

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By Rep. Angela Russell, Chair, on March 22, 1991,
at 1:45 p.m.

ROLL CALL

Members Present:

Angela Russell, Chair (D)
Tim Whalen, Vice-Chairman (D)
Arlene Becker (D)
William Boharski (R)
Jan Brown (D)
Brent Cromley (D)
Tim Dowell (D)
Stella Jean Hansen (D)
Royal Johnson (R)
Betty Lou Kasten (R)
Thomas Lee (R)
Charlotte Messmore (R)
Jim Rice (R)
Sheila Rice (D)
Wilbur Spring (R)
Carolyn Squires (D)
Jessica Stickney (D)
Bill Strizich (D)
Rolph Tunby (R)

Members Excused: Patrick Galvin

Staff Present: David Niss, Legislative Council
Jeanne Krumm, Committee Secretary

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

EXECUTIVE ACTION ON SB 174

Motion: REP. MESSMORE MOVED SB 174 BE CONCURRED IN.

Motion: REP. MESSMORE moved to amend SB 174. EXHIBIT 1

Discussion:

David Niss stated that these amendments require the Governor, for the purposes of implementing provisions in current law, that all of the members of the Board of Psychologists serve staggered five year terms, which has never been implemented. The Board of Psychologists have a problem in that several of their appointees terms expire at the same time. Given their administrative

practices of passing out examinations to board members to be graded, causes them a problem because they have two new board members every several years grading the examinations with no prior experience in that process. Despite the fact that current law says that all members are to serve staggered five year terms has never been implemented. The board feels this legislation is necessary to implement that provision. These amendments will provide a temporary law to appoint members for less than five year terms and then immediately succeeding the one to two year terms then to appoint members for five year terms so they will wind up with a staggering effect.

Vote: Motion carried unanimously.

Motion/Vote: REP. MESSMORE MOVED SB 174 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 205

Motion: REP. STICKNEY MOVED SB 205 BE CONCURRED IN AS AMENDED.

Motion/Vote: REP. JOHNSON moved to amend SB 205. EXHIBIT 2. Motion carried unanimously.

Motion/Vote: REP. JOHNSON MOVED SB 205 BE CONCURRED IN AS AMENDED. Motion carried 19-1 with REP. KASTEN voting no.

EXECUTIVE ACTION ON SB 277

Motion: REP. WHALEN MOVED SB 277 BE CONCURRED IN.

Discussion:

REP. WHALEN stated that this bill is something that we need to do. He serves on the Developmentally Disabilities Planning and Advisory Council and the council has discussed this in depth. We need to make changes as far as the membership is concerned, in order to comply with the federal mandates on how these councils are formed.

REP. CROMLEY stated that he supports this legislation.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON SB 326

Motion: REP. MESSMORE MOVED SB 326 BE CONCURRED IN.

Discussion:

REP. STICKNEY stated that she doesn't approve of this bill, however, she does represent one of the largest area boards. Their board already has 17 members on the mental health council. She is in accord with the requirement that these councils include

consumers, but she must speak for the 17 members of her council in Eastern Montana. There are consumers among the 17 members of their board. Adding more people to an already large council wouldn't be that helpful when there are consumers already on the board.

REP. MESSMORE stated that while these boards, by number, can be very large, when you talk about getting a meeting together how many people actually show up.

REP. JOHNSON stated that he speaks against the bill, but he doesn't believe that we should not have consumers on the board, as a matter of fact, there are a number of consumers on these boards. Maybe some of these boards do have to be increased to include the consumers. The boards that are functioning properly now have taken care of that. This is a situation that is up to the people who appoint those boards. We shouldn't mandate that the boards do this sort of thing.

REP. HANSEN stated that she speaks in favor of the bill. She has been working in the area of mental health with the mental health facilities for the last 12 years. When she first started, the consumers were a quiet group of people, now the treatment has improved and the consumers are doing really well. They have fought hard to be able to serve on mental health boards and they deserve to serve on these boards.

Motion: REP. STICKNEY moved to amend SB 326. EXHIBIT 3

Discussion:

REP. WHALEN stated that the amendment doesn't add anything to the bill. The language is clear that the consumers have to be represented. Many of these mental health boards are already including these people and the question is why are they concerned about the passage of this legislation. In reality, there is an unstated concern that is being expressed in a subtle fashion by the opponents to this bill. They really don't want these people on the board. It was significant that the Montana Mental Health Association supported this legislation. Two of the regional boards did not support it.

REP. STICKNEY stated that we do need the consumers on the board. The amendments are simply trying to say that the boards that already have consumers on them are fine, but the boards that do not include consumers must add three new members, including a consumer.

REP. HANSEN stated that she resists the amendments. If the board already has the consumers on the board, then there shouldn't be a problem with the bill.

David Niss stated that the intention was to add two new members to the board. Unless those groups are already represented under

the amendment, that situation would not change.

REP. S. RICE stated that the original bill stated that you must add people to get the various groups represented. Under the amendment, you have the choice of already having the consumers on the board or adding people to make sure that the consumers are put on the board. If the board doesn't have the consumers, they will just have to add them to the board.

REP. TUNBY stated that he speaks against the amendment. He thinks the board should have a chance to replace these members as they came up.

REP. WHALEN stated that if you have already have three people on the board that need this criteria, they are going to have greater voting power then if they are added onto the board.

REP. KASTEN stated that the amendment isn't structured exactly as we would like it to be, it is very much on track as far as Eastern Montana is concerned. The 17 members represent 17 counties.

Vote: Motion carried 17-3 with REPS. HANSEN, MESSMORE and STRIZICH voting no.

Motion/Vote: REP. MESSMORE MOVED SB 326 BE CONCURRED IN AS AMENDED. Motion carried 19-1 with REP. CROMLEY voting no.

EXECUTIVE ACTION ON SB 256

Motion: REP. WHALEN MOVED SB 256 BE CONCURRED IN.

Discussion:

REP. WHALEN stated that it is his understanding that whether this informs the National Association of Insurance Commissioners (NAIC) on preferred provider agreements, or not, this is a good piece of legislation. At the NAIC conventions, you basically have five insurance groups for every single regulator and anything that they adopt tends to be very much watered down. The Insurance Commissioners Office supports this bill without amendments.

REP. DOWELL stated that we have a situation where there is a business that has basically 50% of a market share. They are cutting a particular deal with an individual business in the city. When these type of practices occur, they would be called monopolistic.

REP. JOHNSON stated that there is one basic difference between what a claims management services do and what health insured does. The health insured actually pays for claims, the claims management services is nothing more than the people who do the bookkeeping for that services.

Vote: Motion carried. EXHIBIT 4

EXECUTIVE ACTION ON SB 366

Motion: REP. STICKNEY MOVED SB 366 BE CONCURRED IN.

Motion/Vote: REP. STICKNEY moved to amend SB 366. EXHIBIT 5.
Motion carried. EXHIBIT 6

Motion/Vote: REP. MESSMORE MOVED SB 366 BE CONCURRED IN AS
AMENDED. Motion carried 17-3 with REPS. BOHARSKI, KASTEN and LEE
voting no.

EXECUTIVE ACTION ON SB 393

Motion: REP. MESSMORE MOVED SB 393 BE CONCURRED IN.

Motion/Vote: REP. CROMLEY moved to amend SB 393. EXHIBIT 7.
Motion carried unanimously.

Motion/Vote: REP. MESSMORE MOVED SB 393 BE CONCURRED IN AS
AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 93

Motion: REP. S. RICE MOVED HB 93 DO PASS.

Discussion:

REP. S. RICE submitted testimony on amendments. EXHIBIT 8

Motion/Vote: REP. S. RICE moved to amend HB 93. EXHIBIT 9.
Motion carried unanimously.

Motion: REP. S. RICE moved to amend HB 93. EXHIBIT 10

Discussion:

REP. TUNBY asked the Department of Social and Rehabilitation Services (SRS) if they agree with the amendments. Julia Robinson, Director, SRS, stated that these amendments are above the Governor's budget, however they are funded without pitting the General Fund. We have not taken a position on whether the Governor would report them. REP. S. RICE stated that there is no General Fund impact on the Health Care Association's amendment.

REP. KASTEN asked which bill are we adding these amendments to, the original bill or the gray bill. REP. S. RICE stated that these would be added to the gray bill.

Vote: Motion carried 19-1 with REP. MESSMORE voting no.

HEARING ON SB 172

Presentation and Opening Statement by Sponsor:

SEN. PAUL SVRCEK, Senate District 26, Thompson Falls, stated that in the last legislative session, by a large bipartisan margin, affirmed the legality of midwifery in the State of Montana. Because of legislative deadlines, they could not set up licensure of midwives because it would involve going through and summarizing the procedure. They met with as many concerned parties as they could on this issue. They spent a lot of time studying midwife legislation from other jurisdictions and they took information from the jurisdictions where they felt midwifery has worked. The Montana Medical Association supported this bill in front of the Audit Committee as supporting midwifery licensure. As a result of that, Mona Jamison, lobbyist for the midwives, has worked very closely with the person that at the time appeared before the Audit Committee was the spokesperson for the Montana Medical Association (MMA), Dr. Van Kirke Nelson. Since that time, there has been a split in the Montana Medical Association within the ranks. If they hold true to their position in the Senate Health and Human Services Committee, they will oppose this bill. We acknowledge the differences between the midwives and the MMA. We have continued to work with Dr. Nelson in the interest of making the best bill that we could.

Proponents' Testimony:

Dolly Browder, Direct Entry Midwife, Montana Midwifery Association, submitted written testimony for P. J. Hennessy, M.D.
EXHIBIT 11

Teresa Snyder, Montana Midwifery Association, stated that she is the mother of two children. She has been a registered nurse in the State of Montana for the past 13 years and has been a registered nurse for about 20 years. She is currently a nursing professor with the Montana State University College of Nursing. Her second child was born with the assistance of an extremely skilled direct entry midwife. This option was the safest for her baby. The care her baby and her received was excellent. SB 172 provides a safe, well developed consistent standard of care for Montana women who choose this birthing option.

Pamela Rose, Direct Entry Midwife, Montana Midwifery Association, stated that she has been a midwife since 1982. She serves a portion of the state that is extremely rural and is agricultural in nature. We can't entice physicians to want to live and stay in these towns because of the economic depression. She brings prenatal care, child birth education, birth services, and post-partum care to these people. They would have to travel up to 120 miles for these services. She brings these services to them at their convenience for a fee.

Roberta Gerke, Harmony Family Services, stated that she has been a registered nurse for 35 years, most of that in obstetrical care in hospitals. She has spent four years as a lay midwife in

another state. During the time that she was a lay midwife after 25 years in hospital care, she learned more about common sense midwifery in her ten months association with the lay midwives than she learned in all of her hospital experience. These heritage people, who are the heritage of all obstetrics, taught the beginning obstetricians. By legalizing the midwives, you will be giving them the opportunity to practice as they should be practicing to answer the needs of Montana.

Larry Peterman, Montana Midwifery Association, stated that he works as a registered nurse in the emergency department in St. Patrick's hospital in Missoula. He has a nine month old daughter who was born at home with the assistance of a midwife. In his work with Life Flight, an emergency helicopter, he has flown to every hospital within a 150 mile radius of Missoula and has worked with many doctors and nurses in Montana. The care provided by the midwife was excellent, conservative, and intelligent. The concern for the patient was genuine, the prenatal care was outstanding, and the midwife performed on a level compared very favorably with the level of care provided by the rest of the health system that he works with.

Pamela Shore, Montana Midwifery Association, stated that she is a nurse and is also a lawyer. She has two children that were born at home. Her first child was born in a rural setting and both births were attended by a direct entry midwife. Her midwife had wisdom and was not licensed, but was able to guide her through the birthing process with safety and dignity. She understands the need for the state to balance regulations with the rights of our people to have freedom of choices. She submitted testimony. EXHIBIT 12

Michelle Neal, Montana Midwifery Association, submitted written testimony for Dr. Gregory Rice, M.D. EXHIBIT 13

Mona Jameson, Montana Midwifery Association, stated that the issue is midwifery with regulations or midwifery without regulation. Continuing from the past through today and through the accepted date, if this bill passes, we continue to serve the people of this state without any regulation and without any standards. Even without standards we are providing a service, which some of the citizens like and to provide this in a healthy manner. With the bill and with the establishment of standards, education and clinical requirements, we should go even one step further in making these home births made as helpful as possible. Licensing and regulation is responsible. Should this bill fail, we will continue to serve the people diligently without standards and without examination.

Kim Ronshaugen, self, stated that there are always going to be people like herself who are going to have their children at home. They feel it is a safer alternative.

Connie Rubens, self, stated that they farm and ranch about 35

miles out of Great Falls. They experience a beautiful, safe home birth. Contrary to popular belief, lay midwives today, are trained in the field and are highly devoted to their job. The birth and the prenatal care was very well managed.

Debi Cokoran, self, stated that she has had four home births, three of them with a midwife. A midwife wasn't available for the fourth birth, and opposed to going to a hospital, her husband and her did it themselves. The other three were much nicer with a midwife present. With this legislation, it would make sure that midwives would be there for them.

Joe Ford, citizens, stated that his wife had a midwife deliver their baby. They were very pleased with the midwives ability.

VanKirke Nelson, submitted written testimony. EXHIBIT 14

Opponents' Testimony:

Barb Booher, Montana Nurses Association, submitted written testimony. EXHIBIT 15

Dr. Peter L. Burleigh, M.D., Montana Medical Association, submitted written testimony, EXHIBIT 16

Paulette Kohman, Montana Council for Maternal and Child Health, submitted written testimony. EXHIBIT 17

James Ahrens, President, Montana Hospital Association (MHA), stated that MHA looked at this issue a couple of years ago and opposed the legislation at that time. MHA has looked at it again on several occasions and still opposes it.

Jerome Loendorf, Montana Medical Association, (MMA), stated that MMA opposed this bill last session at which time it only authorized practice of midwifery for the reason that it contained no education or training requirements. MMA opposes it at this time because it is inadequate in those areas as we view it. He submitted written testimony. EXHIBIT 18

Betty Hidalgo, registered nurse, submitted written testimony. EXHIBIT 19

Questions From Committee Members:

REP. STICKNEY asked how many doctors practice in her area. Ms. Shore stated that her own experience is giving birth to a rural area where there were no doctors immediately available in the area.

REP. STICKNEY asked how many midwives do practice outside of Missoula and the Flathead Valley. Ms. Shore stated that there are two midwives practicing in the Great Falls area, two in the Billings area, one in Bozeman, two in Livingston, two in

Missoula, two in Kalispell and Whitefish.

