

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT**

**Call to Order:** By CHAIRMAN BOB BACHINI, on March 19, 1991, at 8:00 A.M.

#### **ROLL CALL**

##### **Members Present:**

Bob Bachini, Chairman (D)  
Sheila Rice, Vice-Chair (D)  
Joe Barnett (R)  
Steve Benedict (R)  
Brent Cromley (D)  
Tim Dowell (D)  
Alvin Ellis, Jr. (R)  
Stella Jean Hansen (D)  
H.S. "Sonny" Hanson (R)  
Tom Kilpatrick (D)  
Dick Knox (R)  
Don Larson (D)  
Scott McCulloch (D)  
Bob Pavlovich (D)  
John Scott (D)  
Don Steppler (D)  
Rolph Tunby (R)  
Norm Wallin (R)

**Staff Present:** Paul Verdon, Legislative Council  
Jo Lahti, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

#### **HEARING ON SB 330**

##### **Presentation and Opening Statement by Sponsor**

**SEN. STEVE DOHERTY, SD 20, Great Falls,** said SB 330 provides that the Horseracing Board can prescribe the duties and salaries of state racing stewards, and provide that state racing stewards employed by the executive of the Montana Board of Horseracing be exempt from the state pay plan. This is a housecleaning measure, an attempt to give some clear direction about who has control over the racing stewards, that the state pay plan will not be impacted by those racing stewards.

**Proponents' Testimony:**

**Sam Murfitt, Executive Secretary of the Montana Board of Horseracing**, represents the Board as a proponent for SB 330. The state steward has been treated as an exempt position from the state classification plan for approximately fifteen years. The Board is asking to continue to do that. Mr. Murfitt reviewed a position statement. **EXHIBIT 1**

**Jeff Brazier, lobbyist for the Horsemen's Benevolent and Protective Association (HBPA)**, represents the Montana Division of the national association of thoroughbred racehorse owners and trainers. There are approximately 600 licensees under horseracing representing about one-fourth of the occupational licensees. HBPA supports SB 330.

**Opponents' Testimony:** None.

**Questions From Committee Members:**

**REP. WALLIN** asked why the state is involved in determining the pay for stewards.

**Mr. Murfitt** replied the State Board of Horseracing, Department of Commerce, employs the stewards. There are three stewards present at each race meet in Montana: one is called the State Steward who the state appoints and compensates; one is the Deputy State Steward who the state appoints and the association conducting the meet pays; and the third is the Association Steward which is chosen and paid by the track where the meet is held. This is a key position for the integrity of racing, and the Board feels it needs to have control of the individual in the steward's box.

**REP. WALLIN** asked if this bill has to do with the one State Steward?

**Mr. Murfitt** replied that is correct.

**REP. WALLIN** asked if it was correct that the Board wished the pay of the State Steward to be comparable to the pay of the other two that are paid by the private sector.

**Mr. Murfitt** replied no. For the last 15 years, the State Steward has been exempt. Notice was received from state personnel that the Board could not pay the Steward at that rate. Either the position should be classified in the state 20-step pay plan or do something different. There are eight individuals hired, for a total amount of \$30,000 for the entire year. The rate is \$170 per day for each race day for State Stewards. The tracks pay \$150 per day for the Deputy Steward and \$175 for the other. The state of Washington pays almost \$300 for their State Steward, Wyoming pays \$225. This bill attempts to get the Steward on exempt status. The State Stewards and the Board have an employee/employer relationship. The stewards are the Board's

eyes at the meets.

**Closing by Sponsor:**

**SEN. DOHERTY** closed.

**HEARING ON SB 363**

**Presentation and Opening Statement by Sponsor:**

**SEN. DOHERTY, SD 20, Great Falls,** referred to Page 2 of the bill that affects the ability to simulcast live races from other areas in the summer season. He referred to the language about the Board approving only "races of national prominence". The industry has had problems determining what "races of national prominence" are. The industry would like to fill out race cards with good quality races without going through the administrative hassle of determining a "race of national prominence". On page 3, the pool amount is raised from 24 to 25 percent. The reason this is important is it provides some uniformity with states around Montana (Idaho, Wyoming, South and North Dakota, and New Mexico). The same percentage would allow a larger pool resulting in larger payouts and happier constituents.

**Proponents' Testimony:**

**Don Chance, Montana Fair Boards and Racetracks,** stated simulcast horseracing was instituted several years to provide supplemental support for county fair facilities and horserace tracks and the Montana horsebreeding industry. Simulcast has been successful but after several years of experience in operation some fine tuning needs to be done to perfect the system. This bill makes two technical changes to the statute. The first change is to allow simulcast races of other than "national prominence". This will allow the tracks to fill out live race schedules on days when limited live horses are on the race ticket. This will allow simulcast to function better during the live race season and will generate more revenue for the support of Montana's horsebreeders, trainers and fair boards. The modification will not damage the horse industry or fair boards, but should help support the need for facilities. The bill modifies the exotic pool percentage from 24 percent up to 25 percent. This change is necessary to make Montana's simulcast consistent with other tracks around the country. Montana has such a limited betting pool on a simulcast race an individual could bet on a long shot horse and dramatically change the odds simply as a result of placing that bet. Going to a common pooling with a race track solves that problem. Montana's horsemen's interests, racetracks and fair boards worked cooperatively in developing these changes.

**Gary Amundson, representing United Tote, a company based in Shepherd, Montana,** is one of the larger businesses in the United States and Canada related to racing. Corporate headquarters are located on a cattle ranch in Shepherd, employing about 900 people

nationwide, with a payroll of about \$10 million. Offices are also located in Delaware, California, Nevada, Winnipeg, and five or six other states where the company helps operate racetracks. This bill is important to the industry. United Tote has a significant impact on the economy of the community and the state, having grown to be a publicly held company and one of the larger employers in its area. The bill has nothing revolutionary about it. Wyoming, South Dakota, North Dakota, and New Mexico have passed similar bills, and Colorado and Idaho should soon follow suit. Last September a coalition of race track operators, horsemen, and regulators from the different states met and discussed things needed to strengthen the industry. The Billings Gazette, December 10, 1990, had an article on the decline in racing over the last four or five years. The racing gross handle of \$10.5 million has gone down to \$6.2 million. **EXHIBIT 2.** Increased competition from video gambling and other gambling sources has put the Montana racing industries on its knees. The bill gives tools to make the industry more effective and more in line with the original purposes.

**Jeff Brazier, lobbyist for the Horsemen's Benevolent and Protective Association (HBPA),** stated HBPA is guardedly in support of the bill. Horseracing in Montana is in serious trouble, and this bill addresses some of the common problems. It is hoped it will increase the handle at the tracks which is the source of money for purses, the incentive for horsemen to run. The bill gives the Board more authority to allow simulcasting both during the live season and during the off season. Depending upon decisions made by the Board, the HBPA might not be happy, but HBPA believes the experiment is worthwhile. It has remedies under the administrative procedure act to Board decisions. A federal act authorizes the interstate transmission of signals for simulcast racing. No racing can be run without the approval of the local Association. For that reason, the HBPA is comfortable with the attempt to increase the handles.

**Sam Murfitt, Executive Secretary of the Montana Board of Horseracing,** is a proponent for SB 363. The Board of Horseracing approved the concept of expanded liberalization of simulcast. The Board's budget is derived from one percent general tax taken from the handles at race tracks and from simulcast locations statewide. The Board is pleased that confusion coming to the Board regarding races of "national prominence" will be eliminated. The Board of Horseracing is committed to live racing. Simulcast is a supplement to live horseracing. Neither the Board nor the HBPA will allow simulcast or otherwise to affect live horseracing in Montana.

**Jay Belden, Director of Racing, Montana State Fair Race Meet,** stated both issues addressed in this bill are minor issues in the big picture, but it will make work at race tracks easier. Mr. Belden represents the other seven race tracks who support SB 363.

**Opponents' Testimony:** None

**Questions From Committee Members:**

REP. WALLIN asked Mr. Murfitt if the races presented after the live races were live or recorded.

Sam Murfitt stated the races were live. Races are being run at the same time they are seen in Montana.

REP. LARSON asked what is exotic wagering?

Sam Murfitt defined exotic wagering as anything other than win, place, show.

**Closing by Sponsor:**

SEN. DOHERTY believes it is important to look at what the horseracing industry is trying to do. Many people have met and are attempting to provide an easier way to market their product. The horseracing industry is in tough times in Montana, and it is a good wholesome industry that should be supported. REP. SWYSGOOD will carry the bill.

**HEARING ON HB 989**

**Presentation and Opening Statement by Sponsor:**

REP. BRENT CROMLEY, HD 94, Kalispell, called attention of the committee to the letter from Charles Brooks, Montana Retail Association, indicating support for HB 989. EXHIBIT 3. A 1990 study done by the United States Food and Drug Administration called attention to the need for care of eating establishments in Montana. There are startling results from testing 75 eating establishments in Montana for health purposes. The average of those establishments was 70, the bare minimum to be on the acceptable level. 69 is below acceptable. This is health factors such as storing toxic matters near food, temperature at which food is stored, etc. The study discussed problems with the state inspection program: the fact that the food service program on the state level is advisory only; and the relationship between the local units and the state units is unclear; the inspection license fees are too low to operate an effective program; and inspections by health services were too irregular and infrequent. The three bills HB 987, HB 988, and HB 989 are designed to begin to remedy the situation. HB 989 addresses the eating establishments. The three bills will allow the Department of Health and Environmental Sciences to adopt rules regarding the relationship between the state and local health departments. The bills call for an increase in inspection fees. The last increase was in 1983. The provision for allocating fees between state and local health boards to effectively operate the program is spelled out in the bills. Provision is made for civil fines to be implemented rather than criminal prosecution.

