MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By Chairman Dorothy Eck, on February 20, 1991, at 3:21 p.m.

ROLL CALL

Members Present:

Dorothy Eck, Chairman (D)
Eve Franklin, Vice Chairman (D)
James Burnett (R)
Thomas Hager (R)
Judy Jacobson (D)
Bob Pipinich (D)
David Rye (R)
Thomas Towe (D)

Members Excused: None.

Staff Present: Tom Gomez (Legislative Council).
Christine Mangiantini (Committee Secretary).

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

Announcements/Discussion:

HEARING ON SENATE BILL 369

Presentation and Opening Statement by Sponsor:

Senator Jacobson opened by saying this bill was requested by the American Lung Association, the American Cancer Society, the Children's Alliance and other organizations. The bill will ban the sale of tobacco to minors under the age of 18. She handed the committee members copies of Exhibit #1 which is a fact sheet and graph explaining the effects of smoking and the intent of the bill.

Proponents' Testimony:

The first witness to testify was Robert W. Moon, representing the Department of Health and Environmental Sciences. See Exhibit #2 for a copy of his testimony.

The second witness was Ellen Bourgeau, representing the Montana Parent/Teachers Association. See Exhibit #3 for a copy of her testimony.

The third witness to testify was Judy Gerrity, representing the Montana Children's Alliance. The Alliance is a coalition of seven organizations that have endorsed passage of this bill. She urged passage.

The fourth witness was Paulette Kohman, executive director of the Montana Council for Maternal Child and Health. See Exhibit #4 for a copy of her testimony.

The fifth witness was Betty Jean Wood, representing the American Cancer Society. She urged passage of the bill.

The sixth witness was Jerry Loendorf, representing the Montana Medical Association. He said the legislature first heard a bill prohibiting smoking about 15 years ago. At that time about half of the committee members lit up cigarettes and started smoking. Now it is rare. What has happened over the years is that people have become more educated about tobacco products. He said today there are less people smoking and everyone knows the dangers of using tobacco products. This bill will be helpful in limiting and preventing people from getting started before they have a chance of being fully educated about the harm.

Opponents' Testimony:

The first opponent was Jerome Anderson, representing the Tobacco Institute. See Exhibit #5 for a copy of his testimony. He said the industry supports the position of prohibiting the sale of tobacco products to children under the age of 18. He said they have sponsored HB 378 signed by 48 members of this legislative session. This bill effectively reaches the same end as SB 369. He said Senator Jacobson has been very cooperative and they have engaged in discussions since November, 1990. HB 378 is an industry bill and is reflective of that support. The use of tobacco products should be an informed choice. He said HB 378 is a more reasonable approach to regulation and more inclusive than SB 369. He asked the committee to adopt the House Bill.

The second opponent was Mark Staples, representing the Montana Tobacco and Candy Wholesalers and the Montana Tavern Association. He said the wholesalers sell the tobacco products statewide once they receive them from the manufacturers. They support and were asked to participate in the drafting of HB 378. Their are 11 wholesalers in Montana and each one operates in multi-county districts. To have to go to different standards from county to county and city to city would make their business very difficult. The Montana Tavern Association will be participatory as retailers.

Mr. Staples continued by saying in both bills they are going to be the people who have to monitor the sales and watch over vending machines. In that role the Association feels that HB 378 has plenty of teeth in it. To give anymore restrictions in fines and penalties would be overly punitive. Both clients support HB 378 and oppose SB 369. He said they hope the committee will take the best and most reasonable features of both bills and combine them.

The third opponent was Gene Phillips, representing the Smokeless Tobacco Council. He testified earlier this week for SB 332 which would ban the sale of tobacco products to persons under the age of 18. The differences between SB 332 and SB 369 are that SB 332 states it is illegal for the minors to purchase or otherwise obtain the tobacco products, the size of the fines and it does not provide for localized ordinances. He said he feels those provisions are preferable to the bill before the committee.

The fourth opponent was Charles Brooks, executive vice-president of the Montana Retailers Association. He said the responsibility should not be placed entirely upon the retailer. The young person who obtains tobacco illegally should also be held accountable. This is an adult problem. The retailers agree that tobacco should not be used by youngsters but it is a combined problem of many groups and the retailers should not bear the punitive punishment of this bill.

