

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel M. Harding, on February 28, 1989, at 1:00 p.m. in room 405, State Capitol

ROLL CALL

Members Present: Chairman Ethel M. Harding, Vice Chairman Bruce D. Crippen, Senators R.J. "Dick" Pinsoneault, Tom Beck, Eleanor Vaughn, H.W. "Swede" Hammond, Mike Walker, Gene Thayer, Paul Boylan

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council;  
Dolores Harris, Committee Secretary

Announcements/Discussion: Chairman Harding is sponsoring a bill in another committee, so at 1:30 she will leave and Vice Chairman Crippen will assume the chair.

HEARING ON HOUSE BILL 214

Presentation and Opening Statement by Sponsor:

Representative Clyde Smith, house district 5, Kalispell, stated HB 214 is an act to allow the appointment of a representative payee to apply for and receive silicosis payments on behalf of a person eligible for such payments or his beneficiary. This act was created in 1937 and provides benefits to 153 victims and 101 widows. The claimants receive \$200 per month and widows receive \$100 per month. 90% of the beneficiaries are over 70 years old. HB 214 allows the Division of Workers' Compensation to appoint a representative payee, including an extended care facility, to receive and administer these benefits on behalf of these beneficiaries. There is only 35 of these beneficiaries over 70 years old. This needs to be done.

List of Testifying Proponents and What Group they Represent:

Bill Palmer, Interim Administrator, D.W.C.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Bill Palmer read his testimony into the record. See exhibit # 1. He asked support of HB 214.

Questions From Committee Members: Senator Thayer asked if any of these people are in rest homes? Mr. Palmer answered that the Department had identified 35 people where they are not able to care for their own needs and the nursing homes are signing these warrants without the nursing home being designated the conservator for these people. This is the mechanism where the division can review the home and be assured that the beneficiaries are getting the benefits of the silicosis checks, where they can't take care of themselves.

Senator Pinsoneault asked if these recipients had been identified a long time? Mr. Palmer answered that they have been identified a very long time, but they are not certain the money is going to them, unless they can monitor.

Closing by Sponsor: Representative Smith stated this is a good bill and Senator Thayer agreed to carry HB 214 to the Senate floor.

## DISPOSITION OF HOUSE BILL 214

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Thayer MOVED that we DO CONCUR in HB 214. The VOTE was UNANIMOUS in FAVOR of passing HB 214.

## HEARING ON HOUSE BILL 242

Presentation and Opening Statement by Sponsor:

Representative John Cobb, house district 42, stated this bill is mostly mandated by the federal government and is an act to clarify the laws relating to public assistance, to extend the period of time in which transfer of property may result in disqualification for public assistance. Section 1, page 2, lines 11 through 22 have been struck, because those terms aren't used

anymore. Section 2, the more controversial part, is disqualification from public assistance when property transferred without adequate consideration for purposes of qualifying for public assistance. On page 3, lines 9 through 13 allows the department to make rules consistent with federal law. On line 7 it states 3 years and the federal regulations say 30 months. We struck the verbiage in Section 4, lines 7 through 12, describing relatives. In Section 5, page 7 there is clarification language. Section 6 is amended because the county board doesn't do this any more; it is done by the SRS. Section 7, page 8, lines 11 through 17 are struck because the SRS has this authority. Section 8 repeals the law relating to the county welfare department administering AFDC since this is now done by the Family Services Division of SRS. He reiterated the question of 30 months or 3 years for eligibility.

List of Testifying Proponents and What Group they Represent:

Russell Cater, Chief Legal Council for Dept. of SRS

List of Testifying Opponents and What Group They Represent:

Virginia Jellison, lobbyist MCIC

Testimony:

Russell Cater stated that HB 242 the major concern of the department in seeking the adoption of this bill is the provision regarding the transfer of assets. The current law provides for a rebuttable presumption of any land transfer that has been made within the last 2 years. What this law means is that, if the assets were transferred, it is then the duty of the welfare recipient to demonstrate that, there was adequate consideration for the transfer of these assets, or that it was done for the purposes of obtaining of welfare. It is the presumption that the department should look into the matter to insure that it was not done for the purpose of obtaining welfare. This bill expands that from 2 years to 3 years. The reason for doing so, is the federal law change.

Virginia Jellison expressed opposition to HB 242, mainly because she is an advocate of the people being served by public assistance. Our main concern is the Section 2 and the rebuttal presumption that people who apply for general assistance are doing so in a planned manner. Especially with general assistance, there aren't many people who plan 3 years in advance to go on

general assistance. People who apply are usually people in dire straights. She talked of a widow who can't afford to keep the property so she gives it away. She stated a person must comply with federal regulations. My request is that if you can reduce the length of time, please do so, in all consideration for those that you are serving.