REP. STICKNEY asked if there are midwives east of Billings. Ms. Shore stated that many midwives in those areas travel 100 to 200 miles to help people in those area where the midwife is. A lot of times the mothers will come to the areas. There are people who would like to become midwives in those areas, but will not because there is no licensing procedure for them to go through. They do not want to practice outside of the law.

REP. STICKNEY stated that women should have a choice, but really women can have a choice as long as they live in communities that already have many choices for them. Those who do not live in the areas where there are hospitals, doctors and midwives still aren't going to have a choice. Ms. Shore stated that no, some of them don't, but for the most part many midwives do give choices whether or not a physician is available.

REP. CROMLEY asked if there is minimum time period. Ms. Jameson stated that no there is no time period. Midwives do not pretend to be nurses, we are saying that the educational course of study must be approved by the board. If someone can complete that, but most significantly, pass the examination, then they would be licensed. The examination in this bill is directed that it will be written by a certified Montana Nurse Midwife that is a nurse in consultation with the physician on the board. A direct entry midwife will not be a part of the development of that exam.

REP. J. RICE asked how many states license midwives. Ms. Jameson stated that there are approximately 15 to 18 in good faith. There are a few states where all you have to do is file certification with that state and proceed to practice.

REP. J. RICE asked how many states have outlawed midwifery. Ms. Jameson stated that to the best of her knowledge there aren't any states that have outlawed midwifery.

REP. J. RICE asked if the midwives are not licensed, is there a capability of them paying liability insurance. Ms. Jameson stated that right now there is no opportunity to obtain liability insurance, because the insurance companies will not insure anybody that is not licensed. That means that every midwife in this state subjects their personal belongings and home to any kind of civil action for damages that may occur.

REP. J. RICE asked how much money do midwives charge for a birth. Ms. Jameson stated that they charge approximately \$600 to \$900. This amount covers all of the visits while the woman is pregnant, including the birth and the post partum period of up to six weeks. In these cases, the midwife goes to the home in most circumstances. It is not a 15 or 20 minute visit, but the amount of time spent with the midwife and the mother is a lot of time. It would probably compute to \$1 an hour.

REP. J. RICE asked if the midwives would be interested in the future to include in the freedom of choice legislation that their services be covered by insurance. Ms. Jameson said no, that has never been discussed. The midwives are not legally into some of these benefits that are available. There is a provision that this bill will require direct entry midwives to advise all of their patients to consult with a physician or certified midwife at least two times during the pregnancy.

REP. MESSMORE asked what is the clinical hospital setting that is required for each midwife to acquire their experience. Ms. Jameson stated that the midwives do not believe that they can compel a hospital or doctor to offer their assistance. They have substantial concern about liability.

Closing by Sponsor:

SEN. SVRCEK stated that he can appreciate the horror stories that the opponents testified to. Certainly, none of us like to see death in anyway, nothing in that testimony can be directly linked to the practice of direct entry midwifery. Direct entry midwives are committed to low risk births. They already take every precaution to refer any time they feel there is an elevated risk to a physician. The nurses said that they oppose the practice of direct entry midwifery, that is not the issue. The issue is whether or not we are going to license the direct entry midwives. Most of the amendments that were added in the Senate Health and Human Services Committee are direct results of the input of the Montana Nurses Association. We have gone as far as we can, but we aren't going to adopt amendments that are punitive to the practice of midwives. This is not the bill the Montana Medical Association opposed two years ago. It is not our intention to turn direct entry midwives into nurses. The issue is not whether there will be direct entry midwifery in the State of Montana, the issue is licensing this practice to assure the direct entry midwifery meets a certain standard so that the public that makes use of those.

HEARING ON SB 284

Presentation and Opening Statement by Sponsor:

SEN. DOROTHY ECK, Senate District 40, Bozeman, stated that a few years ago they established a Children's Trust Fund. That fund has a board of directors and receives money from that donation on the income tax. This board ends up with an annual budget of about \$50,000, and with that they have a charge of addressing the problem of child abuse and neglect in Montana. They address this through grants to private nonprofit groups around the state. Because those groups are very dedicated, it is amazing what they are able to do with a small amount of money. The board is only able to fund a relatively small number of the grant applications they receive and they can't give any of these groups the kind of money they really would need in order to do the job they want to

do. The board is volunteer without any staff, they do receive some secretarial assistance from the Department of Family Services. If the chairman of the board is not in Helena, that secretarial assistance is not that available to them.

Proponents' Testimony:

Mike Males, Children's Trust Fund, submitted written testimony.
EXHIBIT 20

Opponents' Testimony: None

Questions From Committee Members:

REP. JOHNSON asked how many people are on the board. Mr. Males stated that the board is an independent volunteer board. There are seven members appointed from districts around the state. The board meets in Helena four times a year.

Closing by Sponsor:

SEN. ECK stated that the Department of Family Services is charged with keeping and providing care and protection to children who are abused and neglected. The Children's Trust Fund has the charge of prevention. The Department of Family Services spends approximately \$20 million a year on child abuse and neglect and provide the services they have for those children.

EXECUTIVE ACTION ON SB 284

Motion/Vote: REP. LEE MOVED SB 284 BE CONCURRED IN. Motion carried 18-2 with REPS. JOHNSON and KASTEN voting no.

HEARING ON HB 994

Presentation and Opening Statement by Sponsor:

REP. STELLA JEAN HANSEN, House District 57, Missoula, stated that this bill is licensure for public swimming pools. Municipal swimming pools are already regulated, but cannot be licensed because we cannot charge them a fee for licensure. This bill sets up a local board, which sets a fee, sets regulations, standards, and number of inspections for the swimming pool. There is a section which sets up the penalties.

Proponents' Testimony:

Mitzi A. Schwab, Food and Consumer Safety Bureau, submitted written testimony. EXHIBIT 21

Cal Campbell, Public Health Sanitarian Consultant, Department of Health and Environmental Sciences, submitted written testimony.
EXHIBIT 22

Melissa Tuemmeler, registered sanitarian, Cascade County, submitted written testimony. EXHIBIT 23

Joe Russell, Flathead City County Health Department, stated that this bill will benefit their health department. This bill will provide civil penalties to the rules; provide authorization for injunctions to enjoin violations of the law; establish minimum performance standards for the inspection program; and establish licensing fees to offset the cost of administering the program at the state and local level. This program provides basic public health service that must be available to all people who reside in our county.

Opponents' Testimony:

Stuart Doggett, Montana Innkeepers, submitted amendments. EXHIBIT 24

Questions From Committee Members:

REP. MESSMORE asked for a definition of a public pool. Mr. Campbell stated that it would include anything that is open to the public, not backyard pools or anything like that.

REP. S. RICE asked if school pools are considered public. Ms. Schwab stated that all governmental agency operated pools are subject to the regulations of the Code, but they would not be charged license fee.

REP. DOWELL asked how many pools are there in Flathead County. Mr. Russell stated that they have 92 businesses that they look at right now, which include 32 pools and 60 spas. There are 73 pools and spas associated with both accommodations.

Closing by Sponsor: REP. HANSEN closed on the bill.

EXECUTIVE ACTION ON HB 994

Motion: REP. CROMLEY MOVED HB 994 DO PASS.

Motion/Vote: REP. CROMLEY moved to amend HB 994. Motion carried unanimously.

Page 13, lines 14 and 15.

Strike: "Each day of violation constitutes a separate violation."

Motion: REP. J. RICE moved to amend HB 994. EXHIBIT 25

Page 14, line 2.

Following: "may"

Insert: ", in the case of an intentional violation of 50-53-101 through 50-53-109 and [sections 4 through 17],"

HOUSE HUMAN SERVICES & AGING COMMITTEE

March 22, 1991

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Discussion:

REP. CROMLEY stated that he will vote against the amendment.

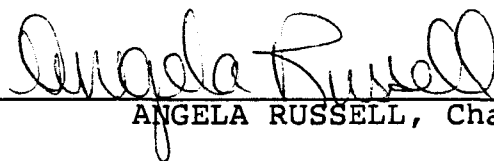
Vote: Motion carried 16-4 with REPS. BECKER, CROMLEY, HANSEN and S. RICE voting no.

Motion/Vote: REP. WHALEN MOVED HB 994 DO PASS AS AMENDED.

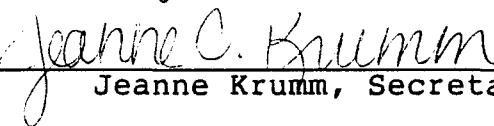
Motion carried 17-3 with REPS. KASTEN, LEE and SPRING voting no.

ADJOURNMENT

Adjournment: 8:10 p.m.



ANGELA RUSSELL, Chair



Jeanne Krumm, Secretary

AR/jck

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL

DATE 3-22-91

NAME	PRESENT	ABSENT	EXCUSED
REP. ANGELA RUSSELL, CHAIR	✓		
REP. TIM WHALEN, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. JAN BROWN	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. PATRICK GALVIN			✓
REP. STELLA JEAN HANSEN	✓		
REP. ROYAL JOHNSON	✓		
REP. BETTY LOU KASTEN	✓		
REP. THOMAS LEE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. JIM RICE	✓		
REP. SHEILA RICE	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		
REP. JESSICA STICKNEY	✓		
REP. BILL STRIZICH	✓		
REP. ROLPH TUNBY	✓		

10:55
3-23-91
SDB

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

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Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 174 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Angela Russell, Chairman

Carried by: Rep. Dowell

And, that such amendments read:

1. Page 2, line 24.

Strike: "succeed himself"

Insert: "serve consecutive 5 year terms"

2. Page 6.

Following: line 22

Insert: "NEW SECTION. Section 7. Transition -- initial appointments. (1) On September 1, 1991, the governor shall appoint one person to a 5 year term on the board of psychologists.

(2) On September 1, 1992, the governor shall appoint one person to a 5 year term on the board and one person to a 1 year term on the board. At the expiration of the 1 year term, the governor shall reappoint the same board member to a 5 year term. At the expiration of the 5 year term, appointments shall be made in accordance with 2-15-1851.

(3) On September 1, 1993. the governor shall appoint one person to a 1 year term on the board and one person to a 2 year term. At the end of those terms, the governor shall reappoint those same board members each to a 5 year term. At the expiration of the 5 year terms, appointments shall be made in accordance with 2-15-1851."

Renumber: subsequent sections

3. Page 7, line 11.

Following: "8,"

Insert: "9,"

10:53
3-23-91
JDR

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 3

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 205 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Angela Russell, Chairman

CARRIED BY: REP. BROOKE

And, that such amendments read:

1. Title, line 11.

Following: "CHILDREN;"

Insert: "TO PROVIDE FOR ACCESS BY THE INTERAGENCY STAFFING GROUP
TO CERTAIN RECORDS;"

2. Title, line 11.

Following: "41-3-205,"

Insert: "41-5-602, 41-5-603,"

3. Page 8, line 5.

Following: line 4

Insert: "Section 6. Section 41-5-602, MCA, is amended to read:
"41-5-602. Law enforcement records. (1) No law enforcement records concerning a youth, except traffic records, may be open to public inspection or their contents disclosed to the public unless the records are directly related to an offense to which publicity must be allowed under subsection (2) of 41-5-601 or unless inspection is ordered by the court.

(2) Inspection of law enforcement records concerning a youth, which records are not open to public inspection under subsection (1), is permitted prior to the sealing of the records by:

(a) a youth court having the youth currently before it in any proceeding;

(b) the department if it is investigating, supervising, or providing services to the youth;

(c) the officers of agencies having legal custody of the youth and those responsible for his supervision after release;

(d) any other person, by order of the court, having a legitimate interest in the case or in the work of the law enforcement agency;

(e) law enforcement officers of Montana, when necessary for

the discharge of their immediate duties;

- (f) a district court in which the youth is convicted of a criminal offense, for the purpose of a presentence investigation;
- (g) the county attorney; ~~or~~
- (h) the youth, his parent, guardian, or counsel; or
- (i) members of a local interagency staffing group provided for in [section 3].

Section 7. Section 41-5-603, MCA, is amended to read:

"41-5-603. Youth court and department records. (1) Youth court and youth court-related department records, including social, medical, and psychological records, reports of preliminary inquiries, predispositional studies, and supervision records of probationers, are open to inspection prior to the sealing of the records only to the following:

- (a) the youth court and its professional staff;
- (b) representatives of any agency providing supervision and having legal custody of a youth;
- (c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;
- (d) any court and its probation and other professional staff or the attorney for a convicted party who had been a party to proceedings in the youth court when considering the sentence to be imposed upon such party;
- (e) the county attorney;
- (f) the youth who is the subject of the report or record, after he has been emancipated or reaches the age of majority; and
- (g) members of a local interagency staffing group provided for in [section 3].

(2) All or any part of records information secured from records listed in subsection (1) of this section, when presented to and used by the court in a proceeding under this chapter, shall also be made available to the counsel for the parties to the proceedings.

(3) Petitions, motions, and other pleadings filed in a case, including findings, verdicts, orders, and decrees, shall be open to public inspection only when related to an offense for which access must be allowed under 41-5-601.

(4) All information obtained in discharge of an official duty by any officer or other employee of the youth court or the department shall be privileged and shall not be disclosed to anyone other than the judge and others entitled under this chapter to receive such information, unless otherwise ordered by the judge.

(5) After youth court and department records, reports of preliminary inquiries, predispositional studies, and supervision records of probationers are sealed, they are not open to inspection except, upon order of the youth court, for good cause to:

- (a) those persons and agencies listed in subsection (1);
 - and
 - (b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority."
- Renumber: subsequent sections

10:35
3-23-91
JDB

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging
report that Senate Bill 277 (third reading copy -- blue) be
concurred in .

Signed: _____
Angela Russell, Chairman

Carried by: Rep. Whalen

10:55
3-27-91
JDR

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging
report that Senate Bill 256 (third reading copy -- blue) be
concurrent in .

Signed: Angela Russell
Angela Russell, Chairman

Carried by: Rep. R. Johnson

10:55
3-23-91
JDR

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 366 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Angela Russell, Chairman

Copy to Bill 366 3/23/91

And, that such amendments read:

1. Page 2, lines 13 and 14.

Strike: "\$50 LIMIT MUST BE MADE AVAILABLE FOR EACH OF THESE SERVICES"

Insert: "\$70 payment must be made for each mammography examination performed"

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 393 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Angela Russell, Chairman

And, that such amendments read:

1. Page 5, line 7.

Following: ";"

Insert: "and"

2. Page 5, line 9.

Strike: "; and"

Insert: "."