**Proponents' Testimony:**

Mitzi Schwab, Department of Health and Environmental Sciences (DHES), works with the Food and Consumer Safety Bureau which administers these programs. A federal survey was done last summer of 75 establishments from 19 jurisdictions in the state. Ms. Schwab has been communicating with local health officers group, members of the Environmental Health Association, local health boards, local health officers, environmental health departments and with the restaurant association, tavern association, and innkeepers association. All feel there needs to be change. Of the \$30 fee, \$25.50, or 85 percent, goes back to local jurisdictions. This is not much for a minimum program requiring two full inspections per year. The last fee increase was in 1983, effective for calendar year 1984. Because of the tax situation, counties have a difficult time supporting the programs with local tax bases. The proposal is to increase fees from \$30 to \$75 for food establishments, with 85 percent returned to local counties and 15 percent retained by the state. The General Fund currently received \$4.50 as its portion of the state fee. An amendment is proposed that the General Fund would continue to get \$4.50, which is six percent of the fee increase and nine percent will go to the state special revenue fund to be allocated to DHES to help counties support their programs. More accountability for the program is asked through the local board inspection fund, through Section 50-50-305(6), MCA. DHES does not have the ability to restrict funds going to local governments, nor any performance standards other than minimum number of inspections. Uniform inspections across the state of Montana will result from an overall plan. Currently, if a county does not qualify to get funding back, that money is lost to the program. The state is asking to be allowed to use those funds to return services to the jurisdiction on a temporary basis. This service might be done by contracting with other licensed qualified professional, other health departments or people registered in the state. There is a clause for establishing a definition for food warehouses and commercial, to remedy two problems. Commercial needs a definition because businesses operating in Montana can say they are not commercial and should have an exemption. Food warehouses are a vital link in the chain between food processors and food retailers. Because warehouses are not specifically mentioned, it is difficult to license them. Some jurisdictions are licensing them as perishable food dealers, others under different categories and some not licensing them at all. Civil penalties are being added into the bill to bring the law into conformance with other regulations that are administered through the DHES. Sections 4 and 5 deal with coordinating qualified professionals to do the inspections with the possible approval of HB 943 dealing with revisions in licensing of sanitarians, and provides standard language on who may conduct inspections and have access to those inspections on licensed established premises. The bill has resulted from much study with many people involved trying to coordinate different points of view. The implementation program is ambitious. There will be training on the county level. DHES asks committee support of HB 989, with the amendments. **EXHIBIT 4.**

**Pete Frazier, Director of Environmental Health, City-County Health Department, Great Falls, stated support of HB 989, and presented written testimony. EXHIBIT 5.**

**Tape 1;B**

**Jim Carlson, Director Environmental Health Division, Missoula City-County Health Department, Missoula, supports HB 989.** Missoula County has 435 licensed food establishments. Under current state law, Missoula City-County Health Department is required to inspect these establishments two times per year, as well as review plans for construction of new facilities, provide training and public education materials for food establishment employees and provide for enforcement of food regulations within Missoula County. The current fee for food establishments of \$30 per year has not been raised in the past eight years. Presently, Missoula County received \$11,200 per year from DHES for a program which costs \$29,000 a year. Because of I-105, local departments cannot raise other revenues to offset increasing costs of personnel transportation and secretarial time to perform duties required by state law. This bill would return approximately \$27,000 a year to Missoula County for the execution of requirements imposed by the state. The proposed reimbursement is fair and adequate to perform required tasks in an efficient and professional manner. Without passage of this bill, all required inspections would not be performed because of lack of funds unless the City of Missoula passes a local ordinance to cover costs. Such an ordinance is in rough draft. Mr. Carlson urges the committee to support the bill as an appropriate method to protect public health from inappropriate food service sanitation. Mr. Carlson submitted letters from Don Sampson, owner of Don's Family Restaurant in Missoula, supporting HB 989, and from the Flathead City-County Health Department, in favor of all three bills being considered. **EXHIBIT 6.**

**Ken Smith, Health Officer and Director, Central Montana Health District, covering six counties, supports HB 989.** In addition to creating revenue, the bill will provide accountability. There is fragmentation in local health jurisdictions. Inspections are now conducted in varying manners, and the state will provide guidance on conducting inspections if these bills pass. The same regulations apply, but training is needed for uniformity, which will be good for industry. The bill provides enforcement capabilities which has been a problem. Education is most important. Enforcement is a last resort. Mr. Smith presented testimony from Kelly Logan, Richland-McCone Health Departments, supports HB 989. **EXHIBIT 7.**

**Don Stalcup, representing Montana Restaurant Association, supports HB 989.** Its purpose is to encourage standardization and make meaningful statewide inspections similar from one area to another. Inspections are not adversarial, but helpful for all.

**Dan Powers, Environmental Health Director, Butte-Silver Bow, said**

in any given year there are approximately 375 food service inspections required to be done in Butte-Silver Bow. The inspections require a tremendous amount of time and energy, if done in a professional and prudent manner. Many times a follow-up inspection is necessary and, in some cases, legal action is necessary to achieve compliance. At the present time, \$6,500 per year is received to complete the inspections. A quarter time person has been employed to help with the inspections. The money allotted does not begin to cover the needed personnel, equipment and associated costs for yearly completion of the program. With increased demand on local health department personnel, it is imperative to provide necessary funds for this program to provide adequate staff and associated costs of the components of a food service program. Along with more clear and precise laws governing food service establishments, this will provide a much needed step in the right direction and will insure a greater degree of protection for the citizens of and visitors to Montana.

**Mark Staples, Montana Tavern Association,** supports HB 989 as a standardization. The Montana Tavern Association did not seek changes to food inspection, but were contacted and told that if changes were not be made at the state level, the counties would all regulate individually. The members were reluctant to approve the increased fees. As the system works, if an establishment is inspected and is not approved, the business is charged for the return visit in varying levels. Lewis and Clark County is \$28.50 an hour. The Tavern Association understands there would be no more double dips, that if a \$75 fee were charged, unless there was a gross violation and refusal to clean up, follow-up inspections would be covered by the \$75. With that understanding the Association supports the bill. If there is still the ability for the counties to create their own fees on top of the new state fee, the Tavern Association does not support the bill.

**Tim Read, President, Montana Environmental Health Association,** stated the Association voted support of all three bills: HB 989, HB 988, and HB 987. HB 989 received overwhelming support from the Association whose membership consists of the registered sanitarians of Montana. The Association conducts meetings twice yearly for education conferences. One concern is the need for educational meetings. **Mr. Read, as Director of the Environmental Health Department, Gallatin County,** supports these bills which would clarify existing rules and the additional revenue generated will help the program capabilities.

**Dan Dennehy, Director Butte-Silver Bow City-County Health Department,** supports HB 989 for three reasons. The funding mechanism is increased, which is definitely needed in Silver Bow County. It provides enforcement mechanisms, and encourages standardization of inspection forms. Regarding Mr. Staples questions about charging for second inspections, Butte-Silver Bow does not charge, and would not charge if the increase of fees is enacted.



**Mitzi Schwab, Department of Health and Environmental Sciences,** stated that Charles Cerovski of Big Spring Water Company sent a letter of support. **EXHIBIT 8.** Mr. Lewis Ladas, a registered sanitarian for the Yellowstone County Health Department, is also in support of the bill. **EXHIBIT 9.**

**Opponents' Testimony:**

**Bonnie Tippy, Executive Director, Montana Innkeeper Association,** spoke in opposition to HB 989. The Health Department has made an effort to get together with the various industries impacted by these three bills. Ms. Tippy has voiced a deep concern about all three bills over the past several months. A small restaurant or hotel is to be billed \$500 for every day that a violation exists. A part may need to be ordered, which will take five or six days to receive and fix the violation. These are not high-profit businesses. Ms. Tippy understands the average restaurant profit is about two percent. This penalty does not exist in other parts of the codes. The liquor infringements are only around \$200 per day. After being billed \$500 per day for violation, section 8 provides the businesses can be taken to court to get a judgment for the costs to the Department of Health. This encourages inspectors to find things that are wrong because it is revenue enhancement for the state and for the counties. There is no cap on the amount that can be charged.

**Roger Tippy, Montana Beer and Wine Wholesaler,** opposes HB 989 and referred to the definition of food warehouses. Beer and wine fits the definition of beverage, and the warehouses are to be inspected under this definition. Montana Beer and Wine Wholesalers were not contacted regarding HB 989. Civil penalties are a concern. The highest penalty that can be levied against an insurance agent is capped at \$500 under Title 33. If the Liquor Division has an inspection problem, the rule of thumb is the first violation is \$100 or \$200 then the second one within a three year period is \$500, not per day. Mr. Tippy, speaking for himself as an observer of the legislative process for a number of years, referred to the Report of the Legislative Reorganization and Improvement Commission that met for many days in 1988 to try and come up with better and more streamlined ways of letting the Legislature deliberate and make the decisions it has to make. The number of bills the Legislature has to consider has ten percent a session for eight or ten years. Large agencies with resources to put bills together must be required to have them submitted at a reasonable time in the session. Why is a bill that has been talked about as early as October not introduced until the middle of March? Mr. Tippy suggests the joint rules for the next session be changed to require all agency bills be introduced by the end of January. It is not fair to the organizations who need to circulate a bill such as HB 989 to the membership. It is not fair to the committee. Mr. Tippy sees no problem if the bills do not pass for another two years.

**REP. DON LARSON, HD 65, Seeley Lake,** said this is the first time

he has seen the bill. He said he represents "mom and pop" bars and restaurants, and is an owner of one. There is merit in the bill because there is valid reason for adequate health inspection of food service establishments. However, there are major problems in the bill. The fees are more than double, and are discriminatory against the "mom and pop" operations. The bill misses a major block of food service establishments, the charitable establishments such as senior citizens and church operations which serve more meals than many local restaurants. The senior citizens group in Rep. Larson's community serves one and one-half times the number of meals his restaurant does. Civil penalties may be used for revenue enhancement by the counties. Rep. Larson would be happy to work with the committee to make some changes to the bill.

**REP. JOE BARNETT, HD 76, Belgrade,** opposes HB 989. Rep. Barnett speaks for himself, and unofficially speaks for the Montana Beekeeping Association. On page 3, line 2, commercial establishment means an establishment operated primarily for profit. What establishment is not operated for profit? In his district, a number of people are in the garden growing business, selling the product direct from the garden or store in a building until it can be moved. The bill jeopardizes the Farmers' Market. On page 4, food warehouse means a commercial establishment, a building or structure in connection with it used to store food, drugs and cosmetics for distribution to retail outlets. In the old bill, milk pasteurization, milk producers, milk product manufacturing plants, and slaughter houses are exempt. Apiaries would fall under that same consideration. Apiaries are inspected. They operate on a very slim profit margin. Fees double and businesses are faced with the possibility of having fines imposed as this bill allows. This is very poor legislation. The beekeeping industry should have been consulted, as many people in that business are affected. Rep. Barnett would like to see this killed and a study made.

#### Questions From Committee Members:

**REP. BACHINI** asked Mitzi Schwab what happened that the bill is being presented so near the end of the session.

**Mitzi Schwab** doesn't know anything wrong was done. The bill was turned in by the DHES to bill drafting on December 5, the deadline. The three bills were given high legislative draft numbers. When she checked with Legislative Council, they had not gotten to the bills. The early part of February, they said these were revenue bills and work was needed on amendments to non-revenue bills before transmittal date. After transmittal, Legislative Council began working on DHES bills.