The fifth opponent was John Delano, representing Phillip Morris Company. He said they support not selling tobacco to minors and were participants in forming HB 378.

Questions From Committee Members:

Senator Rye asked if it would make more sense to make the age 19 because many high school seniors turn 18 during their last year in school and would be asked to give cigarettes to their under age friends.

The chairman recognized Jerome Anderson who said the constitution of the State of Montana sets the age of minority and adult.

Senator Rye asked about seeking a constitutional amendment.

Senator Jacobson said you could but it is a complicated process.

Closing by Sponsor:

Senator Jacobson thanked Mr. Anderson and others for being cooperative and allowing her to see their bills. She thanked him for his exhibits. The organizations she is carrying the bill for think it is important to have a license and a fine and a revocation of the license to make the bill effective. That is a big difference between the two bills.

Senator Jacobson continued by saying regarding the vending machines, she said they have amendments prepared which would put that section of HB 378 into her bill. Regarding the preemption clause it was felt it was a matter of local control.

Missoula presently has a clause on their books which is more stringent than the bill. The most compelling issue is that proponents and opponents are in favor of banning the sale of tobacco to minors.

Chairman Eck said SB 369 is a revenue bill and therefore does not have to be passed out of committee before February 22. She said HB 378 is on the way to the Senate.

HEARING ON SENATE BILL 371

Presentation and Opening Statement by Sponsor:

Senator Jacobson opened by saying this bill mandates health insurance. She said she realized that is a red flag to a number of people and asked the committee to look beyond that. She said there is a hodge podge of mandated benefits in Montana that were permitted on a first come first serve basis. There is a compelling need and reason to put some well baby insurance mandated benefits in Montana. She said we have seen what has happened in other states. One of the latest studies suggests that the average premium would be about $1.77. This bill will mirror the program that is presently offered to state employees. The immunization clinics are under funded. The people that are caught in the middle are those who are on limited incomes and have an insurance policy that does not cover this area. That is the target population whose needs we would like to meet. If parents do not take their children to a pediatrician but go to an immunization clinic they will not receive proper screening which is cost-effective. Children receiving one preventive visit in a calendar year have total health care costs under Medicaid which are 30 percent less than children not receiving the visit. She said this bill provides coverage that is good preventive medicine and Montana would realize a cost savings in children's health care in the future.

Proponents' Testimony:

The first proponent to testify was Paulette Kohman, executive director of the Montana Council for Maternal and Child Health. See Exhibit #6 for a copy of her testimony and handout's.

The second witness was Dr. Jeff Strickler, a pediatrician in Helena and past president of the Academy of Pediatric. He said this bill is right for children. Children are not getting their fair share of the health care dollar. They put more money in than they get out of health insurance. This is not a new concept. State workers get $75.00 per year for well child care.

Dr. Strickler continued by saying welfare clients get their well child care paid for in full. The Health Maintenance Organization provides well child care for their clients. He said it seems only reasonable that the children in the middle get the same advantage. It works and is not available to the working parent. The Well Child Clinic in Helena is open from 2:00 p.m. to 5:00 p.m. on Wednesday. We are talking about people employed. This is not a good time to get immunizations because you have to leave work. If you are only open those hours you are not going to service much of the population. Well child care is not readily available at public agencies, it is good for public health and good for society. He urged passage.

The third witness was Ellen Bourgeau, representing the Montana Parent/Teachers Association. She said two years ago they were asked to support a similar effort. She is a mother of five children and one of the parents caught in the middle. She has had 23 foster children and she is currently taking care of three nieces and nephews. She is fully aware of the costs and the number of times children need preventive treatment.

The fourth witness was David Evidson, representing the University System Employee Benefit Plan. There are approximately 12,000 members on this plan. They currently have a well child benefit program. They pay up to $250.00 to age 2. He did not find any child that had used the total allowance. Last year they spent approximately $35,000 on this benefit for approximately 140 children. If the benefit is expanded to include children from ages 3 to 5, he estimated that additional costs will not exceed $10,000. When you consider the fact that about $10 million is spent on total health claims, this amount of money is of no comparison. Their experience with well baby insurance has been positive and is worthy of the committee's consideration.

The fifth witness was Judy Gerrity, representing the Montana Coalition of Healthy Mothers, Healthy Babies. She said they are in strong support of any measure that encourages health care for children.