3. Page 5, lines 10 through 22.

Following: line 9

Strike: subdivision (d) in its entirety

10:55
3-23-91
JDB

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging
report that Senate Bill 284 (third reading copy -- blue) be
concurrent in .

Signed: _____
Angela Russell, Chairman

Carried by: Rep. Stickney

10:55
3-23-91
JDR

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 994 (first reading copy -- white) do pass as amended .

Signed: Angela Russell
Angela Russell, Chairman

And, that such amendments read:

1. Page 13, lines 14 and 15.

Strike: "Each day of violation constitutes a separate violation."

2. Page 14, line 2.

Following: "may"

Insert: ", in the case of an intentional violation of 50-53-101 through 50-53-109 and [sections 4 through 17],"

Amendments to Senate Bill No. 174
Third Reading Copy

For the Committee on Human Services and Aging

Prepared by David S. Niss
March 21, 1991

1. Page 2, line 24.

Strike: "succeed himself"

Insert: "serve consecutive 5 year terms"

2. Page 6.

Following: line 22

Insert: "NEW SECTION. Section 7. Transition -- initial appointments." (1) On September 1, 1991, the governor shall appoint one person to a 5 year term on the board of psychologists.

(2) On September 1, 1992, the governor shall appoint one person to a 5 year term on the board and one person to a 1 year term on the board. At the expiration of the 1 year term, the governor shall reappoint the same board member to a 5 year term. At the expiration of the 5 year term, appointments shall be made in accordance with 2-15-1851.

(3) On September 1, 1993. the governor shall appoint one person to a 1 year term on the board and one person to a 2 year term. At the end of those terms, the governor shall reappoint those same board members each to a 5 year term. At the expiration of the 5 year terms, appointments shall be made in accordance with 2-15-1851."

Renumber: subsequent sections

3. Page 7, line 11.

Following: "8,"

Insert: "9,"

EXHIBIT 2
DATE 3-22-91
5 205

Amendments to Senate Bill No. 205
Third Reading Copy

Requested by Senator Eck
For the Committee on Human Services

Prepared by David S. Niss
March 23, 1991

1. Title, line 11.

Following: "CHILDREN;"

Insert: "PROVIDING FOR ACCESS BY THE INTERAGENCY STAFFING GROUP
TO CERTAIN RECORDS;"

2. Title, line 11.

Following: "41-3-205,"

Insert: "41-5-602, 41-5-603,"

3. Page 8, line 5.

Following: line 4

Insert: "Section 6. Section 41-5-602, MCA, is amended to read:

"41-5-602. Law enforcement records. (1) No law enforcement records concerning a youth, except traffic records, may be open to public inspection or their contents disclosed to the public unless the records are directly related to an offense to which publicity must be allowed under subsection (2) of 41-5-601 or unless inspection is ordered by the court.

(2) Inspection of law enforcement records concerning a youth, which records are not open to public inspection under subsection (1), is permitted prior to the sealing of the records by:

(a) a youth court having the youth currently before it in any proceeding;

(b) the department if it is investigating, supervising, or providing services to the youth;

(c) the officers of agencies having legal custody of the youth and those responsible for his supervision after release;

(d) any other person, by order of the court, having a legitimate interest in the case or in the work of the law enforcement agency;

(e) law enforcement officers of Montana, when necessary for the discharge of their immediate duties;

(f) a district court in which the youth is convicted of a criminal offense, for the purpose of a presentence investigation;

(g) the county attorney; or

(h) the youth, his parent, guardian, or counsel; or

(i) members of a local interagency staffing group provided for in [section 3]."

Section 7. Section 41-5-603, MCA, is amended to read:

2
3-22-91
S 205

"41-5-603. Youth court and department records. (1) Youth court and youth court-related department records, including social, medical, and psychological records, reports of preliminary inquiries, predispositional studies, and supervision records of probationers, are open to inspection prior to the sealing of the records only to the following:

- (a) the youth court and its professional staff;
- (b) representatives of any agency providing supervision and having legal custody of a youth;
- (c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;
- (d) any court and its probation and other professional staff or the attorney for a convicted party who had been a party to proceedings in the youth court when considering the sentence to be imposed upon such party;
- (e) the county attorney;
- (f) the youth who is the subject of the report or record, after he has been emancipated or reaches the age of majority; and
- (g) members of a local interagency staffing group provided for in [section 3].

(2) All or any part of records information secured from records listed in subsection (1) of this section, when presented to and used by the court in a proceeding under this chapter, shall also be made available to the counsel for the parties to the proceedings.

(3) Petitions, motions, and other pleadings filed in a case, including findings, verdicts, orders, and decrees, shall be open to public inspection only when related to an offense for which access must be allowed under 41-5-601.

(4) All information obtained in discharge of an official duty by any officer or other employee of the youth court or the department shall be privileged and shall not be disclosed to anyone other than the judge and others entitled under this chapter to receive such information, unless otherwise ordered by the judge.

(5) After youth court and department records, reports of preliminary inquiries, predispositional studies, and supervision records of probationers are sealed, they are not open to inspection except, upon order of the youth court, for good cause to:

(a) those persons and agencies listed in subsection (1);
and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.""

Renumber: subsequent sections

Amendments to Senate Bill No. 326
Third Reading Copy

For the Committee on Human Services and Aging

Prepared by David S. Niss
March 22, 1991

1. Title, line 8.

Following: "CORPORATIONS"

Insert: "WHICH DO NOT ALREADY INCLUDE CERTAIN CONSUMER MEMBERS"

2. Page 2, line 12.

Following: "addition,"

Insert: "unless the groups in subdivisions (a) and (b) are
already represented,"

EXHIBIT 4
DATE 3-22-91
SB 256

HOUSE OF REPRESENTATIVES

HUMAN SERVICES COMMITTEE

ROLL CALL VOTE

DATE 3-22-91 BILL NO. SB 256 NUMBER 1

MOTION: Rep Whalen's SB 256 Be Concurred In.

NAME	AYE	NO
REP. TIM WHALEN, VICE-CHAIRMAN	✓	
REP. ARLENE BECKER	✓	
REP. WILLIAM BOHARSKI		✓
REP. JAN BROWN		✓
REP. BRENT CROMLEY	✓	
REP. TIM DOWELL	✓	
REP. PATRICK GALVIN	✓	
REP. STELLA JEAN HANSEN	✓	
REP. ROYAL JOHNSON	✓	
REP. BETTY LOU KASTEN		✓
REP. THOMAS LEE	✓	
REP. CHARLOTTE MESSMORE	✓	
REP. JIM RICE		✓
REP. SHEILA RICE	✓	
REP. WILBUR SPRING	✓	
REP. CAROLYN SQUIRES	✓	
REP. JESSICA STICKNEY	✓	
REP. BILL STRIZICH	✓	
REP. ROLPH TUNBY	✓	
REP. ANGELA RUSSELL, CHAIR	✓	
TOTAL	16	4

EXHIBIT 5
DATE 3-22-91
SIB 366

Amendments to Senate Bill No. 366
Third Reading Copy

For the Committee on Human Services and Aging

Prepared by David S. Niss
March 22, 1991

1. Page 2, lines 13 and 14.

Strike: "\$50 LIMIT MUST BE MADE AVAILABLE FOR EACH OF THESE SERVICES"

Insert: "\$70 payment must be made for each mammography examination performed"

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DATE 3-22-91
SB 366

HOUSE OF REPRESENTATIVES

HUMAN SERVICES COMMITTEE

ROLL CALL VOTE

DATE 3-22-91 BILL NO. SB 366 NUMBER 1

MOTION: Rep. Stickney's amendment

NAME	AYE	NO
REP. TIM WHALEN, VICE-CHAIRMAN	✓	
REP. ARLENE BECKER	✓	
REP. WILLIAM BOHARSKI		✓
REP. JAN BROWN	✓	
REP. BRENT CROMLEY		✓
REP. TIM DOWELL	✓	
REP. PATRICK GALVIN	✓	
REP. STELLA JEAN HANSEN	✓	
REP. ROYAL JOHNSON		✓
REP. BETTY LOU KASTEN		✓
REP. THOMAS LEE		✓
REP. CHARLOTTE MESSMORE	✓	
REP. JIM RICE		✓
REP. SHEILA RICE	✓	
REP. WILBUR SPRING	✓	
REP. CAROLYN SQUIRES	✓	
REP. JESSICA STICKNEY	✓	
REP. BILL STRIZICH	✓	
REP. ROLPH TUNBY	✓	
REP. ANGELA RUSSELL, CHAIR	✓	
TOTAL	14	6

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3-22-91
S 393

Amendments to Senate Bill No. 393
Third Reading Copy

For the Committee on Human Services and Aging

Prepared by David S. Niss
March 22, 1991

1. Page 5, line 7.
Following: ";"
Insert: "and"

2. Page 5, line 9.
Strike: "; and"
Insert: "."

3. Page 5, lines 10 through 22.
Following: line 9
Strike: subdivision (d) in its entirety

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3-22-91
HB93

COMPARISON OF HB93
NURSING HOME UTILIZATION FEE

Prepared by Sheila Rice

OB = Original
EA = Early Amendments (adopted by subcommittee)
Proposed by SRS and by Montana Health Care Assoc.
SRS = Amendments recently proposed by SRS
MHCA = Amendments recently proposed by the Montana Health Care
Association

Fee Imposition:

OB = All beds occupied/day
SRS = Bed Days Reimbursed by Third Party Payers

Level of Fee/Effective Date:

OB = \$1.00
SRS = \$1.50, starts July 1, 1992
MHCA = \$1.25, starts July 1, 1991
\$1.50, starts July 1, 1992

Effective Date - Rulemaking:

OB - October 1, 1991
SRS - Passage
MHCA - Passage

Special Revenue Fund:

OB - None
SRS/MHCA - Creates special fund

Appropriation from Special Revenue Fund:

		SRF	Federal	Total	
OB	-	None			
SRS	-	FY1993	\$618,315	1,582,096	2,200,411
MHCA	-	FY92	\$923,626	2,341,223	3,264,849
		FY93	\$846,985	2,167,192	3,014,183

EXHIBIT 8
DATE 3-22-91
HB 93

MISCELLANEOUS AMENDMENTS

EA Adds "whereas"
 Changes language on 5 year records/recovery
 Reduces penalties
 Fee estimating for non-payers procedure
 Appeal process
 Sunset - June 30, 1993
 Coordination clause for appeal process with SB445

SRS Strike long-term care for DD patients
 Identify Department of Revenue
 Due date - last day of month (OB - 30 days past)
 List from HES to DOR

Contingent Voidness:

1. If federal law changes to allow direct
 billing of fee to patient
2. If federal match is not available
3. If Act is void, fees already collected stay
 in department

Severability clause.

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Amendments to House Bill No. 93
First Reading Copy (WHITE)

For the Committee on Human Services and Aging

Prepared by David S. Niss
March 23, 1991

1. Title, line 7.

Following: "ON"

Strike: "EACH NURSING FACILITY"

Insert: "NURSING FACILITIES"

Following: "FOR"

Strike: "EACH BED DAY"

Insert: "BED DAYS REIMBURSED BY THIRD-PARTY PAYORS"

2. Title, line 8.

Strike: "1993"

Insert: "1992"

3. Title, line 9.

Following: ";

Insert: "TO PROVIDE FOR THE ASSESSMENT, COLLECTION, AND REFUND OF
THE FEE;"

4. Title, line 10.

Strike: "DEPOSITED IN THE GENERAL FUND"

Insert: "USED FOR CERTAIN MEDICAID REIMBURSEMENTS"

Following: ";

Insert: "TO PROVIDE AN APPROPRIATION;"

5. Title, line 11.

Following: "DATES"

Insert: ", AN APPLICABILITY DATE, AND A TERMINATION DATE"

6. Page 1, line 12.

Following: line 11

Insert: "WHEREAS, the Legislature recognizes that the failure to
fully fund the cost of nursing home care for Medicaid
beneficiaries creates a burden on individuals who pay
privately for nursing home care by shifting cost from
Medicaid to non-Medicaid residents in our state's nursing
homes; and

WHEREAS, the state has the potential of facing a
lawsuit from nursing homes if the Legislature fails to fully
fund the cost of nursing home care; and

WHEREAS, the Legislature desires to alleviate the cost-
shifting from Medicaid to other patients, while bearing in
mind the financial circumstances facing the state; and

WHEREAS, it is the intent of the Legislature to find creative financing solutions and to maximize federal participation in the cost of programs wherever possible; and

WHEREAS, it is the intent of the Legislature to use the utilization fee established in this bill as a means of providing additional Medicaid reimbursements to nursing homes; and

WHEREAS, it is the intent of the Legislature that nursing homes carefully consider the increased Medicaid revenues made available by this legislation when determining reasonable rates to be charged to non-Medicaid patients in their facilities; and

WHEREAS, the Legislature enacts the following legislation as a means of relieving privately paying individuals in nursing homes from the burden of costs shifted from the Medicaid program and of maximizing federal funding of this program."

7. Page 1, lines 15 and 17.

Page 2, line 10.

Page 6, line 25.

Page 7, lines 2 and 4.

Strike: "10"

Insert: "15"

8. Page 2, line 14.

Following: "care"

Strike: ", "

Insert: "or"

9. Page 2, line 15.

Following: "care"

Strike: ", or intermediate developmental disability care"

10. Page 2, lines 17 and 18.

Following: "facility"

Strike: ", regardless of the source of payment for the resident's care"

Following: "."

Insert: "The term includes all periods for which the nursing facility is reimbursed by a third-party payor, including but not limited to a private or governmental insurer or public assistance program, but it does not include any period for which the nursing facility may be reimbursed only by the resident, a friend of the resident, or a member of the resident's family."

11. Page 2.

Following: line 24

Insert: "(3) "Department" means the department of revenue."

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Renumber: subsequent subsections

12. Page 3, line 2.

Strike: "long-term care"

Insert: "nursing"

13. Page 3, line 3.

Following: "skilled nursing care"

Strike: ", "

Insert: "or"

14. Page 3, lines 3 and 4.

Following: "intermediate nursing care"

Strike: ", or intermediate developmental disability care"

15. Page 3, line 5.

Following: "includes"

Strike: "all"

16. Page 3, line 10.

Following: "care")

Strike: ", "

Insert: "and"

17. Page 3, line 11.

Following: "care""

Strike: ", and "intermediate developmental disability care""

18. Page 3, line 21.

Following: "amount of"

Strike: "\$1"

Insert: "\$1.25"

Following: "facility"

Insert: "during fiscal year 1992 and \$1.50 for each bed day in
the facility during fiscal year 1993"

19. Page 3, line 23.

Following: "fee."