Questions From Committee Members: Senator Pinsoneault asked Ms. Jellison what difference does it make between 3 years or 30 months? She answered it probably doesn't, but if you have a choice, I'd prefer the shorter time, because it is more humane to do so. She refutes the assumption that people deliberately give away property to go on welfare. There may be a case occasionally, but most do not.

Senator Beck asked about ward Indians and enrolled Indians, does that have reference in this bill? Mr. Cater stated the reason the term enrolled Indians, is a term of art, it is commonly used in the Indian community, it's used in other programs. The fact is that enrollment depends upon a particular tribe, each has different rules and regulations on how you become an enrolled member. Representative Cobb stated the House had the same question about the definition of enrolled Indians and they concluded that there is no single definition.

Senator Thayer asked the department to respond about whether people do get rid of property in order to receive welfare. Mr. Cater stated that attorneys call him and ask how that they can transfer their property to other relatives to make certain that they will reserve their estate in case they end up in a nursing home and need to have welfare benefits. Yes, it is a common procedure. They have found instances where people have transferred large sums of money to relatives in order to receive assistance. Welfare regulations permit the reserving of certain assets, if there is a spouse or if there is a dependent child in the home.

Senator Hammond asked if this bill addresses this problem? Mr. Cater stated the current law has a 2 year rebuttal presumption that for property transferred it was done for the purposes of obtaining welfare. What they must do is show that they sold the property and received the fair market value. They are then eligible for welfare. We want to prohibit the transfer without receiving fair value for it. This is a federal requirement.

Senator Walker asked Mr. Cater if there is a certain

description of the people who do this. Are they young viable people? Are they older who might be looking at a stint in the nursing home? Mr. Cater answered that this is throughout the population and it is difficult to pinpoint one group.

Senator Hammond asked if this happens when someone has the power of attorney and they give the property away? In his experience he had seen that happen many times. Mr. Cater said that can happen. He stated that his department gets calls from people asking why a certain individual is receiving welfare when shortly before they had a large sum of money or property.

Senator Thayer asked how the time requirement would change this problem. If they know of the money, can they make a law to state that it must go to the care of those people? Mr. Cater stated the department has the authority to go back beyond the 2 or 3 year period. The department would have the responsibility to prove this happened. The time limit makes the recipient responsible to prove the sale.

Senator Crippen asked what are the rules in effect now? He stated the present law states 2 years and fair market value and that is stricken. Mr. Cater stated that when a person applies for welfare, they ask them what properties they have transferred within the past 2 years. We may find out from other sources that they owned property. If they state they sold property recently, we ask them to show us how much they received for that property. The same procedure will be in place but for a longer time, in this bill. We changed the wording from "fair market value" to "adequate consideration". Does the federal government use 3 years? They use 30 months.

Senator Hammond asked if a person in a nursing home pays for 3 years then they won't bother him? Mr. Cater answered that is correct.

Closing by Sponsor: Representative Cobb thought 3 years was fine. He will find a senator to carry this bill.

#### DISPOSITION OF HOUSE BILL 242

Discussion: Senator Pinsoneault thought we should make this coincide with the federal regulation of 30 months. There was discussion of this versus 3 years.

Amendments and Votes: Senator Walker MOVED to AMEND to 30 MONTHS the length of time to give property away before

being eligible for general assistance. The VOTE was 8 in FAVOR of this AMENDMENT and Senator Pinsoneault VOTED No.

Recommendation and Vote: Senator Pinsoneault MOVED that we DO CONCUR AS AMENDED with HB 242. The VOTE was UNANIMOUS in FAVOR of HB 242.

#### EXECUTIVE ACTION ON HOUSE BILL 60

Discussion: Connie Erickson explained the amendment, see exhibit 1. She gave examples where training is required for many different elected offices. She talked to an attorney and he stated there are no legal or constitutional problems with requiring the assessor to complete the certification or he can be removed from office. The amendments change the length of time for certification from 24 to 36 months and changes the effective date back to 1991.

Amendments and Vote: Senator Walker MOVED that we ACCEPT the AMENDMENTS as follows: in the title on line 9 following: "DATE" strike the remainder of line 9 through "DATES" on line 10. On page 2, line 8 insert "36". Then on page 5, line 17 strike section 5 in its entirety. On page 6, line 18 insert "JANUARY". On page 6 line 19 insert "1991." and strike remainder of line 19 through "1991" on page 7, line 5. The VOTE was UNANIMOUS IN FAVOR of the AMENDMENTS.

Recommendation and Votes: Senator Walker MOVED that we DO CONCUR in HB 60. Seven senators VOTED FOR HB 60 and Senator Boylan and Senator Hammond VOTED NO.

Senator Walker will carry HB 60 to the Senate floor.