**REP. BACHINI** asked about farmers' markets, senior citizens centers, and fraternal organizations that serve food.

**Mitzi Schwab** said an attempt was made to contact as many

organizations as possible. Organizations she is now aware of will be included in the future. Farmers' market produce is exempt from licensure by DHES because it is regulated by other agencies. Senior citizens centers operating on a profit margin should be licensed. There are roughly 5,300 to 5,500 food establishments of varying types in the state, and there are likely operations that should be licensed and are not, and perhaps some that would not have to be licensed that are.

**REP. BACHINI** asked about the double charging brought up by Mr. Staples. Is it possible under this bill that charges could be made for required extra inspections at the discretion of each county?

**Mitzi Schwab** agrees with Mr. Staples, and DHES would try to discourage this. It wasn't felt that DHES had the ability to put it in the statute. There are possibly a couple of counties that may charge for follow-up inspection.

**REP. BENEDICT** said another part of the concern was that counties could set fees in addition to the state fees to support their own program.

**Mitzi Schwab** stated that if there is a mechanism through local ordinance, that would be possible.

**REP. BENEDICT** said a concern for his county is small town restaurants which seat 10 or 15 people and operate on a slim margin. These are different from large restaurants. Why was there not a multi-tier system rather than jumping \$30 to \$75.

**Mitzi Schwab** said one of the difficulties with a multi-tiered system is it costs more to implement, and there would need to be more detailed information than that currently available.

**REP. BENEDICT** said that sounds like a state problem.

**Mitzi Schwab** replied that all the information on cost figures from the FTA and from local counties was that on the average a minimal inspection program per establishment is around \$200. Under those circumstances, a change from \$30 to \$75 was asking less than the average cost. Multi-tiered was discussed.

**REP. BENEDICT** will speak against the bill in Executive Session if these concerns are not addressed.

**REP. STEPPLER** asked if the food booths at local fairs will have to pay \$75 for a license?

**Mitzi Schwab** replied that most of the fair operations are nonprofit and are already exempt from fees, and the others that are profit making operations do not have an exemption. If an operation goes from fair to fair, it should pay only \$75 for the entire state.

**REP. STEPPLER** is on the Board of Directors for the fair in Richland County, and Kelly Logan said he is required by the state to inspect every food group in the fair.

**Mitzi Schwab** said whether or not it is required for licensure, any establishment that serves food should be in accordance with the state regulations.

**REP. ELLIS** referred to a comment made about senior citizens food outlets being operated for profit, and asked if some were.

**Mitzi Schwab** replied that some senior citizens centers are licensed. Individual centers operate differently and would have to be reviewed individually.

**REP. ELLIS** asked how would senior citizens groups and school lunch rooms be handled.

**Mitzi Schwab** said school lunch programs are not licensed. There are school inspection programs done by local counties and state personnel. There is no charge to the school.

**REP. ELLIS** asked about the reasoning and logic in section 7 regarding a penalty not to exceed \$500 per day.

**Mitzi Schwab** said the DHES does not impose the penalty. The court would impose a civil penalty, if it comes to that. \$500 is the lowest amount that is applied for a violation per day in any of the various laws the DHES administers. For example, in the water quality act, the civil penalty is \$10,000 per day, and consideration is being given to raising it to \$25,000.

**REP. KILPATRICK** asked Leon Stalcup and Mark Staples why they had not objected.

**Leon Stalcup** replied they did object. We have had a series of meetings and would like to see similar inspections.

**REP. BACHINI** asked if the members of the Restaurant Association were polled?

**Leon Stalcup** said they had a couple of meetings with the Board and with the state to discuss the issues.

**REP. BACHINI** asked if all restaurants belonged to the Association? How many are not represented?

**Leon Stalcup** replied the majority of restaurants are not represented by the Restaurant Association.

**REP. STELLA JEAN HANSEN** commended Mitzi on the work done on the bills. This is an area of licensure that has been neglected for a long time. It is mandated that sanitarians do inspections.

Sanitarians must have a masters degree. Communities and businesses are greatly affected by an outbreak of salmonella. She asked Jim Carlson how the fairs are handled in Missoula County?

**Jim Carlson** said because the fair attracts so many people and there is such a high chance of having problems with communicable disease, all booths at the fair are inspected at least once. However, booths are only licensed if a license is normally required, like by ice cream companies. Nonprofit organizations are not required to obtain a license.

**REP. STELLA JEAN HANSEN** stated those organizations that are at the fair that are licensed have already paid the \$75 fee. They do not pay an additional fee to be licensed at the fair. So that really has no effect on what goes on at the fair.

**Jim Carlson** said that was correct.

**REP. STELLA JEAN HANSEN** stated senior citizen centers are partly funded by the federal government and the meals cannot be sold for profit by law.

**Jim Carlson** said nonprofits and charitables are not required to be licensed under current law or the proposed law. However, if those organizations ask for some help, DHES will go in and discuss some of the problems.

**REP. STELLA JEAN HANSEN** said a health establishment that is not inspected or that does not have an approved inspection cannot get insurance needed for the business. When application is made for insurance, an approved inspection is needed.

**Jim Carlson** is not aware of that. The results of a food-borne outbreak can be disastrous. Two businesses that have had large outbreaks which were publicized have gone bankrupt in Missoula. That is the reason much of the industry seeks and supports DHES help because it protects businesses.

**REP. BENEDICT** agrees with Rep. Hansen the intent of the bill is good, but there are problems. What would the burning health concern be for a warehouse that stores beer and wine that it should be required to pay a \$75 fee and be inspected?

**Mitzi Schwab** agreed the product is not going to spoil unless there is damage to the containers. General cleanliness and sanitary conditions in warehouses are a concern.

**REP. BENEDICT** stated containers are all sealed. This seems to be another way to grab a few more bucks for the Department.

**Mitzi Schwab** did not feel any particular industry was being picked on. In a general merchandising warehouse carrying foods for grocery stores, there all types of products. There was a

large warehouse in the Billings area that had not been inspected in quite some time and it had desecration from birds making it necessary to remove the outer covers of containers to salvage some of the product.

**REP. BENEDICT** would agree if it were a bottling plant. Would **DHES** have any objection to tightening up the language to come up with a definition for perishable commodities?

**REP. LARSON** asked why non-profit food establishments are exempt. Is the health issue less for those people than for a profit operation?

**Mitzi Schwab** said she believed that had been entered into the law because of fairs.

**REP. TUNBY** stated that inspections are still held, but there is no charge for the service.

**Mitzi Schwab** said that is correct.

**REP. TUNBY** said in talking about little restaurants compared to big ones, is there a great deal of difference in time required for an inspection?

**Mitzi Schwab** replied not necessarily. Sometimes a great deal of time is spent in a small business, it depends on what is found. For instance, a lot of advice may be needed concerning how things are handled. It depends on the operations, how food is handled, what kind of menu there is, what type of practices being used, how the equipment is working, and whether or not violations are found.

**REP. KNOX** noticed that sanitarians in training are included in the people who can conduct inspections. Do they have the authority needed?

**Mitzi Schwab** said according to the revisions to the sanitarians' bill in HB 943, sanitarians in training must work under supervision of a registered sanitarian unless there is a supervisor to confer with.

**REP. BACHINI** believes Mr. Carlson's statement said I-105 ties the hands of local government to raise any revenue. This bill goes around I-105 to increase the fees.

**Jim Carlson** said most of the county health departments in the state feel that if the state is going to require that counties do two inspections a year, the state should attempt to reimburse the county for most of the cost. This bill will also require licensed establishments to be inspected and it costs money to hire people with the proper credentials.

**Closing by Sponsor:**

**REP. CROMLEY** said a couple of issues were brought up which should be discussed. There has been a lot of work put into the background of this project, and a lot of support for the legislation. Obviously, not all points can be addressed, but the need is there. It is not only a health need, it is a business need. He said he has been on the Yellowstone Board of Health for about 15 years, is currently Chairman, and has seen instances where an incident of bad practice can cause an illness. Even a rumor of an illness in a restaurant can completely destroy the restaurant. It is important to have a solid and consistent means of inspection. The civil penalties cause a problem. There has to be some type of ultimate enforcement, and civil penalty is the least offensive type of ultimate enforcement. Currently, if someone is breaking a health law, he can be taken to court and found guilty of a crime. The most important thing is consistent inspections and communication between DHES and the owners and operators of those businesses. That will happen most of the time. There may be a few incidents where more severe type of enforcement action will have to be taken.

There was discussion of the small "ma and pa" restaurant. **REP. CROMLEY** said it is nearly impossible to implement a program of staggered fees. The \$75 fee per year is not a severe fee. Small rural restaurants may take more time and money to inspect, and may be more in need of education. There is no ideal system that will exactly charge a fee to the amount of service. The U. S. Food and Drug Administration pamphlet indicated that an average cost to the government is \$200. The fee does not cover the cost. Areas of concern such as nonprofit can be specifically addressed later. He asked the committee to support HB 989.

#### HEARING ON HB 988

##### Presentation and Opening Statement by Sponsor:

**REP. BRENT CROMLEY, HD 94, Billings**, explained HB 988, regarding inspections of campgrounds, and the like.

##### Proponents' Testimony:

**Mitzi Schwab, Department of Health and Environmental Sciences (DHES)**, stated this bill deals with trailer courts, campgrounds, work camps, and youth camps. One inspection is required per year. The fee has been raised from \$30 to \$50. The purpose is to establish uniform inspections and program performance across the state. Other parts deal with who may perform inspections, access to inspections, civil penalties, and cost recoveries.  
**EXHIBIT 10.**

**Dan Powers, Environmental Health Director, Butte-Silver Bow**, said the goal of each program addressed by the three bills is to promote and protect the health and safety of human beings in their environment. In order to accomplish this, adequate

funding, trained personnel and clear and concise rules and regulations are needed. Passage of this bill will help state and local health departments achieve desired goals and promote a healthy environment for everyone.

**Pete Frazier, Environmental Health Director, Great Falls Health Department,** supports HB 988. The fee increase helps perform inspections required. The increase is minimal if considered over the year, and is not a major cost no matter how large or small the business is.

**Jim Carlson, Missoula City-County Health Department,** said Missoula County has 165 licensed trailer courts which the Health Department is required to inspect once a year. The fee is appropriate. The current fee of \$30 provides Missoula County with \$4,200 a year. The program presently costs about \$6,500 a year. **EXHIBIT 11.**

**REP. WALLIN** submitted a letter from the Gallatin County Sanitarian Office supporting House Bills 987, 988 and 989. **EXHIBIT 12.**

**Ken Smith, Central Montana Health District,** spoke in favor of HB 988, because of increased revenue for local districts. This past year a sanitarian was hired to do inspections, costing \$35 per business. The bill provides accountability through uniform inspections across the state. Enforcement is necessary. The most important thing is education. A judge determines the penalty, not the health department. The health department is not out to penalize someone, compliance is the objective.