Insert: "(1)"

20. Page 4, line 2.

Following: "due"

Strike: "within 30 days following the end"

Insert: "on or before the last day of the month following the
close"

21. Page 4, line 6.

Following: line 5

Insert: "(2) The department of health and environmental sciences shall provide the department at the end of each calendar quarter with a list of facilities as defined in [section 1(4)]."

22. Page 4, line 15.

Following: "inspection"

Insert: "by the department"

23. Page 4, line 20 through page 5, line 7.

Strike: subsections (4) and (5) in their entirety

Insert: "NEW SECTION. Section 5. Periods of limitation. (1)

Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the quarter for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for assessment of the fee, the facility consents in writing to an assessment after the 5-year period, the fee may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the facility files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the facility has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit is filed or a credit or refund allowed in the event no claim is filed is automatically extended."

Renumber: subsequent sections

24. Page 5, lines 9 through 20.

Following: "waiver." on line 9

Strike: subsections (1) and (2) in their entirety

Insert: "(1) If the fee for any facility is not paid on or before the due date of the report as provided in [section 3(1)], a penalty of 10% of the amount of the fee due must be assessed unless it is shown that the failure was due to reasonable cause and not neglect.

(2) If any fee due under [section 2] is not paid when due, interest is added to the tax due at the rate of 12% a year from the due date until paid."

25. Page 5, line 21 through page 6, line 8.

Strike: section 6 in its entirety

Insert: "NEW SECTION. Section 7. Estimated fee on failure to file. (1) If a facility fails to file the report as required, the department is authorized to make an estimate of the fees due from

the facility from any information in its possession.

(2) For the purpose of ascertaining the correctness of any report or for the purpose of making an estimate of bed day use of any facility where information has been obtained, the department may:

(a) examine or cause to have examined by any designated agent or representative any books, papers, records, or memoranda bearing upon the matters required to be included in the report;

(b) require the attendance of any officer or employee of the facility rendering the report or the attendance of any other person in the premises having relevant knowledge; and

(c) take testimony and require production of any other material for its information.

NEW SECTION. Section 8. Deficiency assessment -- hearing.

(1) If the department determines that the amount of fees due are greater than the amount disclosed by the report, it shall mail to the facility a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the facility may file with the department a written protest against the proposed additional fees, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fees liability. If no protest is filed, the amount of the additional fees proposed to be assessed becomes final upon the expiration of the 30-day period. If such protest is filed, the department shall reconsider the proposed assessment and, if the facility has so requested, shall grant the facility an oral hearing. After consideration of the protest and the evidence presented in the event of an oral hearing, the department's action upon the protest is final when it mails notice of its action to the facility.

(2) When a deficiency is determined and the fees become final, the department shall mail notice and demand to the facility for payment, and the fees become due and payable at the expiration of 10 days from the date of the notice and demand. Interest on any deficiency assessment bears interest from the date specified in [section 5] for payment of the fees. A certificate by the department of the mailing of the notices specified in this section is prima facie evidence of the computation and levy of the deficiency in the fees and of the giving of the notices.

NEW SECTION. Section 9. Closing agreements. (1) The director of the department or any person authorized in writing by him is authorized to enter into an agreement with any facility relating to the liability of the facility in respect to the fees imposed by [sections 1 through 15] for any period.

(2) An agreement under this section is final and conclusive, and except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of this state; and

(b) in any suit, action, or proceeding under the agreement

or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded.

NEW SECTION. Section 10. Credit for overpayment -- interest on overpayment. (1) If the department determines that the amount of fees, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any fees, penalty, or interest then due from the facility and the balance must be refunded to the facility or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsections (2)(a) and (2)(b), interest is allowed on overpayments at the same rate as is charged on delinquent fees due from the due date of the report or from the date of overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. Interest does not accrue during any period during which the processing of a claim for refund is delayed more than 30 days by reason of failure of the facility to furnish information requested by the department for the purpose of verifying the amount of the overpayment. No interest is allowed:

(a) if the overpayment is refunded within 6 months from the date the report is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than \$1.

(3) A payment not made incident to a discharge of actual utilization fee liability or a payment reasonably assumed to be imposed by [sections 1 through 15] is not considered an overpayment with respect to which interest is allowable.

NEW SECTION. Section 11. Application for refund -- appeal from denial. If the department disallows a claim for refund, it shall notify the facility. At the expiration of 30 days from the mailing of the notice, the department's action becomes final unless within the 30-day period the facility appeals in writing from the action of the department to the state tax appeal board. If an appeal is made, the board shall grant the taxpayer an oral hearing. After consideration of the appeal and evidence presented, the board shall mail notice to the taxpayer of its determination. The board's determination is final when it mails notice of its action to the taxpayer."

Renumber: subsequent sections

26. Page 6, lines 12 through 14.

Following: "7."

Strike: lines 12 through 14 in their entirety

27. Page 6, lines 17 and 18.

Following: "deposited in"

Strike: "the state general fund"

Insert: "an account in the state special revenue fund to be used

for medicaid reimbursement to nursing facilities"

28. Page 6, line 20.
Following: "section"
Strike: "3"
Insert: "2"

29. Page 6.
Following: line 25
Insert: "NEW SECTION. Section 16. Appropriation. The following money is appropriated from the account established in [section 13] to the department of social and rehabilitation services to fund increases in medicaid rates to nursing facilities:

Fiscal Year 1992

State special revenue funds	\$ 923,626
Federal funds	2,341,223
Total funds	\$ 3,264,849

Fiscal Year 1993

State special revenue funds	\$ 1,465,300
Federal funds	3,749,294
Total funds	\$ 5,214,594"

Renumber: subsequent sections

30. Page 7, line 5.
Following: line 4
Insert: "NEW SECTION. Section 18. Contingent voidness. (1) If federal law or policy is amended to allow a nursing facility to bill a person receiving nursing care for which the facility is being reimbursed by medicare or medicaid for the utilization fee provided in [section 2], [this act] is void as of the effective date of the change in federal law or policy.
(2) If federal law or policy is amended so that the utilization fees collected pursuant to [this act] may not be considered as the state's share in claiming federal financial participation under the medicaid program, [this act] is void as of the effective date of the change in federal law or policy.
(3) If the federal government refuses to participate in or denies approval of any plan for medicaid payments to nursing facilities on grounds that it considers the payments to be reimbursement to facilities for payment of the utilization fees, [this act] is void as of the date of receipt by the department of social and rehabilitation services of notice of an official determination of such

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refusal or denial.

(4) If [this act] becomes void under the provisions of this section, all fees received or collected by the department prior to the date upon which the act becomes void must be deposited in accordance with [section 13] and a person or party may not receive a refund of any fees received or collected by the department prior to the date upon which [this act] becomes void.

NEW SECTION. Section 19. Coordination. If SB 445 is passed and approved and if it includes a section adopting a uniform tax appeal procedure, then the language contained in [sections 7(1) and 11 of this act] is void and the provisions of SB 445 govern the appeal procedures.

NEW SECTION. Section 20. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 21. Nonapplicability. [Sections 1 through 15] and the fee established under [section 2] do not apply to facilities licensed to provide intermediate developmental disability care and facilities reimbursed as institutions for mental disease under the medicaid program."

Renumber: subsequent section

31. Page 7, line 6.

Strike: "10, 11"

Insert: "15, 17 through 21, 23"

32. Page 7, line 7.

Strike: "October 1, 1991"

Insert: "on passage and approval"

33. Page 7, line 8.

Strike: "9"

Insert: "14 and 16"

Strike: "1992"

Insert: "1991"

34. Page 7, line 9.

Strike: "1992"

Insert: "1991"

35. Page 7, line 10.

Following: line 9

Insert: "NEW SECTION. Section 23. Termination. [This act]

9
3-22-91
93

terminates June 30, 1993."

Amendments to House Bill No. 93
First Reading Copy

Montana Health Care Association
March 13, 1991

1. Title, line 8.
Strike: "1993"
Insert: "1992"
2. Page 3, line 21.
Following: "amount of"
Strike: "\$1 for each bed day in the facility"
Insert: "\$1.25 for each bed day in the facility
during state fiscal year 1992 and \$1.50
for each bed day in the facility during
fiscal year 1993."
3. Page 6.
Following: Section 10
Insert: NEW SECTION. Section 11. Appropriation.
The following money is appropriated from
the special revenue fund established in
section 8 to the department of social and
rehabilitation services to fund increases
in medicaid rates to nursing facilities:

Fiscal year 1992

State special revenue funds	\$ 923,626
<u>Federal funds</u>	<u>\$ 2,341,223</u>
Total funds	\$ 3,264,849

Fiscal year 1993

State special revenue funds	\$ 846,985
<u>Federal funds</u>	<u>\$ 2,167,198</u>
Total funds	\$ 3,014,183

4. Page 7, line 7.
Strike: "October 21, 1991"
Insert: "on passage and approval"
5. Page 7, line 8.
Following: " 1 through 9"
Insert: ", and 11"
6. Page 7, line 8.
Strike: "1992"
Insert: "1991"
7. Page 7, line 9.
Strike: "1992"
Insert: "1991"

EXHIBIT 10 pg 2 of 7
DATE 3-22-91
93

Rationale for Amendments to House Bill No. 93
(RE: Nursing facility utilization fee)

Montana Health Care Association
March 13, 1991

The proposed amendments would change the definition of "bed day" to exclude days paid for by residents and not covered by insurance, medicare, medicaid or other similar programs. The amendments would impose a \$1.25 fee per each bed day during FY 1992 and would set the fee for bed days during FY 1993 at \$1.50 rather than \$1. The amendments would require deposit of fees collected in an account in the state special revenue fund. In 1992 the \$1.25 fee would generate state funds which, together with matching federal funds would be used to provide increased medicaid rates to nursing facilities in both 1992 and 1993. The amendments would appropriate to the department of social and rehabilitation services the funds generated by the fee in 1992, together with matching federal funds, to fund these increases in 1992 and 1993. The amendments would change the effective date to allow for imposition of the fee in FY 1992.

EXHIBIT 11
DATE 3-22-91
SB 172

p.j. hennessy, m.d.

243 NORTH AVE. EAST
MISSOULA, MT 59801
(406) 721-8849

Testimony for SB 172: Direct Entry Midwifery Licensing
House Human Services and Aging Committee
22 March 1991

I am a physician with a special interest in the health of women and children and I have a Master's in Public Health. During the fifteen years I have practiced in Montana, most of the time has been spent serving rural populations, many who lack health insurance.

As this Committee is well aware, the loss of obstetric providers and the closing of many rural hospitals have reached crisis proportions in some Montana counties. This situation has set the scene for a potential public health nightmare-- some Montana women may be forced to deliver babies without a birth attendant.

Midwifery in Montana has stepped in where physicians' malpractice liability has made them fear to tread. Midwives continue to help Montana women have safe births. This service is **especially** important when the women they serve lack access to traditional obstetric care.

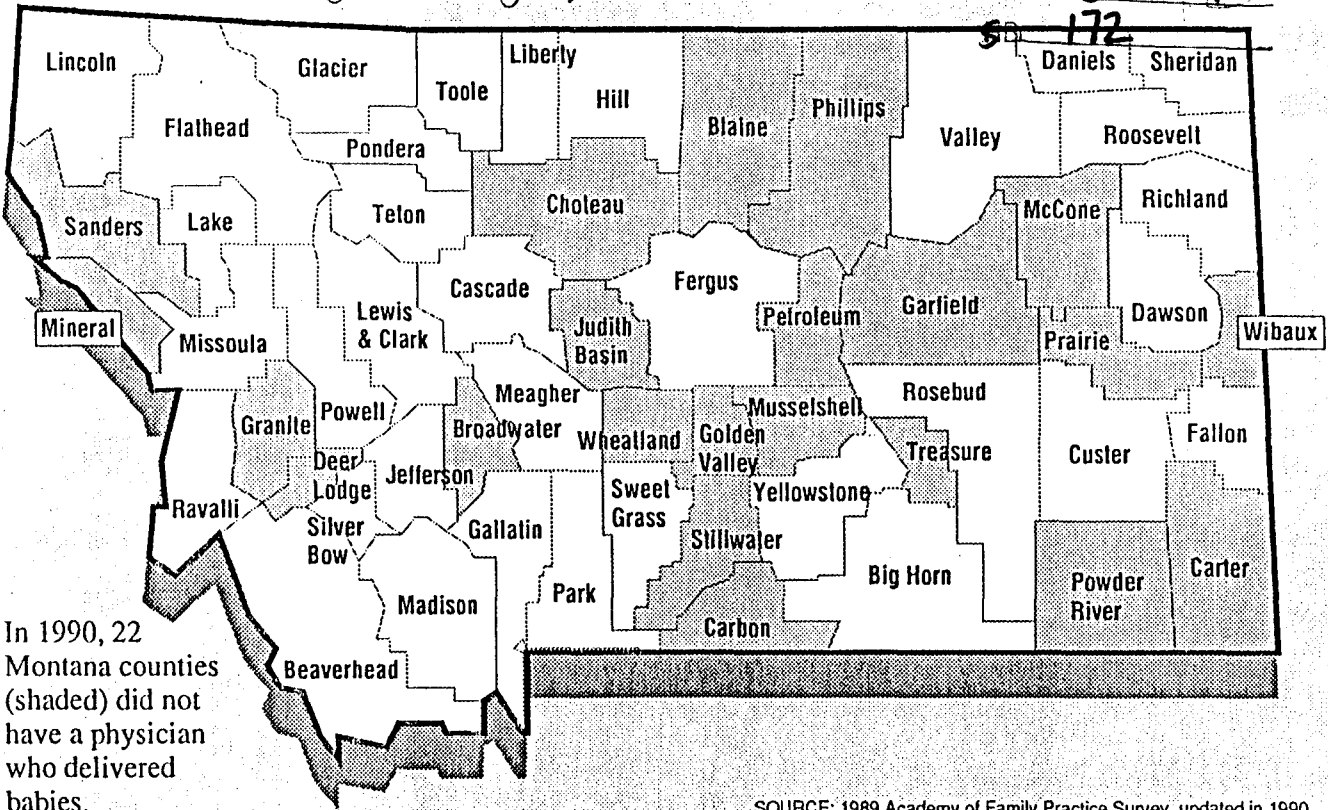
Currently those who have been called to serve as midwives undertake a self imposed educational regimen. SB 172 will serve to strengthen and enhance the performance of those already attending births. It will also provide the means to an ongoing learning process through a rigorous standardized format.

This legislation is a critical component of the many bills that together will provide Health Care for Montanans. Immediate steps must be taken to insure access to care for pregnant women in our state. Our future citizens and their mothers deserve no less! It is imperative that you to support it!