#### EXECUTIVE ACTION ON HOUSE BILL 121

Discussion: None

Amendments and Votes: None

Recommendation and Votes: Senator Thayer MOVED we DO CONCUR in HB 121. The VOTE was UNANIMOUS in FAVOR of HB 121.

Notify Senator Manning that he will carry HB 121 to the Senate floor.

#### EXECUTIVE ACTION ON HOUSE BILL 175

Discussion: Senator Thayer mentioned that they still have to give their local bank an option of matching the bid from

SENATE COMMITTEE ON LOCAL GOVERNMENT

February 28, 1989

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a bank outside the community. Senator Beck talked about the local bank gives counties a break on registering warrants if they deposit funds in that bank. Note was made that the banking interests did not testify on this bill.

Recommendation and Votes: Senator Vaughn MOVED that we DO CONCUR with HB 175. The VOTE was 7 in FAVOR and Senator Crippen and Senator Boylan OPPOSED. MOTION CARRIED.

Senator Vaughn will carry HB 175 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 183

Discussion: Connie Erickson stated there was a suggestion to change the 90 days to 120 days by the sponsor. Senator Vaughn had a notation that the effective date should be July 1, 1989.

Amendments and Vote: Senator Thayer MOVED to AMEND HB 183 as follows: in the title on line 7 strike: "IMMEDIATE". Then on Page 1, line 13 strike "90" and insert "120". Then on page 2, line 12 following "effective" strike "on passage and approval" and insert "July 1, 1989". THE MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Beck MOVED that we DO CONCUR AS AMENDED in HB 183. Seven senators VOTED FOR the MOTION and Senator Boylan and Senator Thayer VOTED against. MOTION CARRIED.

EXECUTIVE ACTION ON HOUSE BILL 237

Discussion: None

Recommendation and Vote: Senator Walker MOVED that we DO CONCUR in HB 237. The VOTE was UNANIMOUS in FAVOR of PASSING HB 237.

Secretary is instructed to ask Senator Harp to carry HB 237 to the Senate floor.

ADJOURNMENT

Adjournment At: 2:00 p.m.

  
SENATOR ETHEL M. HARDING, Chairman

EMH/dh

Minutes.228



ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 2-28-89

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NAME	PRESENT	ABSENT	EXCUSED
Sen. Ethel Harding	X		
Sen. R.J. "Dick" Pinsoneault	X		
Sen. Tom Beck	X		
Sen. Eleanor Vaughn	X		
Sen. H.W. "Swede" Hammond	<del>X</del> X		
Sen. Mike Walker	X		
Sen. Gene Thayer	X		
Sen. Paul Boylan	X		
Sen. Bruce D. Crippen	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 1, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 214 (third reading copy -- blue), respectfully report that HB 214 be concurred in.

Sponsor: Smith (Thayer)

BE CONCURRED IN

Signed: Ethel M. Harding  
Ethel M. Harding, Chairman

4/18/89  
11:54  
1:20 p.m.

SENATE STANDING COMMITTEE REPORT

March 1, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 242 (third reading copy -- blue), respectfully report that HB 242 be amended and as so amended be concurred in:

Sponsor: Cobb (Pinsoneault)

1. Page 3, line 7.  
Strike: "3 years"  
Insert: "30 months"

AND AS AMENDED BE CONCURRED IN

Signed: 

Ethel M. Harding, Chairman

31/3/89  
9:57  
P.M.

SENATE STANDING COMMITTEE REPORT

March 1, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 60 (third reading copy -- blue), respectfully report that HB 60 be amended and as so amended be concurred in:

Sponsor: Harrington (Walker)

1. Title, line 9.

Following: "DATE"

Strike: remainder of line 9 through "DATES" on line 10

2. Page 2, line 8.

Following: "36"

Strike: "24"

Insert: "36"

3. Page 5, line 17 through page 6, line 5.

Strike: section 5 in its entirety

Renumber: subsequent sections

4. Page 6, line 18.

Following: "JANUARY"

Strike: "JULY"

Insert: "JANUARY"

5. Page 6, line 19.

Following: line 18

Insert: "1991."

6. Page 6, line 20 through page 7, line 5.

Following: "1991" on line 20

Strike: remainder of section 8 in its entirety

AND AS AMENDED BE CONCURRED IN

Signed: 

Ethel M. Harding, Chairman

41.0.89  
3/1/89  
1:20 p.m.

SENATE STANDING COMMITTEE REPORT

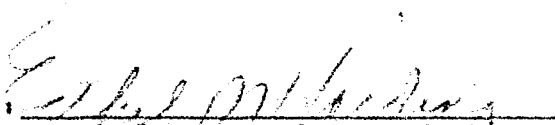
March 1, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 121 (third reading copy -- blue), respectfully report that HB 121 be concurred in.

