT. Hosp Assoc	✓ with Amendments	
DENNIS M. TAYLOR	Health Care Cost Containment Advisory Council	✓	
Anthony Welliver	MT Hosp Assn	✓	
Jay McGrath	Mutual Health Assn	✓	
Mike Murray	Blue Cross/Blue Shield of MT / Dependent Benefits of MT	✓	
Rose Skelton	MT. Health Cares Assn	✓	
Ada Wedding	SHCC	✓	
Ellie Parker	DHES	✓	
Molly Munro	AARP	✓	
Doug Blakley	St Ombudsman Prog	✓	
J. Carl Harrington	Montana Ass of Home Health Agencies	✓	
JOAN ASHLEY	MHCA and Cooney Convalescent Home	✓	

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.