Montana counties without physicians who deliver babies

Missoulian Monday February 4, 1991

DATE 3-22-91



In 1990, 22 Montana counties (shaded) did not have a physician who delivered babies.

SOURCE: 1989 Academy of Family Practice Survey, updated in 1990

Delivering babes in the woods

State ponders problems of rural perinatal care

By BILL LOMBARDI
Missoulian State Bureau

HELENA — In 1990, a governor's health-care advisory panel identified 22 Montana counties without physicians who deliver babies.

"Because of the declining number of physicians in Montana in the past decade, our ability to provide adequate perinatal care to women and infants in rural areas has significantly eroded," says the panel's report on Health Care for Montanans.

High malpractice insurance premiums and inadequate Medicaid reimbursement rates paid to obstetricians and pediatricians have sparked a crisis of sorts in rural as well as urban areas. Poor women, especially, are being denied equal access to appropriate prenatal, delivery and postpartum health services, say lawmakers and health officials.

"The trauma is obvious," says Sen. Mike Halligan, D-Missoula.

He is sponsoring a bill that would give rural and urban baby doctors a state income tax credit to encourage them to keep delivering services to Medicaid recipients.

The price tag: \$897,000 a year. "The cost of this obviously is a lot," Halligan recently told the Senate Taxation Committee. "I'm not so sure we can afford that."

Meanwhile, taxpayers, for instance, are being asked to help pick up the costs associated with low-birthweight infants of Medicaid recipients because their mothers may not have received

In fiscal 1988, 129 infants cost \$4.2 million in Medicaid funding for delivery and the first year of care. Most were low-birthweight infants. Their cost was 51 percent of the total \$8.3 million spent, though they represented only 4 percent of the 3,248 Medicaid deliveries, according to the state.

In fiscal 1989, the state recorded 2,571 Medicaid deliveries, or 22.5 percent of the state's average 11,412 deliveries per year.

The Stephens administration has proposed an ambitious health-care package for the 1991 Legislature, which, among other things, calls for increasing Medicaid reimbursement rates for obstetrical procedures to 90 percent of the average customary charge.

The Medicaid reimbursement for a delivery now is \$755, compared with an average charge of \$1,369. Some doctors complain the current rate doesn't even cover their overhead costs, much less the services they render.

"They're losing money on every delivery with the rate structure we have," says Nancy Ellery, chief of the state Medicaid Services Division.

The governor's "Kids Count" proposal, which requests \$3.3 million from the state general fund, also calls for increasing Medicaid reimbursement rates to pediatricians to 80 percent of the average customary charge.

The federal Health Care Financing Administration has not yet approved Montana's Medicaid program for obstetrical and pediatric payments. Disapproval could jeopardize federal financial participation in the program and worsen an already critical situation, state officials note.

Federal regulations require the state to pay reasonable and adequate reimbursement rates that ensure Medicaid recipients can get access that is available to the general population.

"This is an equal access issue," Ellery says.

Since 1986 state officials have watched almost helplessly as 30 percent of the physicians who previously delivered babies dropped that service because of insurance and reimbursement problems, she notes.

Meanwhile, more low-income Montanans are becoming eligible for Medicaid benefits but can't find health-care services, Ellery says.

Some pregnant women, notes Dick Brown of the Montana Hospital Association, must drive 100 miles or more to obtain services.

While the Montana Medical Association and Montana Hospital Association support Halligan's tax measure aimed at encouraging physicians to help poor women and infants, they would rather see Medicaid reimbursement rates jacked up.

"The problem's getting worse each session," says Jerry Loendorf, a lobbyist for the Montana Medical Association.

LIBBY CLINIC

211 EAST 2ND LIBBY, MONTANA 59923
TELEPHONE (406) 293-8711

EXHIBIT 12
DATE 3-22-91
SB 172

March 6, 1991

Honorable Members
House of Representatives
State Capitol
Helena, Mt 59601

Gentlemen:

I would strongly urge you to support Senate Bill 172, which is for licensure of lay midwives in the State of Montana.

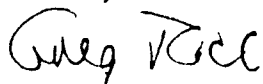
I am a family physician who has had an active obstetric practice in Libby for the last 14 years. I have worked with several midwives, both certified nurse midwives and lay midwives over the years and have seen how they have significantly improved the quality of obstetrical care here. I would like to see this continue in the future, and I think it is essential for midwives to be licensed for them to continue practicing in this modern era of medicine.

Licensure would better insure that the midwives practicing in the state have minimum standards and have some peer review process. As time goes by, licensure would lead to a more established conscientious group of midwives in the state who can insure and continue to insure good prenatal care for the babies of the future.

This has some significant practical ramifications as well. At the present time, you probably all are aware of the significant problems we're having with lack of access to prenatal care that is contributing to an increase in infant morbidity and mortality rates in the state. I think licensure here would be one small step that can help in the future with diminishing the number of patients who do not have access to good medical care.

In summary, I would strongly urge you to support the bill, Licensing Midwives, that's presented before you.

Sincerely,



Gregory A. Rice, MD

The
American
College of
Obstetricians and
Gynecologists

DISTRICT VIII

Office of the Vice Chairman
Montana Section

Van Kirke Nelson, M.D.
210 Sunnyview Lane
Kallispell, MT 59901
(406) 752-5260

March 21, 1991
Thursday

Representative Angela Russell
Chairperson
House Human Services and Aging
Capitol Building
Helena, Montana 59620

Re: Senate Bill #172

Dear Representative Russell:

Though I do not support lay or "direct entry midwifery" I must, knowing the intent of the 51st and 52nd Montana Legislature, testify on behalf of Montana Obstetricians and Gynecologists on the licensing of "direct entry midwifery" (lay midwifery). To oppose or take no position in this issue, clearly makes no contribution to the uncontrolled practice of lay midwifery in the State of Montana.

The American College of Obstetricians and Gynecologists supports the right of the pregnant woman to informed consent while recognizing that at the same time the woman assumes responsibility for decisions which she makes in the interest of her own health and the health and welfare of her infant. Government and its agencies have a responsibility to ensure that inadequate trained personnel and unsafe facilities are not approved.

Senator Paul Svrcek stated in his closing arguments on Senate Bill #172 before the Senate Public Health, Welfare and Safety Committee, that the practice of lay midwifery in Europe and third world countries has demonstrated a lower neonatal death rate per newborn than in the United States. That is true if you use the statistics from the U.S. To my knowledge there is no third world country that has a neonatal death rate as low as that enjoyed by the State of Montana - 4.8 deaths per 1,000 deliveries.

As to training and education, the present requirements of Senate Bill 172 are sadly lacking. Testimony was provided by advocates of "direct entry" or lay midwifery, that the World Health Organization supported the practice of midwifery. The World Health Organization also is concerned about the education

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SB 172

The
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Representative Russell
Page 2

EXHIBIT 14
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SB 172

Office of the Vice Chairman
Montana Section
Van Kirke Nelson, M.D.
210 Sunnyview Lane
Kallispeil, MT 59901
(406) 752-5260

of midwives. Utilizing their own statement "midwives should have a minimum of three years of formal training and at least one year of nursing. For those midwives who have already completed nursing education, two years of midwifery education is the minimum requirement."

The American College of Nurse-Midwives has set comparable additional standards in the United States which are also supported by the American College of Obstetricians and Gynecologists. The certified nurse-midwife meets these standards. Lower standards are unacceptable for the care of women in the United States.

I enclose a copy of a quote from "Maternity Care in the World," a joint publication of IFGO and the International Confederation of Midwives, the organization representing the midwives in third world countries of whom Senator Svrcek alluded to in his testimony. Clearly, you can't compare that training with the minimum of training requested in present Senate Bill 172.

Several amendments to the present bill have already been made and included in the present bill, both by working directly with Mona Jamison, lobbyist for the midwives and through the senate hearing. Further amendments still need to be made to make licensure of "direct entry midwifery" protective of those Montana women and their unborn infants who seek to utilize home delivery as opposed to hospital attended delivery.

These proposed amendments are attached to this document.

Thank you very much for your consideration and thank you for your service to Montana during the 52nd Legislature.

Cordially,

Van Kirke Nelson, M.D.
Vice Chairman
Montana Section American College
of Obstetricians and
Gynecologists

VKN:dh

EXHIBIT 14
DATE 3-22-91
SB 172

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Montana Section
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210 Sunnyview Lane
Kallispeil, MT 59901
(406) 752-5260

PROPOSED AMENDMENT - SENATE BILL #172

1. Page 2, line 4
Following: "the"
Strike: "state"
Insert: "states"
Following: "New Hampshire"
Insert: "and New Mexico and the city of El Paso, Texas"

Comment: Both New Mexico and the City of El Paso have established excellent protocol for the practice of lay midwifery and should be included with those of New Hampshire for review by the board of direct entry midwifery.

Van Kirke Nelson, M.D.

EXHIBIT 14
DATE 3-22-91
\$B 172

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PROPOSED AMENDMENT - SENATE BILL #172

2. Page 4, line 9
Following: "a"
Insert: "lay"
Following: "person"
Insert: "provider"

Comment: Nomenclature is important to maintain on a state by state basis as all states use the nomenclature of "lay midwife." "Direct entry midwife" has been coined in New York state by lay midwives, though not a nationally accepted term. If Montana chooses to use "direct entry midwife" they should at least clarify in definitions.

Van Kirke Nelson, M.D.

The
American
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DISTRICT VIII

EXHIBIT 14
DATE 3-22-91
SB 172

Office of the Vice Chairman
Montana Section
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PROPOSED AMENDMENT - SENATE BILL #172

3. Page 5, line 9
Following: "of"
Strike: "five"
Insert: "six"
4. Page 5, line 13
Following: "(a)"
Strike: "three"
Insert: "two"
5. Page 5
Following: line 19
Insert: "(c) one member who is a physician whose present
practice includes pediatrics;
(b) one member who is a certified nurse midwife;
and"
Reletter following subsection.

Comment: Since this is a new group of licensees, whose training requirements are considerably less than have been required of nurses and doctors who perform the same service, it should, at least initially, be closely monitored.

Van Kirke Nelson, M.D.

2000-14
DATE 3-22-91
SB 172

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PROPOSED AMENDMENT - SENATE BILL #172

- 6. Page 17, line 2
Following: "hospital"
Insert: "with cesarean section capability"

Comment: A client of a direct entry midwife must know that the nearest hospital may not have cesarean section capability and must be informed of same, and should be fully informed of the additional risk.

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EXHIBIT 14
DATE 3-22-91
SB 172

PROPOSED AMENDMENT - SENATE BILL #172

7. Page 19

Following: line 6

Insert: "(3) the Department of Health and Environmental Sciences shall prepare and submit to the board and the Legislative Audit Committee a summary of the information obtained from the birth certificates on file with the department concerning births assisted by direct entry midwives, the summary shall include:

1. Location of birth, including the county, city, health care facility or other place of birth.
2. The number of births attended by each direct entry midwife.
3. Month of pregnancy prenatal care began.
4. Number of prenatal visits.
5. Birth weight.
6. If the mother was transferred prior to delivery.
7. If the infant was transferred.

The summary shall cover the period beginning with the effective date of this act through October, 31, 1992. The summary may include comments by the department and be submitted on or before December 31, 1992. The board or legislative auditor may present this summary with its findings and recommendations for amendments to this act to the legislature."

3. Training of Midwives

- (a) A student should have 12 years' general education before starting midwifery training.
- (b) The age for entry should be at least 18 years.
- (c) The minimum period of midwifery training should be three years, one year of which should be allocated to nursing training. If a candidate is already a general trained nurse, she may take midwifery training in two years.
- (d) The hours of theoretical instruction should occupy a minimum of 1/3 (one-third) of the total training time.
- (e) In addition to teaching in obstetrics and neonatal paediatrics, the syllabus should include some instruction in basic sciences, anatomy, physiology, social sciences, parentcraft, preparation for childbirth, community care, analgesia, epidemiology, certain aspects of gynaecology and family planning.
- (f) During training a student midwife should undertake the care of not less than 50 women in the prenatal period, 50 women during the course of labour and 50 women in the early postnatal period.
- (g) No specified number of domiciliary confinements should be required but experience in the care of mother and baby at home is advisable.
- (h) Training should be provided without charge to the student.

4. Postgraduate Education

- (a) Compulsory refresher courses are desirable for all midwives at least every five years. These should be of at least two weeks' duration and the content should be both theoretical and practical.
- (b) Midwives should be encouraged to attend conferences, lectures and teaching sessions arranged locally and nationally together with obstetricians, paediatricians, other doctors and personnel in other health professions. Employing authorities should be encouraged to grant the requisite leave with pay.
- (c) All countries should set up a Central Body responsible for the control of midwifery training and practice and the introduction of new drugs and procedures. It should also have the responsibility for issuing a list of drugs authorized for use by midwives on their own responsibility.

Maternity Care in the World

Joint publication of IFGO and the International Confederation of Midwives.