The sixth witness was Judith Carlson, representing the Montana Chapter of the National Association of Social Workers. She said they are strongly in support of this bill. Preventive care is better for people and saves money.

Opponents' Testimony:

The first witness was Chuck Butler, representing Blue Cross/Blue Shield. He said he could not echo more strongly the opening comments of Senator Jacobson when she talked about the hodge podge of mandates. He said they also agreed that it is too bad this mandated insurance did not get on the books several years ago. He said he is opposed to the bill on the basis that it is a mandated benefit.

He said Blue Cross/Blue Shield operates the only health maintenance organization (HMO) in Montana. The program has been in operation for 4 years and is in 13 communities covering over 7,000 people. There are nearly 80 physicians with the HMO and wellness programs are paid for. We are able to provide that type of coverage at a premium that is affordable is because of a highly managed care approach, using primary care physicians. Unfortunately, the program is unavailable in Bozeman and Billings. The reason is because they are unable to persuade the physician's in the communities to participate. His company testifies every year on mandates and this is the first time when a proponent for a mandate actually acknowledged that it will cost a few more dollars. It is about $1.75. There are 141,000 Montanans without health insurance, 20 percent of the population. About 100,000 Montanans are self-insured. Those groups have chosen to self-insure to avoid mandated benefits and a host of other regulations. This legislation does not impact those persons. The number one competitor for Blue Cross/Blue Shield are those persons uninsured. Two years ago their were 100,000 Montanans uninsured. Today their is 140,000. Four years ago Blue Cross/Blue Shield covered 46 percent of the population. Almost 40,000 people have dropped coverage and are uninsured today. He said they oppose the bill only on the basis that it is a mandated insurance.

The second witness was Tom Hopgood, representing the Health Insurance Association of America. He said he supports healthy children. He echoed the comments made by Chuck Butler. Mandated health insurance benefits drive the cost up of all health insurance. As this happens people are driven out of the market. He said he thinks well child coverage is great. But it is also great if you break your leg and can go to a doctor and have your health insurance pay for it. People are driven out of the market by the cumulative effect of mandated benefits. He said he did not think that was good social policy.

The third witness was Steve Tourquitz, representing the Montana Auto Dealers Association. He said they are in the health insurance business for their dealers and employees. Several years ago the legislature was discussing mandated benefits. At that time the Association had gone through three years of no premium increases. That was a good record. In 1990 the premium increase went up 104 percent. He will soon sit down with his claim representatives and his trustees and discuss the premiums and claims. He hopes his premiums equalled or exceeded the claims. They have lost 300 employees over the last years on the insurance policy. No one is against healthy babies. He is bothered by page 1 line 25 through page 2 line 3 of the bill, he said this is the first time services are delineated under state policy.

Due to time constraints the chairman asked the remaining opponents to stand and introduce themselves:

The fourth witness was Larry Akey, representing the Montana Association of Life and Health Underwriters.

The fifth witness was James Tutweiler, representing the Montana Chamber of Commerce.

Questions From Committee Members:

The chairman recognized Senator Pipinich who asked Chuck Butler about the state insurance plan.

Mr. Butler said they administer the state plan under competitive bid. The state program has a benefit of $75.00 for well baby care from 0 - 12 months. In year 2, another $75.00 or a total of $150.00 for the first 2 years.

Senator Towe asked if there was any mandated coverage he would agree to.

Mr. Butler said if there are mandated benefit's that deserve consideration they are mammograms and well child care. As he indicated the HMO covers both.

Closing by Sponsor:

Senator Jacobson closed by saying that well baby care is well defined as to the needs of the child unlike other mandated benefits to persons that become ill. You can define what is reasonable for a child. Well baby care really isn't what would drive up the costs of a premium. The babies won't come in as sickly as often as babies that do not get that kind of care. The federal government is going in the direction of well baby care through the mandates of the Medicaid program. You have seen that well baby care is included in the state plan for mandated coverage. Everyone rates well baby care as a high priority of that basic insurance package. She told the committee she would have amendments.

HEARING ON SENATE BILL 372

Presentation and Opening Statement by Sponsor:

Senator Jacobson opened by saying this bill was requested by her daughter who is presently teaching at a daycare center and she wanted to know why the State of Montana is not mandating the common bacterial meningitis vaccine. This is the most common bacterial meningitis in children from the ages of 2 months to 5 years of age in the United States. The onset can be sudden and the symptoms are those of fever and vomiting.