**Dan Dennehy, Director of Butte-Silver Bow City-County Health Department,** supports HB 988.

**Tim Read, President of the Montana Environmental Health Association,** said the Association voted to support the concept of HB 988.

#### **Opponents' Testimony:**

**Bonnie Tippy, Montana Innkeepers Association,** thinks the perception is that the Innkeepers Association only represents the big convention facilities. The big facilities represent the bulk of the rooms, but do not represent the bulk of the membership. The Last Chance Motel in Elliston, Montana, owned by two ladies, has four units and four hookups for campers and RVs. This bill will increase rates 40 percent for those four hookups. If penalties are not going to be applied, why not make the penalties more reasonable. If the goal is to bring people into compliance, why not write the legislation that way?

#### **Questions From Committee Members:**

**REP. LARSON** asked if the health department has the authority to



close a business for noncompliance.

**Mitzi Schwab** said there is the power of injunction in the statute. Motels cannot be closed, the power of injunction is not in the accommodations law. A closure can be a cumbersome process. The health officer needs permission from the state health officer to do immediate closure. An injunction through the court system takes a couple of days. In one case, a petition for injunction was in the court for four weeks before it was settled out of court.

**REP. LARSON** said the problem is with civil penalty. Would DHES have a problem with an amendment to give the local sanitarian more authority to close these businesses on the spot.

**Mitzi Schwab** said many states have imminent closure powers.

**REP. ELLIS** stated this bill applies campgrounds, trailer parks, youth camps, work camps. Have any of these people been involved in drafting this legislation?

**Mitzi Schwab** said she was not aware of an association through which to contact most of these people.

**REP. ELLIS** referred to Rep. Larson's last question about sanitarians being able to close. Would that not be more subjective and less fair than going through court where both people have a chance to be heard?

**Mitzi Schwab** said it could be.

**REP. PAVLOVICH** asked if there is a grandfather clause in this bill to protect the ones already in business so there is no harassment?

**Mitzi Schwab** said there was no intention of changing the requirements of trailer courts, youth camps, campgrounds, work camps.

**REP. PAVLOVICH** was thinking of "ma and pa" campgrounds who do not have the money to comply with provisions to bring the business up to standards. Will those people be protected so they don't go out of business?

**Mitzi Schwab** agreed they should be protected, but there are no changes to the standards which they are to abide by. Any grandfathering already done is still there.

**Closing by Sponsor:**

**REP. CROMLEY** said it is exceptional cases when the penalty provision is invoked. If power of closure was given to local health departments, there would really be an outburst from the industry because the power to close would be given to a

nonjudicial person. There is talk of a less severe penalty. How can you get a less severe penalty than "up to \$500"? It is a court process, and a suit will not be filed unless there is need for it.

#### HEARING ON HB 987

#### Presentation and Opening Statement by Sponsor:

REP. BRENT CROMLEY, HD 94, Billings, presented HB 987 having to do with rooming houses, boarding houses, etc. There is an amendment that will take out references to Bed and Breakfast locations. The Department tried to work with representatives of Bed and Breakfasts, but the concept is new and definitions have not been worked out. Bed and Breakfasts will not be included in the bill at this time.

#### Proponents' Testimony:

Mitzi Schwab, Department of Health and Environmental Sciences (DHES), stated this bill was written along the same lines as the other bills to seek improvements for public accommodations which is currently a licensed establishment program. The fee is being recommended at \$50 a year, an increase over the present \$30 fee. EXHIBIT 13.

Jim Carlson, Missoula County, supports HB 987. Missoula County currently has 64 licensed public accommodations. Approximately \$1,600 a year is received for the program costing about \$2,600 per year. Smaller establishments require more time. In an establishment in Mineral County, people were killed as a result of a propane system being improperly installed. There is currently a court case concerning that. Mr. Carlson encouraged the committee to support HB 987.

Pete Frazier, Environmental Health Director, City-County Health Department, Great Falls, supported HB 987 saying it was needed legislation.

Ken Smith, Central Montana Health District, supported the bill because of the increased revenue for local districts.

Bobbi Uecker, co-owner of The Sanders, Helena's Bed and Breakfast, stated Bed and Breakfasts are becoming an integral part of the tourist industry in Montana. There are some that serve whole breakfasts, some continental breakfasts, some serve lunch and some serve dinners. Some owners live in the Bed and B breakfast, some live next door or across town. Some have one room with a shared bath and kitchen with the family who owns the home. Others have a private bath in the room. Each is unique. The one thing that unites them is concern for the guests. Currently, all are inspected and licensed every year as tourist homes. The bill as written attempted to define Bed and Breakfast as home stay and as an inn. Home stay was defined as one to five

guest rooms where the house is still primarily a residence. It is impossible to have five guest rooms and still have it primarily a home. The IRS will not allow any expenses in a situation like that. Breakfast is the only meal served. In remote areas, other meals will have to be served. The amendment would delete any reference to Bed and Breakfast. Bed and Breakfasts continue to be inspected and licensed under tourist homes. They are a new industry to the state, and it is difficult to make rules fit. Owners of these establishments are willing to work with DHES to make rules that look at the type of food served, and the number of people being served. Ms. Uecker supported the bill if amended.

**Will Selser, Environmental Health Director, Lewis and Clark County,** spoke in support of the bill. When issues of money are brought up, "ma and pa" operations are brought up. The people live in the county and are part of the economic base, but if food is served, minimum standards must be adhered to. A "ma and pa" cafe serving 10 meals a day, or 3,000 meals a year, pays less than 3 cents a meal in increased license fees. That is a small fee for the protection received from the health department. Nothing will kill their business quicker than if harm is done to a customer. Lewis and Clark County charges an additional fee for return inspections, because the revenue from the program, particularly the food service inspection program, had fallen to less than 50 percent of the cost. The county general fund pays 50 percent of the cost of the "state" fund. There is no charge for the first two inspections. If the revenue were up to a reasonable level, the county would not have to do that.

**Tim Read, Montana Environmental Health Association,** stated the Association is overwhelmingly in support of HB 987.

**Dan Dennehy, Butte-Silver Bow City-County Health Department,** supports HB 987.

**Opponents' Testimony:** None.

**Questions From Committee Members:**

**REP. LARSON** asked Ms. Schwab what inspection is a tourist home as opposed to a Bed and Breakfast?

**Mitzi Schwab** said the difficulty with a tourist home is the definition does not provide for the serving of a meal. The rules say if food is an integral part of that establishment served just to the patrons, a license is not required but must comply with the food service regulations.

**REP. LARSON** asked if the kitchen facility of a Bed and Breakfast is inspected?

**Mitzi Schwab** said yes. The difficulty is whether or not to hold them to commercial standards. Food establishment regulations are

basically commercial kitchen regulations. Working with Bed and Breakfasts is to determine if there needs to be some exemptions for these small businesses.

REP. LARSON asked what the license fee for a tourist home was.

Mitzi Schwab answered that the fees are the same, \$50.

REP. BACHINI asked if the person that inspects according to HB 987 would be the same person who inspects according to HBs 988 and 989?

Mitzi Schwab said often it is the same person, especially in rural areas where there is a single sanitarian. Larger jurisdictions may specialize.

REP. STEPPLER referenced the propane leak in a motel mentioned in earlier testimony. Was that not a carbon monoxide leak?

Jim Carlson stated it was an improperly vented propane heater which gave off carbon monoxide.

REP. BACHINI stated there was no testimony from the hotels and motels.

Mitzi Schwab presumes hotels and motels have the same objections.

Closing by Sponsor:

REP. CROMLEY said these are housekeeping measures to clarify the relationship of the state and local health departments. The added provision of civil penalties is a less onerous type of enforcement than what is presently on the books. There is a fee increase, which will still be lower than states in our area. There is a definite need not only as a health matter, but a business matter.

EXECUTIVE ACTION ON SB 330

Motion: REP. ELLIS MOVED SB 330 BE CONCURRED IN.

Discussion:

REP. KILPATRICK asked if this is expanding gambling?

REP. BACHINI replied no. This bill regards salary.

REP. STEPPLER said there were several bills like this in Ag Committee, and state employees testified against the bills. He is curious why they were not here for this bill.

REP. BENEDICT said these are not full time employees, they are people who work 30 to 40 days a year. That is a little different. Rep. Benedict said he felt this was a good bill.

**Vote:** Motion that SB 330 be concurred in carried unanimously.

**EXECUTIVE ACTION ON SB 363**

**Motion:** REP. LARSON MOVED SB 363 BE CONCURRED IN.

**Discussion:**

REP. PAVLOVICH expressed interest in amending the bill. Prior to a year or so ago, he booked the three major races. Simulcast took them out of the picture. Rep. Pavlovich has a federal wagering tax stamp purchased every year to book the three races. He would like to put in the bill language that a beverage licensee who owns a federal wagering tax stamp would be allowed to book the three major races of the year.

**Vote:** Motion that SB 363 be concurred in carried 15 to 3 with Reps. Wallin, Barnett and Stepler voting no.

**ADJOURNMENT**

**Adjournment:** 10:45 a.m.

  
\_\_\_\_\_  
BOB BACHINI, Chair

  
\_\_\_\_\_  
JO LAHTI, Secretary

BB/jl

**BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE**

DATE 3/20/91

[illegible]

HOUSE STANDING COMMITTEE REPORT

March 19, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 330 (third reading copy - blue) be concurred in.

Signed: Bob Bachini  
Bob Bachini, Chairman

Carried by: Rep. Swysgood

HOUSE STANDING COMMITTEE REPORT

4:30  
~~3-14-91~~  
JDB  
March 19, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 363 (third reading copy - blue) be concurred in.

Signed: Bob Bachini  
Bob Bachini, Chairman

Carried by: Rep. Swysgood



EXHIBIT 1  
SB 330  
3/19/91

## POSITION STATEMENT

### HORSE RACING STEWARDS

The racing stewards hired by the executive secretary for the Board of Horse Racing have been employed and paid for the past 15 years at a daily rate which is set each year by the Board. This rate has been historically determined on the basis of rates paid stewards in neighboring states. It has recently been brought to our attention by the State Personnel Division that these employees are not being compensated appropriately according to state compensation rules because they are not included in the "exempt from classification" status in the MCA's.

Horse Racing stewards have the responsibility for insuring that all Rules of racing are strictly adhered to at each live race meet as well as having the overall responsibility of insuring the integrity of the on-track racing industry.

The alternatives offered by state personnel included attempting to classify the employees within the state classification system or, as an alternative, to contract for the services of the state stewards.