CHILD'S NAME (First) (Middle) (Last)		DATE OF BIRTH (Month, Day, Year)	SEX
1.		2.	3.
FACILITY—NAME (If not institution, give street and number)		CITY, TOWN, OR LOCATION OF BIRTH	COUNTY OF BIRTH
4.		5.	6.
7a. PLACE OF BIRTH			
<input type="checkbox"/> Hospital <input type="checkbox"/> Freestanding Birthing Center <input type="checkbox"/> Clinic/Doctor's Office <input type="checkbox"/> Residence <input type="checkbox"/> Other (Specify)			
I certify that this child was born alive at the place and time and on the date stated.		DATE SIGNED (Month, Day, Year)	ATTENDANT'S NAME AND TITLE (If other than certifier) (Type/Print)
8. Signature		9.	10.
CERTIFIER'S NAME AND TITLE (Type or Print)		MAILING ADDRESS (Street Number or Rural Route Number, City or Town, State, Zip Code)	
11.		12.	
LOCAL REGISTRAR'S SIGNATURE		DATE FILED BY REGISTRAR (Month, Day, Year)	
13.		14.	
MOTHER—MAIDEN NAME (First, Middle, Last)		BIRTHPLACE (State or Foreign Country)	DATE OF BIRTH (month, day, year)
15.		16.	17.
RESIDENCE—STATE	COUNTY	CITY OR TOWN AND ZIP CODE	STREET AND NUMBER
18a.	18b.	18c.	18d.
FATHER'S NAME (First, Middle, Last)		BIRTHPLACE (State or Foreign Country)	DATE OF BIRTH (month, day, year)
19.		20.	21.
I certify that the personal information provided on this certificate is correct to the best of my knowledge and belief		MOTHER'S MAILING ADDRESS (If same as residence, enter Zip Code only)	
22. Signature of Parent or Other Informant		23.	
23a. Permission is given to provide the Social Security Administration with information from this certificate to obtain a Social Security card for this child.			
<input type="checkbox"/> Yes <input type="checkbox"/> No Signature of mother:			

INFORMATION FOR MEDICAL AND HEALTH USE ONLY

ANCESTRY—(Mexican, Puerto Rican, Cuban, Hmong, English, Tribal affiliation, etc.) (Specify below)		RACE—American Indian, Black, White, etc. (Specify below)		26. EDUCATION (Specify only highest grade completed)	
24a.		25a.		26a.	
24b.		25b.		26b.	
PREGNANCY HISTORY (Complete each section)		MOTHER MARRIED? (At birth, conception, or any time between) (Yes or no)		DATE LAST NORMAL MENSES BEGAN (Month, Day, Year)	
28.		29.		30.	
LIVE BIRTHS (Do not include this child)		OTHER TERMINATIONS (Spontaneous & induced at any time after conception)		MONTH OF PREGNANCY PRENATAL CARE BEGAN—First, Second, Third, etc. (Specify)	
27a. Now Living		27b. Now Dead		27c.	
27d.		27e.		27f.	
DATE OF LAST LIVE BIRTH (Month, Year)		DATE OF LAST OTHER TERMINATION (Mo., Yr.)		PLURALITY—Single, Twin, Triplet, etc. (Specify)	
27c.		27d.		27e.	
36. APGAR SCORE		MOTHER TRANSFERRED PRIOR TO DELIVERY? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, enter name of facility transferred from:		PRENATAL VISITS—Total Number (If none, so state)	
36a. 1 Minute		36b. 5 Minutes		31.	
36c.		36d.		36e.	
WHAT PROPHYLACTIC USED IN EYES?		INFANT TRANSFERRED? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, enter name of facility transferred to:		MOTHER'S BLOOD TESTED (Yes or No) (Date)	
38.		39.		32.	

40a. MEDICAL RISK FACTORS FOR THIS PREGNANCY (Shade all that apply ■)

Anemia (Hct. < 30/Hgb. < 10)	01 <input type="checkbox"/>
Cardiac disease	02 <input type="checkbox"/>
Acute or chronic lung disease	03 <input type="checkbox"/>
Diabetes	04 <input type="checkbox"/>
Genital herpes	05 <input type="checkbox"/>
Hydramnios/Oligohydramnios	06 <input type="checkbox"/>
Hemoglobinopathy	07 <input type="checkbox"/>
Hypertension, chronic	08 <input type="checkbox"/>
Hypertension, pregnancy-associated	09 <input type="checkbox"/>
Eclampsia	10 <input type="checkbox"/>
Incompetent cervix	11 <input type="checkbox"/>
Previous infant 4000+ grams	12 <input type="checkbox"/>
Previous preterm or small for gestational age infant	13 <input type="checkbox"/>
Renal disease	14 <input type="checkbox"/>
Rh sensitization	15 <input type="checkbox"/>
Uterine bleeding	16 <input type="checkbox"/>
None	00 <input type="checkbox"/>
Other	17 <input type="checkbox"/>

(Specify)

40b. OTHER RISK FACTORS FOR THIS PREGNANCY (Complete all items)

Tobacco use during pregnancy	Yes <input type="checkbox"/> No <input type="checkbox"/>
Average number cigarettes per day	
Alcohol use during pregnancy	Yes <input type="checkbox"/> No <input type="checkbox"/>
Average number drinks per week	
Weight gained during pregnancy	lbs.

42. COMPLICATIONS OF LABOR AND/OR DELIVERY (Shade all that apply ■)

Febrile (> 100°F. or 38°C.)	01 <input type="checkbox"/>
Meconium, moderate/heavy	02 <input type="checkbox"/>
Premature rupture of membrane (> 12 hours)	03 <input type="checkbox"/>
Abruptio placenta	04 <input type="checkbox"/>
Placenta previa	05 <input type="checkbox"/>
Other excessive bleeding	06 <input type="checkbox"/>
Seizures during labor	07 <input type="checkbox"/>
Precipitous labor (< 3 hours)	08 <input type="checkbox"/>
Prolonged labor (> 20 hours)	09 <input type="checkbox"/>
Dysfunctional labor	10 <input type="checkbox"/>
Breech/Malpresentation	11 <input type="checkbox"/>
Cephalopelvic disproportion	12 <input type="checkbox"/>
Cord prolapse	13 <input type="checkbox"/>
Anesthetic complications	14 <input type="checkbox"/>
Fetal distress	15 <input type="checkbox"/>
None	00 <input type="checkbox"/>
Other	16 <input type="checkbox"/>

(Specify)

43. METHOD OF DELIVERY (Shade all that apply ■)

Vaginal	01 <input type="checkbox"/>
Vaginal birth after previous C-section	02 <input type="checkbox"/>
Primary C-section	03 <input type="checkbox"/>
Repeat C-section	04 <input type="checkbox"/>
Forceps	05 <input type="checkbox"/>
Vacuum	06 <input type="checkbox"/>

44. ABNORMAL CONDITIONS OF THE NEWBORN (Shade all that apply ■)

45. CONGENITAL ANOMALIES OF CHILD (Shade all that apply ■)

Anencephalus	01 <input type="checkbox"/>
Spina bifida/Meningocele	02 <input type="checkbox"/>
Hydrocephalus	03 <input type="checkbox"/>
Microcephalus	04 <input type="checkbox"/>
Other central nervous system anomalies (Specify)	05 <input type="checkbox"/>
Heart malformations	06 <input type="checkbox"/>
Other circulatory/respiratory anomalies (Specify)	07 <input type="checkbox"/>
Rectal atresia/stenosis	08 <input type="checkbox"/>
Tracheo-esophageal fistula/Esoophageal atresia	09 <input type="checkbox"/>
Omphalocele/Gastroschisis	10 <input type="checkbox"/>
Other gastrointestinal anomalies (Specify)	11 <input type="checkbox"/>
Malformed genitalia	12 <input type="checkbox"/>
Renal agenesis	13 <input type="checkbox"/>
Other urogenital anomalies (Specify)	14 <input type="checkbox"/>
Cleft lip/palate	15 <input type="checkbox"/>
Polydactyly/Syndactyly/Adactyly	16 <input type="checkbox"/>
Club foot	17 <input type="checkbox"/>
Diaphragmatic hernia	18 <input type="checkbox"/>
Other musculoskeletal/integumental anomalies (Specify)	19 <input type="checkbox"/>



Montana Nurses' Association

P.O. Box 5718 • Helena, Montana 59604 • 442-6710

ENROLL 15
DATE 3-22-91
SB 172

MNA TESTIMONY

SB 172 DIRECT-ENTRY MIDWIFERY

Montana Nurses Association is in opposition to the practice of direct-entry midwifery. We have actively participated in amending this bill to make the use of the services of a direct-entry midwife as safe as possible. However, we feel that there is no substitute for formal education and clinical supervision in the learning process. In the area of caring for mothers and their infants, we feel that the highest standards of education, preparation and safety must be observed because so many lives are affected when there are problems in the childbearing process.

We would urge a no pass on this piece of legislation and thank you for your consideration of this bill.

a:testbod.doc

3. Training of Midwives

(a) A student should have 12 years' general education before starting midwifery training.

(b) The age for entry should be at least 18 years.

(c) The minimum period of midwifery training should be three years. One year of which should be allocated to nursing training. If a candidate is already a general trained nurse, she may take midwifery training in two years.

(d) The hours of theoretical instruction should occupy a minimum of 1/3 (one-third) of the total training time.

(e) In addition to teaching in obstetrics and neonatal pediatrics, the syllabus should include some instruction in basic science, anatomy, physiology, social sciences, parentcraft, preparation for childbirth, community care, analgesia, epidemiology, certain aspects of gynecology and family planning.

(f) During training a student midwife should undertake the care of not less than 50 women in the prenatal period, 50 women during the course of labor and 50 women in the early postnatal period.

(g) No specified number of domiciliary confinements should be required but experience in the care of mother and baby at home is advisable.

(h) Training should be provided without charge to the student.

4. Postgraduate Education

(a) Compulsory refresher courses are desirable for all midwives at lease every five years. These should be of at least two weeks' duration and the content should be both theoretical and practical.

(b) Midwives should be encouraged to attend conferences, lectures and teaching sessions arranged locally and nationally together with obstetricians, pediatricians, other doctors and personnel in other health professions. Employing authorities should be encouraged to grant the requisite leave with pay.

(c) All countries should set up a Central Body responsible for the control of midwifery training and practice and the introduction of new drugs and procedures. It should also have the responsibility for issuing a list of drugs authorized for use by midwives on their own responsibility.

Maternity Care in the World

Joint publication of IFCO and the International Confederation of Midwives.

INTERNAL MEDICINE

S.P. AKRE, M.D.
Rheumatology
F.J. ALLAIRE, M.D.
D.E. ANDERSON, M.D.
R.D. BLEVINS, M.D.
Pulmonary Disease
G.A. BUFFINGTON, M.D.
Nephrology
S.J. EFFERTZ, M.D.
Rheumatology
J.D. EIDSON, M.D.
K.A. GUTER, M.D.
Oncology
P.A. KREZOWSKI, M.D.
Endocrinology
T.J. LENZ, M.D.
B.L. MAYNARD, M.D.
W.N. MILLER, M.D.
Gastroenterology
T.W. ROSENBAUM, M.D.
Nephrology
G.D. SPENCER, M.D.
Gastroenterology
J.D. WATSON, M.D.
Cardiology

OBSTETRICS AND GYNECOLOGY

C.J. BELL, DO.
P.L. BURLEIGH, M.D.
F.J. HANDWERK, M.D.
R.J. MCCLURE, M.D.
G.K. PHILLIPS, M.D.
S.M. WARD, R.N., C.
Certified Nurse Practitioner

NEURO-SCIENCES

D.E. ENGSTROM, M.D.
Psychiatry
W.H. LABUNETZ, M.D.
Neurology-EEG
E.E. SHUBAT, Ph.D.
Psychology
T.J. KRAJACICH, Ph.D.
Psychology

OPHTHALMOLOGY

A.A. JORDAN, JR., M.D.

ORTHOPAEDIC SURGERY

P.A. SUAREZ, M.D.

PEDIATRICS

J.M. EICHNER, M.D.
N.G. GERRITY, M.D.
J.R. HALSETH, M.D.
J.P. HINZ, M.D.
C.C. MATELICH, M.D.
N.J. MAYNARD, M.D.
J.G. ROSENFELD, M.D.
D.P. RUGGERIE, DO.
Pediatric Cardiology

SURGERY

W.P. HORST, M.D.
Urology
R.E. LAURITZEN, M.D.
General and Vascular
J.E. MUNGAS, M.D.
Vascular and General
M.B. ORCUTT, M.D.
General and Vascular
J.A. SCHVANEVELDT, M.D.
Ear, Nose & Throat
L.M. TAYLOR, M.D.
General and Thoracic
W.C. VASHAW, M.D.
General and Vascular

FAMILY PRACTICE CENTER

J.A. ROSS, M.D.
J.W. SPEER, M.D.
T.C. WEILL, M.D.
1220 Central Avenue
771-0090

IMMEDIATE CARE CENTER

D.R. ENGBRECHT, M.D.
T.J. SWEENEY, M.D.
1220 Central Avenue
771-0000

ADMINISTRATION

W.D. TAYLOR
M.D. MISSIMER
J.C. KINNA

EXHIBIT

DATE

GREAT FALLS CLINIC

1400 TWENTY-NINTH STREET SOUTH

P.O. BOX 5012

GREAT FALLS, MONTANA 59403-5012

PHONE (406) 454-2171

FAX (406) 454-0455

22 March 1991

House Committee on Human Services
and Aging
State Capitol
Helena, MT 59620

Dear Representative:

I would like to address specific areas of the lay midwife bill. I have several areas of major concern.

The first is that the practice of midwifery at any level certainly is the practice of medicine. It involves doing histories, physical exams, ordering and interpreting laboratory data, as well as performing deliveries, which includes the use of surgical procedures, such as episiotomies and their repair, and may involve the use of anesthetic medications which have potential side effects, which can include death. I am further concerned that the management of pregnancy and laboring patients often involve complications which are very subtle in their presentation and often occur late in the course of labor, and can be life- and health-threatening to both the mother and the baby. The amount of training and experience that is needed to care for pregnancy and attend deliveries is far in excess of what is provided in this bill for the lay midwives.

My first concern with the bill itself is that the Board is made up of mostly lay midwives with only one member from the medical community. I would like to see an obstetrician or family practitioner who does obstetrics, a pediatrician, and a nurse midwife on the Board, as well as lay members.

I am concerned that the educational requirements in Section VII are too vague. Subsection 2 states that the applicant shall satisfactorily complete educational requirements in pregnancy and natural childbirth, approved by the Board. Subsections A through H identify these requirements, and for the most part these are extremely subjective and vague. Subsection 3 says that there shall be acquisition of practical experience which can occur at home, in a clinic, or in a hospital. However, the practical experience is qualified in that it does not have to be in a training program or under supervision. This suggests that standing around and watching things that happen in a hospital is considered practical experience and that the applicant does not have to partake in any way in the decision-making process or in the actual delivery. This would seem to me to be an extremely poor way to train oneself.

House Committee on Human Services & Aging
Page Two

Subsection B states that they should have observed fifteen births; such a small number of births would not even provide a chance to observe many of the normal variations in labor and delivery, let alone the unusual life-threatening complications.

Subsection VI states that they should be certified in adult and infant cardiopulmonary resuscitation. I would assume that this is the same basic life-support program that is given to factory workers and secretaries across the nation and has a pass rate of 100% so that anybody who signs up for the course gets the card. I would not consider this a very secure guarantee that the lay midwife was skilled or accomplished at either maternal or neonatal resuscitation if the need should arise.