Progressive stupor or coma is common. The infection agent may also cause pneumonia and infections in other body systems such as blood, joints, bones and soft tissue. The occurrences are most prevalent in the 2 month to 3 year age group. The peak incident in the U.S. is in children 6 - 12 months of age. About 12,000 cases occur in the U.S. each year. Secondary cases may also occur in families in daycare centers. Montana has reported approximately 70 cases since 1986. That may sound like a small amount but one child in 20 dies of it and one out of four suffers permanent brain damage. Fifteen states require proof of immunization for admission to licensed daycare centers. This bill is asking that proof of immunization be offered both in a preschool setting and in a licensed daycare in Montana.

Proponents' Testimony:

The first witness was Dr. Jeff Strickler, a physician from Helena and representing the Montana Chapter of the American Academy of Pediatrics. He said the bacteria that Senator Jacobson discussed, is treatable and preventable. He said he supported the bill. The immunization rates for children after they enroll in school are excellent because of the statutory obligation of the rules written by the Department of Health. This is a small children's disease, the infection occurs primarily before age 5. It is a serious disease, untreated most cases go on to death or severely handicapped conditions. It can be treated by antibiotics. At least 10 percent of the children die, 40 percent are brain damaged and may be deaf. The immunization became available in 1984. Prior to that time the incidents in Helena were between 6 to 8 cases per year in Shodair Hospital. Now there is less than 1 per year because of immunizations. It works and it makes sense.

The second witness was Paulette Kohman, representing the Montana Council for Maternal and Child Health. She said they support this bill.

Opponents' Testimony:

The first witness was Les Conger, representing the Christian Science Churches of Montana. See Exhibit #7 for a copy of his testimony. He said he would like to see an amendment that would provide a religious exemption.

Questions From Committee Members:

Senator Towe asked Senator Jacobson if she agreed with Mr. Conger's religious exemption recommendation.

Senator Jacobson said she agreed. In the case of a preschool it would be inserted into the rules applying to immunizations for schools. In the case of daycare, we inserted it into their licensing requirements.

Senator Jacobson said if the Department of Health is willing to add this to their rules then the committee can drop that section of the bill. If it is done by rule instead of by law than we can strike section 3 in it's entirety.

The chairman recognized Dick Paulsen, representing the Department of Health who said he had a draft of the daycare rules and it follows the same wording for use of religious exemptions.

Closing by Sponsor:

Senator Jacobson closed by thanking the committee for a good hearing.

HEARING ON SENATE BILL 393

Presentation and Opening Statement by Sponsor:

Senator Ed Kennedy opened by reading from Exhibit #8.

Proponents' Testimony:

The first witness was Roger Tippy, representing the Montana State Pharmaceutical Association. See Exhibit #9 for a copy of his testimony.

Opponents' Testimony:

The first witness was Rose Hughes, executive director of the Montana Health Care Association. She said she would prefer to testify as neither an opponent nor a proponent. She said they have concerns but not an official position. SB 393 goes beyond the scope and requirements of the federal law. The nursing home community is concerned about the patient counseling aspect of the bill. Logistically, it appears that the provisions in this bill apply to hospitals and nursing homes. If you have 100 or 200 patients who are on a variety of drugs prescribed by doctors and the prescriptions are sent to the pharmacy, they are delivered to the patients and administered by the nursing staff and at what point will the pharmacists come to the nursing home and counsel all the patients. How will this work in an institutional setting. There are very stringent federal regulations relating to drug regiment and review. They have licensed pharmacists as consultants who review the medications on a monthly basis. They are concerned this will be another layer of regulation.

The second witness was Steve Meloy, Bureau Chief of the Professional and Occupational Licensing Bureau, Department of Commerce. He said his interest is fiscal in nature. He said the title suggests they will be required to license out-of-state mail service pharmacy's and he expressed his concern to the sponsor of the bill. There has not been a fiscal note requested.

Questions From Committee Members:

Senator Towe asked Mr. Meloy about the fiscal impact.

Mr. Meloy said it would depend on whether the reporting requirement in Section 4, line 6, is deleted. That would dramatically reduce the fiscal impact. They are looking at about $4,000 each year if that section were included. This could be raised by a license fee in the amount of about $275.00.