The option to classify the state stewards is not realistic because the daily rate paid for their services was set at \$170.00 per day for race days and \$100.00 per day for draw days. This \$170.00 daily rate if annualized would be equivalent to a grade 20, step 11. It is not realistic to expect that State Personnel would classify these employees at that level for the duties being performed. In addition, state stewards are not employed in the same fashion as a "normal" state employee. The work is seasonal, lasting usually from May through September. A number of people are employed as state stewards and they are assigned to work certain race meets. This means that as individuals they may be employed anywhere from 8 to 40 actual working days. In aggregate, all of these individuals comprise no more than one full-time equivalent position. Therefore, although the daily rate seem high, as individuals they do not earn a substantial amount of money and the amount paid is in line with opportunities in surrounding states.

An alternative to classification involves contracting with these individuals to act as stewards at state race meets. This option has been evaluated extensively within the agency and, while it is a viable option, it does not represent the best alternative. The Board would still be required to pay an equivalent amount under contract in order to employ these people. In addition, the Board would pay considerably more for workers compensation for these individuals as private contractors than would be the case where they are paid as state employees. It is likely that contracting in this particular situation would adversely affect the Boards expenses. This is particularly onerous given the fact that board

SB 330  
3/19/91

revenues have been decreasing steadily over the last several years primarily due to the increase in casino type gambling in Montana.

A third option which represents the best policy alternative for the Board of Horse Racing is to amend state statute so that the state stewards can be compensated as exempt employees. Again, this is an aggregate position which in total represents on FTE. This is the least costly alternative, the only practical alternative, and continues a method of compensation which has been in place for about 15 years.

# et on less horse racing next year

AIR JOHNSON  
Gazette Staff

orse racing at MetraPark has always d like a sure bet, but not anymore. nancial problems that have been build- several years hit home recently. The racing budget is broke, and without ma- ts expected to come in the next few the budget will finish an estimated \$40- the hole. Even with the cuts, including ation of the racing director's position, the ted ending balance of \$779 would seem se to call, considering the budget started million.

hat is a safe bet is that racing will be dif- next year. Some might wager that there be racing at all, but the odds are that happen.

though county commissioners have said will end if it can't pay for itself, the Me- k Board supports horse racing. Horse- rous, which historically have played a role in shaping the event, also have an in- in seeing racing continue.

etraPark staff and board members are g to figure out if there can be a race ext year.

me of the options being considered in-

## Perspective

clude cutting back race dates from the 32-day season (which includes the fair and fall meet), lowering the minimum amount offered for purchases, amending contracts to cut costs for services like manure removal and increasing revenues through possible stall fees and more corporate sponsors.

Other ideas being kicked around include turning racing over to the private sector, may- be sharing costs with other tracks in the state and hiring a consultant for help.

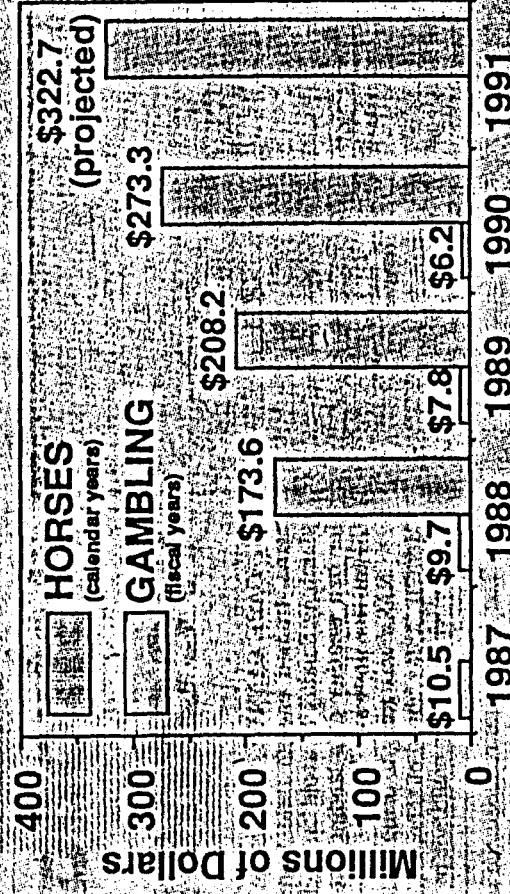
Those possibilities and others are expected to be discussed during a special MetraPark Board meeting at 2 p.m. Dec. 13, at which public comment will be invited.

How did racing get into such trouble? Why can't MetraPark simply carry the debt over to next year? Who stands to lose if racing goes away? How does simulcast racing (telecasting races from other areas into a track) figure into the picture?

Simple answers are difficult to find because there is nothing simple about horse racing.

(More on Racing, Page 7A)

SB 3 Exhibit # 2  
3/19/91 SB 330



Sources: Mont. Board of Racing & Mont. Departments of Commerce and Justice



# Racing

From Page One

Ex. 2  
3/19/91  
SB 330

ing, a complicated event that offers big payoffs to lucky bettors and splits dollars wagered into percentages of percentages to pay the owners, trainers, jockeys and the track. But there are some explanations for racing's predicament.

Most of racing's problems can be traced back to the handle, which is the amount of money wagered on a race. The handle is the big pot from which winnings as well as most expenses are paid. The total handle from all state tracks has been on a steady downhill slide since 1984. The real fall-off, though, began in 1987.

That was the same year the state's lottery began, followed shortly thereafter by expanded gambling with electronic poker and keno machines.

The statewide handle has dropped 41 percent from \$10.5 million in 1987 to \$6.2 million in 1990. MetraPark's handle in 1990 was off 24 percent.

Meanwhile, total dollars wagered on the lottery and electronic gambling machines have skyrocketed about 86 percent during the same period — from an estimated \$173.6 million in fiscal year 1988 to a projected \$322.7 million for fiscal year 1991, according to state gaming officials.

Concern from racing industry folks that other

forms of gambling are cutting into the handle appears well founded judging from the numbers. And with talk of expanded gambling in the form of live "21" card games, the horse racing handle could drop even more.

Despite attempts to attract spectators to the track through promotions, beer and liquor sales, concessions and cleaner grandstands, people simply aren't betting what they used to on the ponies.

MetraPark's deficit in the racing budget can't be carried over to next year for several reasons. Unlike past years, the racing budget no longer has any cash reserves to soften the losses. And unlike other county funds, the racing budget receives no tax dollars. The budget is supported solely by pari-mutuel betting, concessions and admission sales.

County Finance Director Scott Turner said the county is not inclined to loan money to racing because the question remains, "Are they able to pay it back?"

Racing would have to present convincing evidence that the industry was turning the corner before the county would loan it money, Turner said.

County commissioners also have made it clear that Yellowstone County will not allow a deficit in the racing budget. Period.

So far, simulcasting has not generated the anticipated revenues at MetraPark. The simulcast program involves telecasting races during the live race meet, sending out MetraPark's live races to other Montana cities and simulcasting races from out-of-state tracks during the winter season.

MetraPark's simulcast winter season is held on the weekends at the Turf Club in the grandstands.

Authorized by the 1989 Legislature with strong support from the racing industry and county fairgrounds, simulcasting is intended to promote racing by putting more money into purses and race tracks.

But now, some racing organizations are critical of how simulcasting is being operated, and MetraPark officials are trying to decide whether its winter season can break even after getting off to a disappointing start.

Who stands to lose if racing were discontinued at MetraPark?

Certainly the most directly affected would be those who make their living from breeding, training and racing the thoroughbreds.

The Midland Horse Racing Association, a Billings-based group of horsemen, says that racing at MetraPark is a \$4 million benefit to the Billings community. Horsemen, who park their trailers on the backside of the track during the season, also contribute to the economy by buying groceries and other supplies.

Spectators who go the races would have to find another form of entertainment.

Although tax money doesn't go into racing, the taxpaying public also stands to lose. MetraPark's barns, track and grandstand were built with help from tax dollars to provide a place for horse racing and other events. An empty bleachers and track won't provide a return on the investment.



Exhibit #3

Executive Office HB 989  
318 N. Last Chance Gulch  
P.O. Box 440  
Helena, MT 59624  
Phone (406) 442-3388

3/29/91

TESTIMONY  
MARCH 19, 1991  
ROOM 312-3  
BUSINESS & ECON DEV.  
HB 989

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

FOR THE RECORD, I AM CHARLES BROOKS EXEC. V.P. OF THE MONTANA RETAIL ASSOCIATION AND ITS AFFILIATES. I APPEAR TODAY FOR SEVERAL MEMBERS WHO ARE IN SUPPORT OF HB 989.

WE FEEL IT IS TIME THE DEPARTMENT OF HEALTH BE ALLOW TO IMPLEMENT STANDARDIZATION OF INSPECTIONS STATE WIDE. SEVERAL OF OUR MEMBERS HAVE LOCATIONS THROUGH OUT THE STATE WITH EACH LOCATION OPERATING UNDER DIFFERENT RULES AND REGULATIONS IMPOSED BY THE LOCAL HEALTH INSPECTORS. STANDARDIZATION WOULD ALLOW OUR MEMBERS TO SET UP STATE WIDE PROGRAMS FOR THEIR OPERATIONS AND WOULD BE COST EFFECTIVE TO OPERATE UNDER THE SAME INSPECT PROGRAMS. THE ADDITIONAL LICENSE FEES WOULD BE OFF SET BY SAVINGS IN OPERATIONS UNDER THIS PROPOSED LEGISLATION. WE ALSO FEEL IT IS NECESSARY A STRONG TRAINING PROGRAM BE IMPLEMENTED TO PROPERLY TRAIN LOCAL INSPECTORS.

WE ASK YOUR SUPPORT OF THIS LEGISLATION AND GIVE HB 989 A DO PASS RECOMMENDATION.

THANK YOU FOR YOUR CONSIDERATIONS.