Section VIII is most distressing to me. It basically says that if an applicant passes the test, they are exempt from any of the requirements outlined in Section VII, with the exception that they need to have a basic life-support card. Section X outlines the test and states that it is to be made up by the Board and a nurse midwife. Thus, we have a Board that can make up a test on its own discretion with minimal consultation from one other person, and at their own discretion they can exempt all other requirements of the law with the exception of having to have a basic life-support card. There certainly is nothing in this bill to assure the people of Montana that lay midwives would be properly trained or tested. Section XX states that a lay midwife would recommend to a patient that she obtain from some other health care worker certain screening tests which are routinely provided for in prenatal care. It is certainly not clear as to who would interpret these test results, or who would be responsible for following the patient. It also very clearly gives the patient prerogative of going ahead with this or not. Subsection 3 would indicate that the alphafetoprotein test and ultrasound test referrals would be done upon the patient's request, which suggests that the patients would have to have a very firm medical background to know when they should request such tests. Subsection 5 states that non-stress testing would be done if "any other reasons indicate the testing". This entire subsection would indicate the patient has the right to request proper prenatal care, but that the lay midwife has no obligation to provide proper care unless the patient requests it, nor does the lay midwife even really need to know what proper prenatal care is.

Section XXI states that physician consultation is encouraged, but does not require the consultation nor give any format as to how that would be accomplished. Section XXIV is designed to provide some limited release of liability to physicians who are put in a position of being forced to accept and care for patients in a hospital setting who have been under the care of a midwife and are transferred to the hospital because of some complication. I feel that this is an extremely adverse position for a physician to be in because the patient does not

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SB 172

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Page Three

want traditional medical care and is further disappointed by the fact that her plans for home delivery have been aborted by some type of complication. Because of this, there is a likelihood that they will arrive at the hospital with a very serious condition and that the outcome of that pregnancy may be jeopardized. The combination of an angry patient and a bad outcome make lawsuits highly likely, and in spite of the limited liability allowed by this bill, I feel physicians would be hesitant to care for these patients. Because current laws and hospital policies require hospitals to accept emergency care and physicians are required to see those patients in order to be on the hospital staff, physicians would not have a choice as to whether or not to care for these difficult and high-risk patients.

Thus, I feel this bill enables poorly trained people to engage in the practice of medicine in an area that has potential for severe and sudden complications. The only management for these complications is to take the patient to a hospital and require physicians to deal with them in the most adverse of situations. Thus, this bill is likely to lead to increased risks and possibly deaths of mothers or babies, as well as delays in obtaining proper treatment.

Sincerely,

Peter L. Burleigh, M.D.
PLB/jp



Montana Council for Maternal and Child Health

2030 Eleventh Avenue, Suite 10 • Helena, Montana 59601 • (406) 443-1674

EXHIBIT 17
DATE 3-22-91
172

SUSTAINING MEMBERS

Healthy Mothers, Healthy
Babies
The Montana Coalition

TESTIMONY FOR THE HOUSE HUMAN SERVICES AND AGING COMMITTEE

Re: SB 172, LICENSURE OF MIDWIVES
MARCH 22, 1991

March of Dimes,
Montana Big Sky Chapter

I speak to you today on the public policy issues which SB 172 raises, both generally and as they relate to the training issue.

Montana Academy of
Family Physicians

It seems to me that the home birth movement represents two different groups, those who see home birth as simply a cheaper alternative to hospital care, and those who see hospital care as inherently destructive to strongly held personal values.

Montana Chapter,
American
Academy of Pediatrics

The Montana Council for Maternal and Child Health takes the position that the first viewpoint is invalid when applied to self-trained lay midwives, and could endanger the lives of mothers and babies in Montana. If you mean to license self-trained lay midwives to fill in the gaps where physicians and fully-trained midwives are unavailable or unaffordable, you will be telling Montana's poor and rural women that they are second-class citizens, served by third-world standards of care. That reasoning should be rejected at the outset.

Montana Perinatal
Association

The only acceptable response to inadequate access to care is to provide the same range of quality health care options to every citizen, statewide. We have no business disguising this bill, as it stands, as a substitute for adequate access to quality health care for Montana's pregnant women.

Montana Section,
American College of
Obstetrics and Gynecology

The second position, which has been mentioned only in passing in past hearings, is indeed worthy of your consideration. There can really be no doubt that an impersonal hospital birth process is not always a pleasant one. Most of us don't care what indignity we must suffer, if it is necessary to help our babies arrive in this world safe and sound. We will endure tubes and wires, drugs and even surgery, to ensure a healthy birth. To the extent that this high technology hospitalization actually helps our children, we are willing to sacrifice comfort and the romance of intimate personal surroundings.

Montana Section
Nurses Association of the
American College of
Obstetrics
and Gynecology

But when the momentum of changing technology begins to impose unnatural conditions on life itself, perhaps we should look at home birth as a reflection of a new paradigm: a rejection of artificial life support systems, a return to the basic values of accepting life

Shodair Children's Hospital

and death on its own terms. A baby who dies at home may indeed have survived at a hospital, but with lifelong disability and at enormous cost. The issues are as old as life itself, but can arise in an instant. Who should decide what course to take? Legislators? Doctors? Or the parents themselves, who have weighed their own values, felt the kick of life in the womb and know what they will miss?

But even if home birth means no artificial interference, it does not mean that home birth attendants need not be thoroughly trained. Indeed, it means that the highest standards of care should be available in the home, not the lowest. Home birth parents, choosing this option not out of need but after a thorough weighing of their own values, should not have to settle for a birth attendant whose qualifications are no more than high school graduation and the reading of enough books during an apprenticeship to pass a single examination with a score of 70%.

The concern of the Montana Council for Maternal and Child Health is to ensure that home birth parents have the information to make a fully informed choice, free of economic pressure, and are provided with the safest, best-trained birth attendants possible. Other states and international organizations have established standards for training which include classroom instruction at accredited institutions. The World Health Organization standard requires a three-year program of combined classroom and clinical training. Other states have incorporated this standard in their regulation of lay or direct-entry midwives. Our state should do no less.

Training for direct-entry midwives which meets this standard is available at accredited institutions. One is the Seattle Midwifery School, which is not only state-accredited for direct-entry midwifery but is currently developing a program to add nurse-midwifery in conjunction with the Pacific Lutheran University's School of Nursing. With this training, licensed direct-entry midwives in Washington are not restricted to home births but are full participants in clinics, hospitals and birth centers. They are even eligible for Medicaid reimbursement. With training that meets international standards, direct-entry midwives can begin to have an impact on the access to care issues I mentioned earlier.

Without adequate training requirements, licensure of lay midwives in Montana will only give a false sense of security to home birth parents. The Montana Council for Maternal and Child Health opposes SB 172 unless it is amended to include accredited training requirements. Proposed amendments are submitted separately, patterned after the language of SB 66, licensing naturopathic physicians.

Thank you for your attention.

Paulette Kohman
Executive Director

Professional Midwifery in Washington: Questions and Answers

Midwifery Fact Sheet

What is the legal status of midwifery in Washington State?

- Washington state law recognizes two separate entry paths for professional midwives: *Certified Nurse-Midwifery* and *Licensed Midwifery*.

Certified Nurse-Midwives (CNMs) are educated in the disciplines of Nursing and Midwifery. Their certification from the American College of Nurse-Midwives entitles them to practice in most states, including Washington, where they are licensed under the state's Advanced Registered Nurse Practitioner's Act, RCW 18.88.

Licensed Midwives (LMs) have completed three years at a state-accredited midwifery school and passed a state licensing examination. They are licensed under the state's Midwifery Act, RCW 18.50. This type of midwifery education is based on the well-established European model for direct-entry midwifery, which does not require prior nursing licensure but includes relevant nursing skills in the training program.

How are midwives educated?

- Certified Nurse-Midwives are educated at one of 24 programs in the United States, accredited by the American College of Nurse-Midwives. Programs vary in length, with some granting the basic certificate in nurse-midwifery (9-12 months) and others a master's degree in addition to the basic certificate (18-24 months). Licensed Midwives have completed a three-year midwifery education program accredited by Washington State. Standards for education in these programs are consistent with those established by the International Confederation of Midwives and the International Confederation of Gynecology and Obstetrics.

All student midwives complete rigorous theoretical instruction as well as extensive supervised clinical experiences in all aspects of midwifery care.

Where in Washington State is midwifery training available?

- There are currently two programs in Washington accredited by the state to provide midwifery training: the Seattle Midwifery School, an independent three-year program, and the John Bastyr College, where naturopathic students may complete additional courses and clinical work to meet state requirements for midwifery licensure.

Presently, there are no educational programs for nurse-midwifery in Washington. Information regarding nurse-midwifery educational programs can be obtained from the American College of Nurse-Midwives, 1522 K Street, NW, Washington, D.C. 20005, (202) 289-0171.



What services do midwives provide?

● Midwives provide care during the normal childbearing cycle. They consult with physicians and may refer clients to them if complications arise. Their scope of practice includes:

- Prenatal care;
- Education and counseling regarding pregnancy, birth, and infant care;
- Continuous support during labor;
- Delivery of the baby;
- Care of the newborn;
- Postpartum care of the mother;
- Family planning services

How do midwives practice?

● Midwives may practice independently or in groups with other midwives, physicians and other health care providers. Should deviations from normal occur, a midwife obtains consultation from a qualified physician and makes appropriate referrals. In an emergency, a midwife is trained and equipped to carry out life-saving measures.

Midwives may conduct deliveries in hospitals, birth centers or home settings. They are licensed to perform all of the procedures which may be necessary during the course of normal pregnancy, birth and the postpartum/newborn period, including the administration of selected medications.

How prevalent is midwifery practice in Washington?

● Since 1975, the proportion of midwife-attended births in Washington has increased more the 50-fold, from .07% of all births to 4.3% in 1988. Currently, this proportion is about 20% higher than in the United States as a whole.

In 1988, Washington's 200 midwives attended over 3000 births in 34 of the state's 39 counties. Two-thirds occurred in hospitals, while the remaining one-third were in homes and licensed birth centers.

Do medical insurance plans cover midwifery care?

● Most private insurance plans do reimburse for midwifery care, but coverage is not universal. Medicaid reimburses both Certified Nurse-Midwives and Licensed Midwives.

Can midwives obtain malpractice insurance?

● Malpractice insurance policies are presently available for both Certified Nurse-Midwives and Licensed Midwives.

What is the Midwives' Association of Washington State?

● The Midwives' Association of Washington State (MAWS), founded in 1983, is the professional organization representing the united efforts of the state's Certified Nurse-Midwives and Licensed Midwives. It has established standards for midwifery practice, adopted a procedure for peer review, provides continuing education opportunities and lobbies for various issues related to maternal and child health in the state.

22 March 1991

House Committee on Human Services
and Aging
State Capitol
Helena, MT 59620

Dear Representative:

I wish to submit written testimony in opposition to the lay midwife bill, Senate Bill 172.

I am Betty Hidalgo, a registered nurse from Great Falls. My professional background and experience is obstetrics and gynecology. I have been a Head Nurse and Clinical Specialist in obstetrics and have assisted in setting up educational programs for nurses in the Great Falls area. Currently, I am employed as an OB-GYN nurse in a multi-specialty clinic and part-time as a supervisor in a local hospital.

I oppose the term "direct entry midwife". This is misleading to the general public who do not necessarily know that their care will be given by a **LAY MIDWIFE**.

It has been stated that lay midwives will deliver low-risk infants. I know how difficult it is at times to assess the position of the infant during labor. The unanticipated emergent situations that arise at the time of delivery can lead to infant distress and death if not treated immediately. Predicting an obstetrical emergency is not something that can be learned by observing a few deliveries and reading a few books.

I have a deep concern that no one is advocating for the unborn child. By not providing the best care for the unborn child, is not one guilty of child abuse or certainly child neglect? Let us as a state insure health care for all pregnant women, infants, and children by looking at issues and reforms to:

- Expand Medicaid coverage for all pregnant woman and children up to 185% of the federal poverty level;
- Assist businesses with providing comprehensive health insurance coverage through premium subsidies, tax credit incentives, or the establishment of small business insurance pools;
- Streamline the Medicaid eligibility process and create a single point of entry for all related maternal and child health programs and services;
- Make programs accessible by providing transportation and child care, expanding service hours, and establishing nontraditional service sites in the community; and

House Committee on Human Services & Aging
Page Two

EXHIBIT 19
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SB 172

- Encourage women to obtain early and continuous prenatal care through public awareness campaigns, home visiting, patient education, and resource mothers.

The long-term goal is for healthy families, and to make them responsible and functional Montana citizens.

Licensing lay midwives will not assist in caring for pregnant women, nor is it the answer to access to care. My grandmothers received the kind of care proposed in SB 172; they would have preferred better care for themselves and their infants. By licensing lay midwives, we are taking a step backward. Please evaluate on a personal basis the type of care you would like to have for your wife, children or grandchildren.

I charge you as our legislators to do the best for Montana's future generations. Let us not go backward in time, but together to forward to give Montanans good **healthy** beginnings.

Thank you for your careful consideration of this matter.

Sincerely,

Betty Hidalgo

Betty Hidalgo, R.N.

BH/jp

EXHIBIT 20
DATE 3-22-91
88994

Montana Children's Trust Fund

P.O. Box 5930
Helena, Montana 59604

To: House Human Services Committee
March 22, 1991

TO: SENATE FINANCE AND CLAIMS COMMITTEE
FROM: MIKE MALES, CHILDREN'S TRUST FUND BOARD
RE: TESTIMONY IN SUPPORT OF SB 284
13 February 1991

Board of Directors

Dollean Lind,
Hardin

Richard Kerstein,
Billings

Gaylord Walls,
Havre

Mike Males,
Bozeman

Randy Koutnik,
Great Falls

Arnie Hove,
Circle

Darlene Downen,
Kalispell

I appreciate the opportunity to appear before this committee on behalf of the Montana Children's Trust Fund board of directors in support of Senate Bill 284, by Senator Dorothy Eck. SB 284 would allow the trust fund board to hire its own staff should the need arise. The board administers around \$100,000 in grant monies from income tax checkoff, divorce fees, federal Challenge Grants, and donations biannually for community programs to prevent child abuse. The board has no plans to hire any staff at this time. We would, however, appreciate the flexibility provided by SB 284 to hire minimal administrative staff as other volunteer state boards now have should we be successful in securing additional income.

Our research indicates that Montana has one of the nation's highest reporting rates for child abuse and neglect, with some 10,000 reports made annually and 5,000 substantiated by investigators. This is 60% higher than the per-capita rate of states with similar reporting criteria. Whether this indicates a higher level of child abuse here, better reporting, or both, the critical need for additional child abuse prevention services is clear. Deterring child abuse is a much cheaper and happier outcome than treating its results. We receive grant requests from worthy applicants many times in excess of what we can fund.

We plan to pursue additional funding sources in the coming year. If we are successful, administration of higher funding contingent upon grant contract specifications would overwhelm our volunteer board. We currently receive capable clerical assistance from the Department of Family Services, but this assistance does not include administrative duties. In order to minimize public money spent on staff, the board has given initial approval to a by-law limiting administrative expenditures -- including all board and staff expenses -- to a maximum of 15% of the state funds flowing into the trust fund. We would appreciate your approval of SB 284 to allow us minimal staff expenses. Thank you, and please contact us if you have any questions.