Senator Pipinich said we were only talking about $4,000.

Mr. Meloy said that was true. We are understaffed and overworked and have over 45 bills that affect our bureau. If all pass we would have seven more people and almost $400,000 of appropriation authority. He said at the end of the session he will have to go to Senate Finance and Claims and piece together the increased amount of work and try and get more FTE's. Without the reporting requirement in the bill the fiscal impact would be less than half of $4,000.

Senator Hager asked Senator Kennedy about patient counseling by pharmacists. He said he takes quite a few different medications and wanted to know about the tracking system.

Senator Kennedy said most towns do not have interaction between pharmacies. He said it is best to deal with just one pharmacy. He said it is fairly easy to keep track of the prescription drugs a person ingests but it is harder to keep track of over the counter drugs and their interaction with the prescription drugs.

Senator Towe asked if the persons selling out-of-state who are located within the State of Montana are adequately covered in the bill.

The chairman recognized Warren Amole, executive director of the Board of Pharmacy. He said that does come up. The one's shipping would be the individual pharmacy's and it is occasional. The facilities addressed by the bill are the American Association of Retired Persons pharmacies that are registered around the country. There are nine other major players in this field and they have 25 facilities in 11 states. The one's performing these functions in-state are the patients of a pharmacist that leave the state during a seasonal period. The National Association of Boards of Pharmacy have approved a resolution that was used as a definition of patient counseling. He said patient pharmacy counseling shall not be required in an institutional setting where a health care professional is authorized to administer the medications. This set of regulations will be offered to the various states and hopefully it will streamline the regulations.

Closing by Sponsor:

Senator Kennedy thanked the committee for a good hearing and asked the committee to look favorably on the bill.

HEARING ON SENATE BILL 408

Presentation and Opening Statement by Sponsor:

Senator Keating opened by saying this bill was introduced at the request of the Department of Institutions in order to address changes in the laws concerning community mental health centers. Certain federal regulations and other changes in state law need addressed through new language in the codes which could be accomplished by amending in certain definitions and clarifications of procedure and duty.

Proponents' Testimony:

The first witness was Dan Anderson, administrator of the Mental Health division, Department of Institutions. See Exhibit #9 for a copy of his testimony.

The second witness was Kathy McGowan, representing the Montana Council of Mental Health Centers. She said they are in full support of the bill and worked with the Department of Institutions. They checked with the organization regularly and were fully cooperative. She urged passage.

The third witness was John M. Shontz, representing the Mental Health Association of Montana. He urged passage.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Towe asked Mr. Anderson why he was deleting 'pre care and after care'.

Mr. Anderson said it was never clear what the language was intended to provide. In the proposed definition they included areas like 'day treatment services'. All of these categories cover pre-care and after care.

Senator Towe asked the same question to John Shontz and Kathy McGowan.

Mr. Shontz said there are several bills that are adding to the statutes the services actually provided by the Department.

Mr. Anderson said pre-care services include services that try to prevent out-of-hospital services. He said the out-patient and day treatment areas cover this.

Chairman Eck asked about (b) the 24-hour per day emergency care and wanted to know if that included crisis intervention.

Mr. Anderson said it was covered.

Closing by Sponsor:

Senator Keating closed by thanking the committee for a good hearing.

EXECUTIVE ACTION ON SENATE BILL 408

Motion:

Senator Towe moved to pass SB 408 without amendments.

Discussion:

None.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

There being no objection the motion carried.

ADJOURNMENT

Adjournment At: 5:30 p.m.

Dorothy Eck

SENATOR DOROTHY ECK, Chairman

Christine Mangiantini

CHRISTINE MANGIANTINI, Secretary

DE/cm

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 2/20/91
BILL NO. SB 369

Fact Sheet

SB 369

The Problem:

-- 1,500 Montana residents die prematurely each year from the effects of tobacco use.

-- 90% of adult smokers started smoking as children or adolescents, 60% by age 16.

-- Each day, more than 3,000 American teenagers start smoking.

-- The U.S. Surgeon General has stated that tobacco is as addictive as heroin or cocaine.

-- Smoking kills more Americans each year than alcohol, cocaine, crack, heroin, homicide, suicide, car accidents, fires, and AIDS combined.

-- Montana is one of only five state that does not prohibit the sale of cigarettes and other tobacco products to minors.