EXHIBIT 4  
HB 989  
3/19/91

DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

March 19, 1991

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

TESTIMONY ON HOUSE BILL NO. 989

A BILL FOR AN ACT ENTITLED; "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO REGULATION OF FOOD ESTABLISHMENTS; INCREASING THE FEE FOR LICENSING OF FOOD ESTABLISHMENTS; CREATING A SPECIAL REVENUE ACCOUNT FOR THE DEPOSIT OF LICENSE FEES; ALLOCATING MONEY IN THE ACCOUNT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; CLARIFYING WHO MAY CONDUCT INVESTIGATIONS AND INSPECTIONS OF FOOD ESTABLISHMENTS; REQUIRING MINIMUM PERFORMANCE STANDARDS THAT MUST BE MET IN ORDER FOR THE LOCAL BOARD OF HEALTH TO RECEIVE PAYMENTS FROM THE LOCAL BOARD INSPECTION FUND ACCOUNT; REQUIRING MINIMUM PERFORMANCE STANDARDS THAT MUST BE MET IN ORDER FOR THE LOCAL BOARD OF HEALTH TO RECEIVE PAYMENTS FROM THE LOCAL BOARD INSPECTION FUND ACCOUNT; REQUIRING PAYMENTS RECEIVED FROM THE ACCOUNT TO BE USED ONLY FOR THE PURPOSE OF INSPECTION AND ENFORCEMENT; PROHIBITING FUNDS FROM THE LOCAL BOARD INSPECTION FUND ACCOUNT FROM BEING USED TO SUPPLANT OTHER FUNDS RECEIVED BY THE LOCAL BOARD OF HEALTH; PROVIDING CIVIL PENALTIES FOR VIOLATION OF THE LAWS REGULATING FOOD ESTABLISHMENTS; ALLOWING THE DEPARTMENT AND COUNTIES TO RECOVER THE COSTS OF INVESTIGATIONS AND OTHER EXPENSES IN ENFORCING THE LAWS RELATING TO FOOD ESTABLISHMENTS; AND AMENDING SECTIONS 50-50-102, 50-50-205, 50-50-301, 50-50-302, AND 50-50-305, MCA."

The Food and Consumer Safety Bureau (FCSB) of the Department of Health and Environmental Sciences (DHES) has administrative and enforcement responsibility of Food Establishments regulated through 50-50, MCA. DHES is requesting revisions to 50-50, MCA for the purpose of improving statutory program functions, which are being proposed after an extensive program audit during FY90 and FY91 with solicitation of comments and proposals from local government and regulated industry.

HB989 proposes increasing the food establishment annual licensure fee from \$30 to \$75. Program fees were last increased from \$25 to \$30 effective calendar year 1984. The minimum program requirement is two inspections/year with an average cost of \$200 per establishment. This is based upon a cost estimate derived from a 1991 survey of Montana local government programs and survey information provided through the U.S. Food and Drug Administration (FDA).

From the proposed fee increase 85% (\$63.75) would be deposited into the local board inspection fund to provide grant monies to local governments to provide establishment inspections and enforcement. From the state's portion of the annual licensure fee, 6% (\$4.50) would continue to be deposited in the general fund and 9% (\$6.75) would be deposited in a state special revenue account allocated to DHES to provide funding for necessary program development to

Ex. 4  
HB 989  
3/19/91

administer the provisions of 50-50, MCA and the rules adopted under it. Note: A copy of the funding amendment for introduced HB989 to divide the state's \$11.25 portion of the fee increase is attached. State general fund revenue deposits from annual license fee renewal would remain consistent with previous years.

Deposit of assessed late fee penalties into the special revenue account allocated to DHES is to provide a funding source for program enforcement.

Amendment of 50-50-305, MCA provides accountability for fee monies paid to local governments through the local board inspection fund. Provisions made include: 1) designating funding generated through the local board inspection fund must be used for inspections and enforcement of the 50-50, MCA; 2) programs receiving payment will meet minimum program performance standards as established by rule; 3) increases in grant monies through the local board inspection fund cannot be used to supplant other program funds; and 4) DHES may use funds from the local board inspection fund not paid to a local jurisdiction to provide provisions of 50-50, MCA to that jurisdiction. The program accountability provisions will continue to use cooperative agreements with local government to provide program services. Accountability is assured through minimum program performance standards as performed by local governments promoting application uniformity.

Inclusion of definitions for "commercial establishment" and "food warehouse" have been added for purpose of needed statutory legal interpretation and to include regulation of the food chain in between food processors and food retailers.

Amendment of section 50-50-301, MCA (Section 4) is to ensure inspections are performed by qualified public health professionals with language coordinated with HB943, if passed and approved.

Amendment of section 50-50-302, MCA (Section 5) is to provide language coordinated with (Section 4) and provide proposed standard language for establishment access for conducted investigations and inspections of regulated establishments.

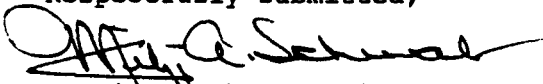
Inclusion of Section 7 - Civil penalties provides an enforcement alternative to the provisions of this chapter in addition to injunction and prosecution of criminal charges. The civil penalty is a customary enforcement tool and addition to this chapter brings it into conformity with other laws DHES enforces. Current per day maximum penalties for other DHES administered chapters range from \$500/day to \$10,000/day.

Inclusion of Section 9 - Costs and expenses - recovery by department or county allows government costs in obtaining compliance with this chapter from regulated establishments can be recovered.

Ex. 4  
HB 989  
3/19/91

The Department requests to Committee to favorably consider this bill and all its provisions for the purpose of providing a more effective and functional program regulating food establishments based upon minimizing public health risks. A "do pass" as amended committee report would be appreciated. Thank you.

Respectfully submitted,



Mitzi A. Schwab, Chief  
Food and Consumer Safety Bureau  
Telephone: 444-2408



3/19/91

EXHIBIT 5  
3/19/91  
HB 989

MR. CHAIRMAN AND COMMITTEE MEMBERS, MY NAME IS PETE FRAZIER, ENVIRONMENTAL HEALTH DIRECTOR WITH THE CITY-COUNTY HEALTH DEPARTMENT IN GREAT FALLS.

I COME TO YOU TODAY IN SUPPORT OF HB 989. THE INSPECTIONAL SERVICES PROVIDED TO FOOD SERVICE ESTABLISHMENTS BY SANITARIANS IN LOCAL HEALTH DEPARTMENTS IS A CRITICALLY IMPORTANT FUNCTION, BOTH FOR THE BENEFIT OF THE GENERAL PUBLIC AND THE ESTABLISHMENT OWNERS. ACCORDING TO CENTERS FOR DISEASE CONTROL STATISTICS, OVER 9,000 DEATHS A YEAR OCCUR NATIONWIDE FROM VARIOUS FOODBORNE ILLNESSES. WITHOUT PROPER ONGOING INSPECTION PROGRAMS, THE GENERAL PUBLIC CAN BE AT RISK AND THE ESTABLISHMENT OPERATORS CAN BE OPEN FOR COSTLY SUITS SHOULD THEIR ESTABLISHMENT BE PROVEN THE CAUSE OF A SERIOUS FOODBORNE OUTBREAK. IT COSTS OVER \$100 TO PERFORM A PROPER INSPECTION OF A TYPICAL FOOD SERVICE ESTABLISHMENT, AND THESE ESTABLISHMENTS SHOULD BE INSPECTED AT LEAST TWICE PER YEAR. UNDER THE CURRENT FOOD SERVICE LICENSE FEE SCHEDULE OF \$30 PER YEAR, LOCAL HEALTH DEPARTMENTS RECEIVE \$25.50 PER LICENSED ESTABLISHMENT IN THEIR COUNTY TO HELP OFFSET THE COST OF THESE NECESSARY INSPECTIONS. AS YOU CAN SEE, THIS COVERS ONLY ABOUT 13% OF THE ANNUAL COSTS TO LOCAL DEPARTMENTS TO PERFORM THESE INSPECTIONAL SERVICES. WITH ALL THE OTHER REQUIRED RESPONSIBILITIES PLACED ON LOCAL HEALTH DEPARTMENT SANITARIANS FOR SUCH AREAS AS SEPTIC SYSTEM PERMITTING AND INSPECTIONS, UNDERGROUND STORAGE TANK INSPECTIONS, JUNK VEHICLE PROGRAM ADMINISTRATION, SUBDIVISION REVIEW, ETC., AND WITH EVER SHRINKING LOCAL HEALTH DEPARTMENT BUDGETS, SOME DEPARTMENTS ARE ON THE VERGE OF CEASING FOOD SERVICE INSPECTIONS DUE TO LACK OF FUNDING. SHOULD THIS HAPPEN, THE BURDEN TO PICK UP THESE INSPECTIONS WOULD FALL UPON THE STATE FOOD & CONSUMER SAFETY BUREAU WHICH IS NEITHER FUNDED NOR STAFFED ADEQUATELY TO PERFORM THESE ADDED RESPONSIBILITIES. THIS WOULD LEAVE A VOID IN THE STATE FOOD SERVICE PROGRAM, OPENING THE STATE UP FOR A POTENTIALLY LARGE INCREASE IN FOODBORNE ILLNESS PROBLEMS.

HOWEVER, IN SECTION 2 OF HB 989, THE FOOD SERVICE LICENSE FEE IS PROPOSED TO BE INCREASED TO \$75 PER YEAR. ALTHOUGH THIS MAY SOUND LIKE A LARGE INCREASE, IT MEANS THAT FOOD SERVICE ESTABLISHMENTS WOULD, IN ESSENCE, BE PAYING ONLY \$6.25 A MONTH FOR

TESTIMONY ON HB 989  
PAGE TWO

EX. 5  
3/19/91  
HB 989

A VERY IMPORTANT SERVICE. THIS IS A VERY CHEAP INSURANCE POLICY AGAINST POTENTIALLY HIGH LIABILITY COSTS FOR BEING INVOLVED IN A FOODBORNE ILLNESS OUTBREAK. ALTHOUGH THERE IS NO GUARANTEE THAT BECAUSE THEY ARE INSPECTED, THEY WON'T HAVE A PROBLEM, THE CHANCES OF BEING INVOLVED IN A FOODBORNE ILLNESS SITUATION ARE GREATLY REDUCED. WITH THE INCREASED LICENSE FEE, LOCAL HEALTH DEPARTMENTS WILL SEE AN INCREASE IN THEIR FUNDING THAT WILL OFFSET THE INSPECTION SERVICE COSTS BY ABOUT 32%. ALTHOUGH THIS IS NOT A GREAT INCREASE, IT IS PROBABLY ENOUGH TO KEEP MOST, IF NOT ALL, LOCAL DEPARTMENTS INVOLVED IN THE FOOD SERVICE PROGRAM.

IN ADDITION, THIS BILL PROVIDES THE NECESSARY CHECKS AND BALANCES SO THAT LOCAL HEALTH DEPARTMENTS WON'T RECEIVE THIS FUNDING IF THEY DON'T OR CAN'T MEET MINIMUM PROGRAM PERFORMANCE STANDARDS ESTABLISHED BY DHES. THIS MEANS THAT, WITH SUCH STANDARDS, THERE SHOULD NOW BE CONSISTENCY IN INSPECTIONS STATEWIDE, SOMETHING THAT BOTH LOCAL DEPARTMENTS AND THE INDUSTRY HAVE BEEN WANTING FOR YEARS.

IT IS MY UNDERSTANDING THAT THE TAVERN ASSOCIATION AND RESTAURANT ASSOCIATION HAVE HAD INPUT IN THIS BILL'S DRAFTING AND SUPPORT THIS LEGISLATION. WE, TOO, SUPPORT IT, AND URGE THIS COMMITTEE TO GIVE A "DO PASS" RECOMMENDATION TO HB 989.