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT 21

DATE 3-22-91

HB 994



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

TESTIMONY ON HOUSE BILL NO. 994 - DHES
PUBLIC SWIMMING POOL AND PUBLIC BATHING AREA LICENSURE

50-53, MCA gives joint authority to state and local health authorities who participate on a voluntary basis. Voluntary inspection programs are practiced in 46% or 26 counties with 20 counties which either inspect public pools on a complaint basis only or do not inspect pools at all, 4 of which serve 26.4% of Montana's population (1990 census). Current FCSB resources are 1 - .25 FTE to providing direct service and local program support. There may be as many as 1200 public swimming pools and public bathing areas (PSP/PBA) statewide of which ~600 are associated with public accommodations. There are no accurate listings for these facilities. PSP/PBA are major attractions for tourists and Montana citizens. Tourists want high quality facilities and without a uniform minimum inspection program there is no assurance this is provided.

Public health risks occur from either the design and construction (DC) of the facility or the operation and sanitary condition of the facility (especially water quality [WQ]). DC & WQ deficiencies result in injuries and death. 19 Public Pool deaths and at least 4 serious Public Pool injuries have been reported which have resulted in at least 2 lawsuits with a combined settlement of \$2,000,000 have been documented from 1978 - 1990. There are at least 2 unresolved death and injury investigations which may result in lawsuits.

Minimum program requirements would be set by statute. Facility licensure fees would be based upon estimated costs to provide a minimum inspection program to establishments. A base fee of \$75/facility with 85% (\$63.75) deposited in the local board inspection fund to support local inspection programs and 15% (\$11.25) deposited in a state special revenue account to be allocated to DHES for needed program development and support of local inspection programs. Facilities also licensed as Public Accommodations would be assessed a fee of \$50/facility with 85% (\$42.50) for local programs and 15% (\$7.50) for DHES program development and support. A late license renewal fee penalty of \$25/facility would be assessed.

HB994 provides a licensure program similar to 50-50, 50-51 and 50-52, MCA with amendment and new sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14. Sections 15 and 16 include provision for civil penalties and the means for cost and expense recovery for either state or local programs. Section 17 provides accountability for fee monies paid to local governments through the local board inspection fund.

The licensure program would become effective with calendar year 1992 with late license fee assessment leniently applied. There is no current intent to alter construction/operation rules which would require further PSP/PBP "grandfathering". Definition of PSP/PBP facilities has been covered by Opinion No. 18 of Vol. 39 from the Montana Attorney General's Office.

DHES requests a "do pass" as introduced committee report. Thank you.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Mitzi A. Schwab".

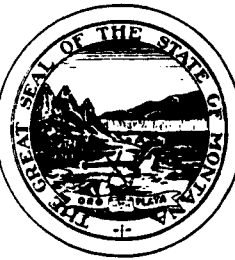
Mitzi A. Schwab

Food and Consumer Safety Bureau

Telephone: 444-2408

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT 22
DATE 3-22-91
HB 994



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Testimony on HB 994

Chairperson Russell and members of the committee, I'm Cal Campbell, R.S., Public Health Sanitarian Consultant at the Department of Health and Environmental Sciences for over 20 years. I've been here long enough to compare the development of local inspection programs to raising my own family.

In the '70's there were many new local sanitarians and I had young kids. In the '80's they were like teenagers, knowing everything and doing their own thing and I had teenagers. It is very gratifying to see the local programs develop. They're willing now to listen, accept uniformity of efforts, provide education and service to industry and to only use enforcement as a very, very last resort to protect public health. My kids now say, "You were right, Dad." This bill will do what is needed to assist local governments to help themselves in providing better government at the local level. I'm providing examples of statewide local support for this bill from the attached sources.


Cal Campbell, R.S.


444-2408

CC/vdt-14xt

DISTRICT SANITARIAN
RICHLAND AND McCONE COUNTY HEALTH DEPARTMENTS

221 5th St. S.W. Sidney, MT 59270 Phone: 406 482-2207

MEMORANDUM

TO: Betty Lou Kasten
FROM: Kelly Logan, R.S. 
DATE: March 22, 1991
SUBJECT: House bill 994

Please support house bill 994 which requires licensing of public swimming pools. This bill will be heard in the House Human Services Committee on March 22 at 3:00 p.m. An aggressive inspection program will improve safety and sanitation found in our public pools. Items that need to be checked in our pools are water quality (pH, free chlorine, clarity), recirculation and filtering equipment, disinfection equipment, safety equipment, the pool environment, and the operator records. There is a definite hazard to the public no disinfection is present or when the main drain is not visible.

We have been fortunate that the operators of the pool in Circle are knowledgeable in the operation and maintenance of their pool. They have been doing an excellent job. This bill would exempt from licensing public pools that are political subdivision of the state but would require the pools to comply with health and safety requirements.

I encourage your support of this bill.

BIG HORN COUNTY

HARDIN, MONTANA 59034



EXHIBIT 22
DATE 3-22-91
HB 994

TO: Representative Angela Russel

I support HB 994 -- Public Swimming Pool Licensure.

Licensing Public Pools will strengthen our ability to protect the public from unsafe and unhealthy conditions via a thorough, routine inspection process.

Sincerely,

Craig P. Taft, R.S.
Health Department
Environmental Section
Hardin, MT 59034

for 3-21-91



EXHIBIT 22
DATE 3-22-91
HB 994

MEMORANDUM

To: House Human Services Committee Member
From: Doug Kikkert, R.S.
Date: March 21, 1991
Subject: H.B. 994 Public Swimming Pool Fees

I am Doug Kikkert, Environmental Health Specialist with the Missoula City-County Health Department. I am offering testimony to support a fee schedule to be used for public swimming pool inspection and enforcement.

A \$75 fee for pools not associated with a public establishment and a \$50 fee for those associated with a licensed public accomodation will enable the state to better monitor compliance with existing pool regulations. Because of lack of funding those regulations are unenforced at the local and State levels.

Liability for a recent diving accident related to a swimming pool in the state. Conditions of the pool were not verified because of lack of funding. The claimant is now pursuing civil action for damages and the State Health Department or local health department is not able to certify safe conditions in that particular pool. Other conditions in pools and spas of health clubs and public accommodations are not known because of lack of staffing. This is the real reason why our department is not better able to serve the public in providing safe and healthy environments in public pools and spas.

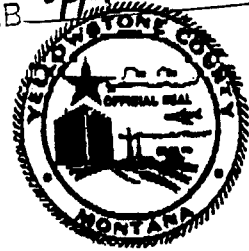
It is in the best interests of Public Health to further our efforts in swimming pool design and operation and I feel the proposal presented in H.B.994 will enhance greatly our efforts in monitoring dangerous and unhealthy conditions in public facilities that offer a bathing /swimming option to the public. This becomes particularly important in preserving the confidence of the tourist industry. Otherwise they may be discouraged from traveling to this the "Last Best Place".



County of Yellowstone

CITY-COUNTY HEALTH DEPARTMENT

EXHIBIT
DATE 3-22-91
HB 994



POST OFFICE BOX 35033
BILLINGS, MONTANA
59107

March 21, 1991

Dear Representative Arlene Becker,

The Yellowstone City-County Health Department supports House Bill 994. It is strongly recommended that this bill be approved by the House Human Services Committee as submitted.

Sincerely
Ted Kylander, R.S.
E.H. Program Manager

EXHIBIT 22
DATE 3-22-91
HB 994**Montana Environmental Health Association**

March 21, 1991

Angela Russell, Chairman
Human Services and Aging
Capitol, Room 312-B
Helena, MT 59620

Dear Chairman,

The Montana Environmental Health Association endorses House Bill 994 concerning the licensure of swimming pools. This bill will clarify existing rules and will enhance the inspection process by sanitarians at the county level. The association strives for pools that are operated in healthful and safe manner, uniformity in inspections, education of pool operators and with the passage of house bill 994 this task will become more manageable.

The Montana Environmental Health Association urges the committee to give a due pass recommendation for house bill 944.

Sincerely,

Tim Read

Tim Read, President
Montana Environmental Health Association



EXHIBIT 22
DATE 3-22-91
HB 994

Flathead City-County Health Department

723 5th Ave. East • Kalispell, Montana 59901
Environmental Health Services 756-5632 • Community Health Services 756-5633

DATE: March 21, 1991
TO: Thomas Lee
Human Services and Aging Committee
FROM: Flathead City-County Board of Health

The Flathead City-County Board of Health supports the revisions to the Swimming Pool and Spa regulations proposed as House Bill 994. 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.
- 3) Establish license fees to offset the cost of administering the program at the state and local level.

We believe that this program provides a basic public health service that must be available to all people who reside in this county as well as to the people who visit our community. We further believe that the costs of providing our services must not be shouldered entirely by the taxpayer, but should be borne by the businesses providing the pool and spa facility.

We urge your support of the legislation introduced as House Bill 994.

Respectfully submitted,

Jane Lopp, Chairperson
Flathead City-County Board of Health

EXHIBIT F24
DATE 3-22-91
994

State of Montana

County of Gallatin

Bozeman



March 22, 1991

The Honorable Representative Wilbur Springs

Dear Representative Springs,

House Bill 994, dealing with the licensing of swimming pools and spas, will come before the House Natural Resources Committee. This office urges your support of this bill.

Many diseases can be spread in improperly treated swimming pools. Licensing these pools along with scheduled inspections will minimize the chance of contracting infections.

Again, this office feels this bill is needed and would appreciate your support.

Thank you,

Justin Buchanan

Justin Buchanan R.S.
Gallatin County Sanitarian

EXHIBIT 23
DATE 3-22-91
HB 994

DATE: MARCH 22, 1991

TO: HOUSE HUMAN SERVICES COMMITTEE

FROM: MELISSA L. TUEMMLER, R.S., GREAT FALLS

DEAR COMMITTEE MEMBERS:

MY NAME IS MELISSA TUEMMLER, I AM A REGISTERED SANITARIAN EMPLOYED BY CASCADE COUNTY AT THE CITY-COUNTY HEALTH DEPARTMENT. I ASK THAT YOU SUPPORT HB 994, THE BILL REQUIRING LICENSURE OF PUBLIC SWIMMING POOLS.

AS A COUNTY SANITARIAN, I AM REQUIRED TO INSPECT PUBLIC SWIMMING POOLS AND SPAS. THE INSPECTIONS AND INVESTIGATION OF COMPLAINTS PERTAINING TO POOLS AND SPAS DEMAND A LOT OF MY TIME, AS WELL AS THE TIME OF MY CO-WORKERS. POOLS AND SPAS REPRESENT A SIGNIFICANT PUBLIC HEALTH RISK DUE TO DISEASE TRANSMISSION AND SAFETY CONCERNS. THE LICENSE REQUIREMENT OF THESE FACILITIES WOULD ALLOW LOCAL HEALTH AUTHORITIES TO ADEQUATELY ENFORCE REGULATION OF POOLS AND SPAS. THIS BILL ALSO ESTABLISHES FEES TO SUPPORT THE LOCAL INSPECTION PROGRAM.

PLEASE VOTE IN FAVOR OF HB 994.

THANK YOU.

Amend HB 994, first reading bill:

1. Page 6, line 19
Following : "of"
Strike: "\$75"
Insert: "\$40"
2. Page 6, line 22
Following: "is"
Strike: "\$50"
Insert: "\$40"
3. Page 7, line 13
Following: "deposit"
Strike: "15%"
Insert: "6% of the fees into the general fund, and 9%"
4. Page 13, line 14
Following: "violation."
Strike: remainder of line 14 and all of line 15
5. Page 14, line 2
Following: "may"
Insert: ", in a case of wilfull disregard or contumacy,"

EXHIBIT 25
3-22-91
994

Amendments to House Bill No. 994
First Reading Copy

For the Committee on Human Services and Aging

Prepared by David S. Niss
March 22, 1991

1. Page 13, lines 14 and 15.

Strike: "Each day of violation constitutes a separate violation."

2. Page 14, line 2.

Following: "may"

Insert: ", in the case of an intentional violation of 50-53-101
through 50-53-109 and [sections 4 through 17],"

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

1 of 2

Human Services & Aging

COMMITTEE

BILL NO. SB172

DATE 3-22-91

SPONSOR(S) Sen. Svrcek

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Jim Kumbel	Public Safety Div. DDC	SB172	Informative	
Mona Jannasch	Midwifery Assoc.	SB 172		✓
Sarah Prohaska	MT Nurses Assoc	SB 172	✓	
Pete Burleigh	MMA	SB 172	✓	
Betty Hidalgo	self	172	✓	
Pamela Shore RN-JD.	MT. midwifery Association	SB 172		✓
Michelle Reed	MT Midwifery Assoc	172		✓
Dolly Browder	MT Midwifery Assoc	SB172		✓
R. Ehrke Cnly	Harmony Fam. Service	SB172		✓
Tammie Smith	MT. midwifery Assoc.	SB172		✓
Teresa Snyder	self (MMA)	SB172		✓
Larry Peterman	MT midwifery Assoc. self	SB172		✓

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

HOUSE OF REPRESENTATIVES

2 of 2

VISITOR'S REGISTER

Human Services & Aging

COMMITTEE

BILL NO. SB 172DATE 3-22-91SPONSOR(S) Sen. Svrcek

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
MaryAnne Braam	Montana Michigan			✓
Tom Petzak	Self			✓
Paulette Korman	mt council for Mat & Child Health		✓	
Kim Ronshaugen	self			☆
LORI A. SKYRUD	SELF	SB 172		☆
Forrest	Self			
Connie Rubens	self - midwives			X
Pamela Rose	MT Midwifery Assoc	172		X
Deb Corcoran	Self	172		☆
Jeanine Flaten	self	172		☆
JOE FORD	CITIZENS	172		✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Human Services & Aging COMMITTEE BILL NO. SB 284
 DATE 3-22-91 SPONSOR(S) Sen. Eck

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
RANDY KAUTNIK	CHILDREN'S TRUST FUND	284		✓
MIKE MILES	CHILDREN'S TRUST FUND	284		✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Human Services & Aging COMMITTEE BILL NO. HB 994
 DATE 3-22-91 SPONSOR(S) Rep. S.J. Hansen

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Mitzi Schwab	DHES	994		X
Joe Russell	FLATHEAD C-L HEALTH DEPT	994		X
Cal Campbell	Health & Env Sci	994		X
Stuart Daggett	MT Trucking	994	X	

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