-- Only consumer product, when used as intended, kills!!

Key Features:

-- create a licensing system under which the store may sell tobacco to adults only if it avoids making sales to minors. Signs stating that sales to minors are illegal would be required at all points of sale.

-- provide separate penalties--monetary fines and license suspensions--for illegal sales so that owners and employees face punishment proportionate to their violation of the law.

-- rely primarily on state administered civil penalties to avoid the time delays and costs of the court system, but allow use of local courts to assess sines, similar to traffic enforcement.

-- ~~ban the~~ restrict use of vending machines to dispense cigarettes.

-- set the age of legal purchase at 18.

-- minimize burdens on retail outlets, as requiring identification only for those who are not clearly above the age of 18, allowing drivier's license as proof of age, and setting a nominal penalty for the first violation.

Exhibit #1
2/20/91 SB 369

Advantages:

-- a decrease in smoking related diseases resulting in lower medical costs to society.

-- decreasing the availability of a highly addictive product to children.

-- prevents youngsters from becoming addicted adults and becoming a medical burden to society.

Issues:

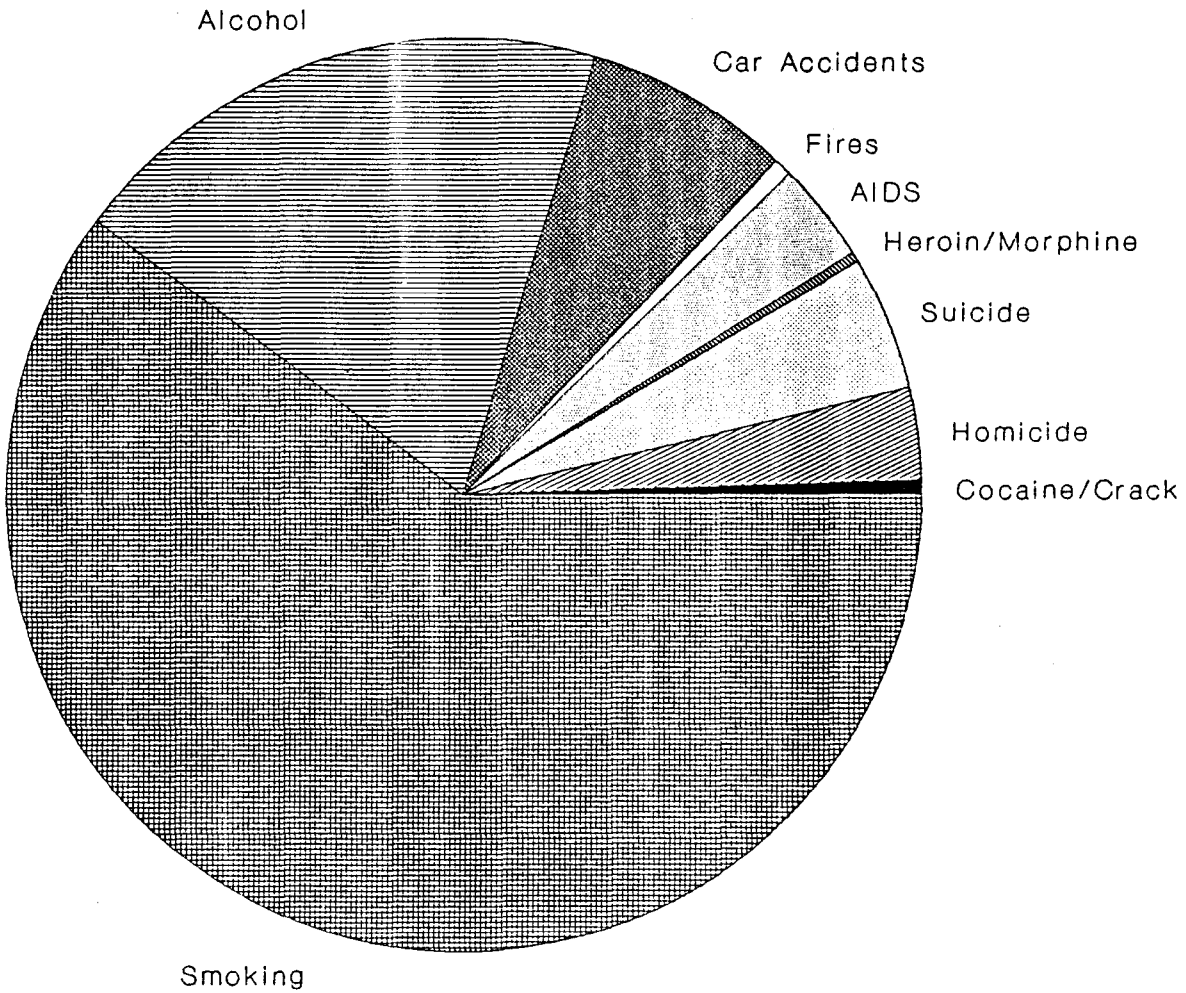
-- where state and local officials take their responsibilities seriously, and devise enforcement tools which are workable and effective, these laws can be effectively enforced.