THANK YOU.

EXHIBIT 6  
HB 989  
3/19/91

March 18, 1991

Don Sampson  
Owner  
Don's Family Restaurant  
1502 Dearborn St.  
Missoula, MT 59801

Dear Chairman Cromley and Committee Members:

I am writing to support House Bill 989 which will raise license establishment inspection fees and provide minimum standards for inspection programs statewide.

The inspection program in all jurisdictions needs better funding and in many instances, more training and oversight from the State Food and Consumer Safety Bureau. In addition, this bill will help insure that monies earmarked for inspections and education is actually spent for that function.

Thank you for the opportunity to comment.

Sincerely,

Don Sampson



EXHIBIT 6  
HB 989  
3/19/91

March 18, 1991

Robert Austin  
Manager  
Don's Family Restaurant  
1502 Dearborn St.  
Missoula, MT 59801

Dear Chairman Cromley and Committee Members:

I am writing to support House Bill 989 which will raise license establishment inspection fees and provide minimum standards for inspection programs statewide.

The inspection program in all jurisdictions needs better funding and in many instances, more training and oversight from the State Food and Consumer Safety Bureau. In addition, this bill will help insure that monies earmarked for inspections and education is actually spent for that function.

Thank you for the opportunity to comment.

Sincerely,

  
Robert Austin



## Flathead City-County Health Department

723 5th Ave. East • Kalispell, Montana 59901

Environmental Health Services 756-5632 • Community Health Services 756-5633

Date: March 18, 1991

To: Bob Bachini, Chairperson  
House Business & Economic Committee

From: Flathead City-County Board of Health

TESTIMONY: HBs 987, 988, & 989

The Flathead City-County Board of Health supports the revisions to the Public Accommodation; Trailer Court and RV Park; and Food Purveyor rules proposed as House Bills 987, 988 and 989. The proposed legislation will benefit our health department in the following manner:

- 1) Civil penalties will be added to the laws along with authorization for injunctions to enjoin violations of the laws.
- 2) Establish minimum performance standards for the inspection program as it pertains to standardized inspection protocols and to the documentation of work performed.
- 3) Increased license fees to offset the cost of administering the program at the state and local levels.

Visitors to the Flathead Valley, as well as the people who reside in Flathead County depend upon these services to assure their health and safety. We urge your support of the legislation introduced as HBs 987, 988 and 989.

Respectfully submitted,

Jane Lopp, Chairperson  
Flathead City-County Board of Health

EXHIBIT 7  
HB 989  
3/19/91

DISTRICT SANITARIAN  
RICHLAND AND McCONE COUNTY HEALTH DEPARTMENTS

221 5th St. S.W. Sidney, MT 59270 Phone: 406 402-2207

MEMORANDUM

TO: Don Steppler  
FROM: Kelly Logan, R.S.  
DATE: March 18, 1991  
SUBJECT: House bills 987, 988, 989.

Please support House bills 987, 988, 989. These bills will be heard in the Business and Economic Development Committee, Room 312-3 on Tuesday, March 19 at 8 a.m. The bills are designed to provide increased inspection program funding (for food service establishments, public accommodations, and trailer courts) with improved inspection program accountability. In addition civil penalties would be added to the statutes which would provide a more appropriate response to some of the enforcement problems we encounter.

The additional funding will help defray the cost of providing an effective inspection program at the local level. We presently receive approximately \$1800 to provide an inspection program. These bills would generate an additional \$2200 for our local program. This funding is desperately needed at the local level.

Local health departments are the first line of defense in the public health field and vigorous local programs are absolutely necessary.



201 FIRST AVE. N., LEWISTOWN, MONTANA • 406-538-3433

EXHIBIT 8 P.2/2  
HB 989  
3/19/91

March 15, 1991

Representative Dick Knox  
Helena, Montana

Dear Dick;

Our Company supports HB #989, which generally revises the laws regarding food establishments and raises the license fees from \$30.00 to \$75.00. Our business, the bottled water business, is asking the State to give us some help in improving our method of bottled water production through inspections that occur more often and that are helpful and advisory in nature. To promote this, we are willing to pay an increased license fee to cover these, more frequent and more intricate inspections.

Sincerely yours,

A handwritten signature in cursive script that reads "Charles Cerovski".

Charles Cerovski  
President

CC/jl

EXHIBIT 9 P.2

HB 989

3/19/91



# County of Yellowstone

CITY-COUNTY HEALTH DEPARTMENT



POST OFFICE BOX 35033  
BILLINGS, MONTANA  
59107

March 15, 1991

## MEMORANDUM

TO: Cal Campbell  
Food & Consumer Safety

FROM: Louis Ladas, R.S.

SUBJECT: HOUSE BILL 987, 988, 989

The Yellowstone City-County Health Department is in support of HB 987, 988, and 989. The Yellowstone City-County Health Department requests approval of HOUSE BILL 987, 988, 989 by the Business Economic Development Committee.

LL/nk

(Cal, a FAX of the above went to Representatives: Cromley, Hanson, Kirkpatrick, McCullough, Scott, Bob Bachini, Chairman, and Sheila Rice, Vice Chairman)



EXHIBIT 10  
HB 988  
3/19/91

DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

March 19, 1991

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

TESTIMONY ON HOUSE BILL NO. 988

A BILL FOR AN ACT ENTITLES; "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO REGULATION OF CAMPGROUNDS, TRAILER COURTS, WORK CAMPS, AND YOUTH CAMPS; CREATING A SPECIAL REVENUE ACCOUNT FOR THE DEPOSIT OF LICENSE FEES; ALLOCATING MONEY IN THE ACCOUNT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; CLARIFYING WHO MAY CONDUCT INVESTIGATIONS AND INSPECTIONS; CLARIFYING THAT HEALTH OFFICERS AND SANITARIANS HAVE FEE ACCESS TO CAMPGROUNDS, TRAILER COURTS, WORK CAMPS, AND YOUTH CAMPS FOR THE PURPOSE OF CONDUCTING INVESTIGATIONS AND INSPECTIONS; REQUIRING MINIMUM PERFORMANCE STANDARDS THAT MUST BE MET IN ORDER FOR THE LOCAL BOARD OF HEALTH TO RECEIVE PAYMENTS FROM THE LOCAL BOARD INSPECTION FUND ACCOUNT; REQUIRING PAYMENTS RECEIVED FROM THE ACCOUNT TO BE USED ONLY FOR THE PURPOSE OF INSPECTION AND ENFORCEMENT; PROHIBITING FUNDS FROM THE LOCAL BOARD INSPECTION FUND ACCOUNT FROM BEING USED TO SUPPLANT OTHER FUNDS RECEIVED BY THE LOCAL BOARD OF HEALTH; PROVIDING CIVIL PENALTIES FOR THE VIOLATIONS OF LAWS REGULATING CAMPGROUNDS, TRAILER COURTS, WORK CAMPS, AND YOUTH CAMPS; ALLOWING THE DEPARTMENT AND COUNTIES TO RECOVER THE COSTS OF INVESTIGATIONS AND OTHER EXPENSES IN ENFORCING THE LAWS; AND AMENDING SECTIONS 50-52-202, 50-52-301, AND 50-52-302, MCA."

The Food and Consumer Safety Bureau (FCSB) of the Department of Health and Environmental Sciences (DHES) has administrative and enforcement responsibility of Trailer Courts/Campgrounds regulated through 50-52, MCA. DHES is requesting revisions to 50-52, MCA for the purpose of improving statutory program functions, which are being proposed after an extensive program audit during FY90 and FY91 with solicitation of comments and proposals from local government and regulated industry.

HB988 proposes increasing the public accommodations annual licensure fee from \$30 to \$50. Program fees were last increased from \$25 to \$30 effective calendar year 1984. The minimum program requirement is one inspections/year with an average cost of \$100 per establishment. This is based upon a cost estimate derived from a 1991 survey of Montana local government programs. From the proposed fee increase 85% (\$42.50) would be deposited into the local board inspection fund to provide grant monies to local governments to provide establishment inspections and enforcement. From the state's portion of the annual licensure fee, 9% (\$4.50) would continue to be deposited in the general fund and 6% (\$3.00) would be deposited in a state special revenue account allocated to DHES to provide funding for necessary program development to administer the provisions of 50-52, MCA and the rules adopted under it. Note: A copy of the funding amendment for introduced HB988 to divide the state's \$7.50 portion of the fee increase is attached. State general fund revenue



EXHIBIT II  
HB 988  
3/19/91

Testimony Concerning House Bill 988  
Before the House Business & Economic Development Committee  
March 19, 1991

Chairman Bachini and Committee Members,

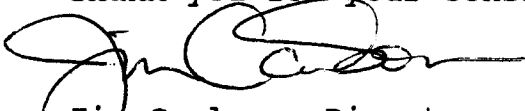
My name is Jim Carlson. I am the Director of the Environmental Health Division of the Missoula City-County Health Department. I am here to speak in favor of HB 988 as drafted.

Missoula County has 165 licensed trailer courts and campgrounds. Under current state law, my department is required to inspect these establishments once a year as well as review plans for the construction of new facilities, and to provide for the enforcement of the trailer court and campground regulations within Missoula County.

The current fee for trailer courts and campgrounds of \$30 per year has not been raised in the past 8 years. Currently Missoula County receives approximately \$4,200 per year from the State Department of Health for a program which is currently costing us approximately \$6,500 a year. Because of I-105, local department's cannot raise other revenues to offset the increasing costs of personnel, transportation and secretarial time to perform the duties which are required by state law under the trailer court and campground program.

This Bill would cover the cost of the requirements imposed by the State on local departments. We urge you to give your support to this Bill as an appropriate method to provide for the requirements of this program.

Thank you for your consideration.



Jim Carlson, Director  
Environmental Health

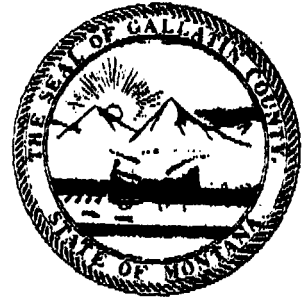
State of Montana

EXHIBIT 12

3/19/91

County of Gallatin HB 988

Bozeman



\*\*\*\*\*  
 FAX TRANSMITTAL MEMO  
 TO: Norm Wallin  
 DEPT: \_\_\_\_\_ FAX #: 406 444 1374  
 FROM: Justin Buchanan PHONE: 585-1465  
 CO: Montana FAX #: 585-1403  
 Post-It brand fax transmittal memo 7671

NO. OF PAGES 1
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March 18, 1991

The Honorable Representative Norm Wallin  
 House of Representatives  
 State Capitol  
 Helena, MT 59620

Dear Representative Wallin:

The Gallatin County Sanitarians Office favors the passing of  
 HB 987, HB 988 and HB 989.