Sponsor: Wallin (Manning)

BE CONCURRED IN

Signed: 

Ethel M. Harding, Chairman

4. C.  
3/1/89  
1:54  
P.M.

SENATE STANDING COMMITTEE REPORT

March 1, 1989

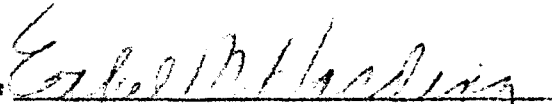
MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 175 (third reading copy -- blue), respectfully report that HB 175 be concurred in.

Sponsor: Hansen, S. (Vaughn)

BE CONCURRED IN

Signed:



Ethel M. Harding, Chairman

41.0.  
3/1/89  
1:54  
p.m.

SENATE STANDING COMMITTEE REPORT

March 1, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 183 (third reading copy -- blue), respectfully report that HB 183 be amended and as so amended be concurred in:

Sponsor: Roth (Hager)

1. Title, line 7.

Strike: "IMMEDIATE"

2. Page 1, line 13.

Strike: "90"

Insert: "120"

3. Page 2, line 12.

Following: "effective"

Strike: "on passage and approval"

Insert: "July 1, 1989"

AND AS AMENDED BE CONCURRED IN

Signed: 

Ethel M. Harding, Chairman

SENATE STANDING COMMITTEE REPORT

March 1, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 237 (third reading copy -- blue), respectfully report that HB 237 be concurred in.

Sponsor: Nelson, R. (Harp)

BE CONCURRED IN

Signed:

  
Ethel M. Harding, Chairman

*Handwritten notes:*  
4/10/89  
3/1/89  
1/1/89



House Bill 214: Representative Payee for Silicosis Beneficiaries <sup>HB 21</sup>

## Department Testimony

The Department supports House Bill 214 because it affords reasonable and necessary protection for silicosis beneficiaries who now have no formal protection against potential misuse or even theft of their benefits.

The Division of Workers' Compensation is naturally concerned about a lack of representation for beneficiaries when receiving unendorsed warrants deposited into joint accounts or when being informed the endorser has endorsed a warrant without really being aware of having done so.

If House Bill 214 is adopted, the Division would follow procedures similar to the Social Security Administration in identifying a representative payee and monitoring the representative to make sure the person is performing in an appropriate manner. Such procedures include:

- determining the legal, mental or physical competence of the beneficiary
- establishing criteria for selection of a representative payee
- assuring due process (providing notice of all actions)
- detailing the duties of a representative payee
- obtaining a complete accounting of the representative's management of benefits

*William B. Baber*

*Interim Administrator*

DEPARTMENT OF  
SOCIAL AND REHABILITATION SERVICES

SENATE LOCAL GOVERNMENT

DATE 2-28-81

BILL NO HB 242  
P.O. BOX 4210



STAN STEPHENS, GOVERNOR

STATE OF MONTANA

HELENA, MONTANA 59604-4210

EXPLANATION TO HOUSE BILL 242  
MISCELLANEOUS PUBLIC ASSISTANCE

General revisions to general assistance laws: This general piece of legislation to the general relief assistance program would make the following changes:

(a) Revise 53-2-601, MCA relating to transfers of property to more closely conform to federal law.

(b) Revisions would also delete the department's duty to report child dependency to law enforcement. Child dependency is more appropriately investigated by the Department of Family Services. 53-4-223, MCA.

(c) Reference is now made to "enrolled" Indians rather than "ward" Indians. 53-3-101, 53-2-610(2), MCA.

Amendments to House Bill No. 242  
Third Reading Copy

For the Committee on Senate Local Government

Prepared by Connie Erickson  
February 28, 1989

1. Page 3, line 7.  
Strike: "3 years"  
Insert: "30 months"

Amendments to House Bill No. 60  
Third Reading Copy

For the Committee on Senate Local Government

Prepared by Connie Erickson  
February 14, 1989

1. Title, line 9.

Following: "DATE"

Strike: remainder of line 9 through "DATES" on line 10

2. Page 2, line 8.

Following: "36"

Strike: "24"

Insert: "36"

3. Page 5, line 17.

Strike: section 5 in its entirety

4. Page 6, line 18.

Following: "JANUARY"

Strike: "JULY"

Insert: "JANUARY"

5. Page 6, line 19.

Following: "1991"

Insert: "1991."

Strike: remainder of line 19 through "1991" on page 7, line 5

Amendments to House Bill No. 183  
Third Reading Copy

For the Committee on Senate Local Government

Prepared by Connie Erickson  
February 28, 1989

1. Title, line 7.

Strike: "IMMEDIATE"

2. Page 1, line 13.

Strike: "90"

Insert: "120"

3. Page 2, line 12.

Following: "effective"

Strike: "on passage and approval"

Insert: "July 1, 1989"