We feel these bills will clarify existing rules and will help  
 standardize inspections throughout the state. The additional  
 revenue generated will be used to increase inspection programs at  
 the local level. The local health department will be reimbursed  
 by the state only after minimum performance standards are met.

Again, we urge the passage of these bills and feel they are  
 necessary to provide an adequate public service.

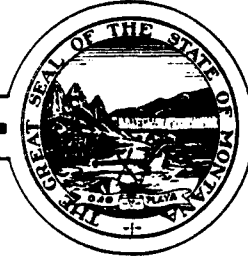
Sincerely,

Justin Buchanan, R.S.  
 Gallatin County Sanitarian

JB/st

EXHIBIT 13  
HB 987  
3/19/91

DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

March 19, 1991

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

TESTIMONY ON HOUSE BILL NO. 987

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO REGULATION OF HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, AND TOURIST HOMES; PROVIDING FOR LICENSING OF BED AND BREAKFASTS AS A SEPARATE CATEGORY OF PUBLIC ACCOMMODATIONS SUBJECT TO LICENSURE; INCREASING THE FEE FOR LICENSING OF HOTELS, MOTELS, ROOMINGHOUSES, RETIREMENT HOMES, AND TOURIST HOMES; REQUIRING PAYMENT OF THE FEE FOR LICENSING BED AND BREAKFASTS AND BOARDINGHOUSES; CREATING A SPECIAL REVENUE ACCOUNT FOR THE DEPOSIT OF LICENSE FEES; ALLOCATING MONEY IN THE ACCOUNT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; CLARIFYING WHO MAY CONDUCT INVESTIGATIONS AND INSPECTIONS; REQUIRING MINIMUM PERFORMANCE STANDARDS THAT MUST BE MET IN ORDER FOR THE LOCAL BOARD OF HEALTH TO RECEIVE PAYMENTS FROM THE LOCAL BOARD INSPECTION FUND ACCOUNT; REQUIRING PAYMENTS FROM THE ACCOUNT TO BE USED ONLY FOR THE PURPOSE OF INSPECTION AND ENFORCEMENT; PROHIBITING FUNDS FROM THE LOCAL BOARD INSPECTION FUND ACCOUNT FROM BEING USED TO SUPPLANT OTHER FUNDS RECEIVED BY THE LOCAL BOARD OF HEALTH; PROVIDING CIVIL PENALTIES FOR VIOLATION OF THE LAWS REGULATING BED AND BREAKFASTS, HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, AND TOURIST HOMES; AUTHORIZING INJUNCTIONS TO ENJOIN VIOLATIONS OF THE LAWS; ALLOWING THE DEPARTMENT AND COUNTIES TO RECOVER THE COSTS OF INVESTIGATIONS AND OTHER EXPENSES IN ENFORCING THE LAWS REGULATING BED AND BREAKFASTS, HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, TOURIST HOMES; AND AMENDING SECTIONS 50-51-204, 50-51-301, 50-51-302, AND 50-51-303, MCA."

The Food and Consumer Safety Bureau (FCSB) of the Department of Health and Environmental Sciences (DHES) has administrative and enforcement responsibility of Public Accommodations regulated through 50-51, MCA. DHES is requesting revisions to 50-51, MCA for the purpose of improving statutory program functions, which are being proposed after an extensive program audit during FY90 and FY91 with solicitation of comments and proposals from local government and regulated industry.

HB987 proposes increasing the public accommodations annual licensure fee from \$30 to \$50. Program fees were last increased from \$25 to \$30 effective calendar year 1984. The minimum program requirement is one inspections/year with an average cost of \$100 per establishment. This is based upon a cost estimate derived from a 1991 survey of Montana local government programs. From the proposed fee increase 85% (\$42.50) would be deposited into the local board inspection fund to provide grant monies to local governments to provide establishment inspections and enforcement. From the state's portion of the annual licensure fee, 9% (\$4.50) would continue to be deposited in the general fund and 6% (\$3.00) would be deposited in a state special revenue account

Ex. 13  
HB 987  
3/19/91

allocated to DHES to provide funding for necessary program development to administer the provisions of 50-51, MCA and the rules adopted under it. Note: A copy of the funding amendment for introduced HB987 to divide the state's \$7.50 portion of the fee increase is attached. State general fund revenue deposits from annual license fee renewal would remain consistent with previous years.

Deposit of assessed late fee penalties into the special revenue account allocated to DHES is to provide a funding source for program enforcement.

Amendment of 50-50-303, MCA provides accountability for fee monies paid to local governments through the local board inspection fund. Provisions made include: 1) designating funding generated through the local board inspection fund must be used for inspections and enforcement of the 50-51, MCA; 2) programs receiving payment will meet minimum program performance standards as established by rule; 3) increases in grant monies through the local board inspection fund cannot be used to supplant other program funds; and 4) DHES may use funds from the local board inspection fund not paid to a local jurisdiction to provide provisions of 50-51, MCA to that jurisdiction. The program accountability provisions will continue to use cooperative agreements with local government to provide program services. Accountability is assured through minimum program performance standards as performed by local governments promoting application uniformity.

As introduced HB987 includes statutory definitions for bed & breakfast establishments. Although the definitions proposed do not conflict with existing bed & breakfast regulations administered by other state agencies, the industry, which is newly formed, has asked for the opportunity to try to address their industry regulation under tourist homes through the administrative rules. Accordingly, an amendment is being submitted which removes references to bed & breakfasts. Should this process not work, the proposal to add bed & breakfasts to 50-51, MCA will again be submitted to the legislature in 1993.

Amendment of section 50-51-301, MCA (Section 5) is to ensure inspections are performed by qualified public health professionals with language coordinated with HB943, if passed and approved.

Amendment of section 50-51-302, MCA (Section 6) is to provide language coordinated with (Section 5) and provide proposed standard language for establishment access for conducted investigations and inspections of regulated establishments.

Inclusion of Section 8 - Civil penalties provides an enforcement alternative to the provisions of this chapter in addition to injunction and prosecution of criminal charges. The civil penalty is a customary enforcement tool and addition to this chapter brings it into conformity with other laws DHES enforces. Current per day maximum penalties for other DHES administered chapters range from \$500/day to \$10,000/day.

Inclusion of Section 9 - Injunctions is to provide conformity with 50-50 and 50-52, MCA also administered by FCSB.

Ex. 13

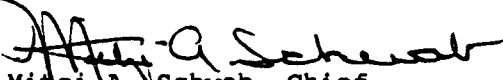
HB 987

3/19/91

Inclusion of Section 10 - Costs and expenses - recovery by department or county allows government costs in obtaining compliance with this chapter from regulated establishments can be recovered.

The Department requests to Committee to favorably consider this bill and all its provisions for the purpose of providing a more effective and functional program regulating public accommodations based upon minimizing public health risks. A "do pass" as amended committee report would be appreciated. Thank you.

Respectfully submitted,



Mitzi A. Schwab, Chief  
Food and Consumer Safety Bureau  
Telephone: 444-2408



Testimony Concerning House Bill 987  
Before the House Business & Economic Development Committee  
March 19, 1991

Chairman Bachini and Committee Members,

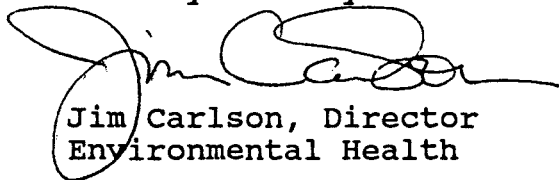
My name is Jim Carlson. I am the Director of the Environmental Health Division of the Missoula City-County Health Department. I am here to speak in favor of HB 987 as drafted.

Missoula County has 64 licensed public accommodations. Under current state law, my department is required to inspect these establishments once a year as well as review plans for the construction of new facilities, and to provide for the enforcement of the public accommodations regulations within Missoula County.

The present fee for public accommodations of \$30 per year has not been raised in the past 8 years. Currently Missoula County receives approximately \$1,600 per year from the State Department of Health for a program which is currently costing us approximately \$2,600 a year. Because of I-105, local department's cannot raise other revenues to offset the increasing costs of personnel, transportation and secretarial time to perform the duties which are required by state law under the public accommodations program.

This Bill would cover the cost of the requirements imposed by the State on local departments. We urge you to give your support to this Bill as an appropriate method to provide for the requirements of this program.

Thank you for your consideration.



Jim Carlson, Director  
Environmental Health

**HOUSE OF REPRESENTATIVES  
VISITOR REGISTER**

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

**BILL NO.** SB 330  
SB 363

**DATE** March 19, 1991 **SPONSOR(S)** SEN. MANNING (Sen. Doherty)

**PLEASE PRINT**

**PLEASE PRINT**

**PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gary Amundson 10115 Cabin Creek Rd Shepherd, MT 59079	United Tote	✓	
SAM MURPHY	Bd. of Horseracing	✓	
Jay Belden	Montana State Fair	✓	
Jeffrey L. Brazier	Horsemen's Benevolent & Protective Assn	✓	
Kenneth F Smith	Central MT Health Dist Lewistown	✓	
Al Dobe	Horsemen's Ben. & Protective	✓	
Andy Poole	Commerce	✓ SB330	

**PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.**



**HOUSE OF REPRESENTATIVES  
VISITOR REGISTER**

**BUSINESS & ECONOMIC DEVELOPMENT**

**COMMITTEE**

**BILL NO. HB 988**

**DATE** MARCH 19, 1991 **SPONSOR(S)** REP. CROMLEY

**PLEASE PRINT**

**PLEASE PRINT**

**PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Pete Frazier	CITY - CO. HEALTH DEPT GOT FALLS	✓	
Ken Smith	Central MT Health Dist	✓	
Don Powers	Butte - Silver Bow	✓	
Don Samely	Butte - Silver Bow	X	
Juanita Carlson	LAST CHANCE MOTEL		X
Mitzi Schwab	DHES	X	
Jim Carlson	M. S. Soula Co	K	
TIM READ	MT ENVIRONMENTAL HEALTH ASSC.	K	
Bonnie Tysen	MT Insurers		X

**PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.**

AMENDMENTS TO HOUSE BILL 987 (introduced copy) PROPOSED BY THE  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

1. Title, line 15.

Following: "OF"

Insert: "A PORTION OF"

2. Page 6, line 19.

Following: "~~and the~~"

Strike: "The"

Insert: ", 9% of the fees into the general fund, and 6%"

3. Page 6, line 20.

Following: "fees"

Strike: "must be deposited"

3/19/91

John Scott

SB 330

Yes AS Amended Yes

SB 363

Yes AS Amended Yes