-- elimination of this addictive substance will do a great deal to enhance the length and quality of life in Montana.

-- the primary purpose of a statewide tobacco control law is to set minimum public health standards that local governments can enforce and improve upon. To do otherwise would strip localities of their long cherished ability to protect their citizens from serious public health threats. Local governments should have the ability to enact additional measures if needed to stop the sale of tobacco products to persons under 18 years of age.

-- vending machines are an open invitation for children to experiment with tobacco products. Tobacco vending machines should be restricted to places where children are prohibited from entering.

Smoking Kills More Americans Annually Than All of These COMBINED



APPROXIMATE NUMBER OF DEATHS:	
Smoking	390,000[1]
Alcohol (including drunk driving)	125,000[2]
Car Accidents (including drunk driving)	47,000[3]
Fires	4,000[3]
AIDS	23,000[4]
Heroin/Morphine	2,400[5]
Suicide	31,000[5]
Homicide	21,000[5]
Cocaine/Crack	3,300[5]

[1]1989 Surgeon General's Report, 1985 data

[2]Surgeon General's Office, 1985 data

[3]National Safety Council, 1989 data

[4]Centers for Disease Control, 1989 data

[5]National Center for Health Statistics, 1987 data

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 2/26
BILL NO. SB 369

SENATE HEALTH & WELFARE
EXHIBIT NO. 2
DATE 2/20
BILL NO. SB 369

Testimony Before the Senate Committee on Public Health, Welfare, and Safety
SB 369
February 20, 1991

Madam Chairperson and Members of the Committee: I am Robert W. Moon, Manager of the Chronic Disease Prevention and Health Promotion Program at the Montana Department of Health and Environmental Sciences.

Tobacco use remains the single, most important preventable cause of death. Smoking is directly responsible for about 434,000 deaths in the US and 1,500 deaths in Montana annually; thus, we can fairly blame tobacco for more than one of every six deaths. In a time that this country is in war, it is astonishing to realize that the number of Americans who die each year from diseases caused by consumption of tobacco exceeds the number of Americans who died in all of World War II, and this toll, unfortunately, is repeated year after year.

Though cigarette smoking among teens in Montana is below the national average, smokeless tobacco consumption among male teens is one of the highest in the nation. Unfortunately, teens continue to start smoking in their youth and become addicted for life. In fact, 90% of adult smokers began their addiction as children or adolescents. The younger a person is when they start to smoke, the more likely they are to become a long-term smoker and to develop smoking related diseases. Preventing youth from taking up the tobacco habit is far more cost effective than treating the addiction later in life, and far less expensive than treating the resulting diseases.

Unfortunately, we as a society do not take the problem of tobacco use as seriously as we should. We've all seen the constant news items about the impact of tobacco. Yet, we allow a constant barrage of tobacco advertizing that portrays tobacco as safe, sexy, and sophisticated, themes which appeal strongly to impressionable adolescents. And, we have found it convenient to look the other way as tobacco products are openly sold to our youth.

In the studies we have observed, the findings are clear and simple. Youth can easily buy tobacco products anytime they want and that is unacceptable. The seemingly effective laws have been at the community level and include licensing of tobacco vendors and revocation of licenses for violations, civil rather than criminal penalties for violators, use of "stings" to identify illegal sales, posting of signs at points of sale, and bans or restrictions on vending machines. Above all, the communities have found that leadership by government officials accompanied by local support and commitment are vital.

Our young people deserve the a comprehensive bill. Their lives and their future depend on it. Please vote in favor of SB369!!!!

Exhibit # 2
2/20/91 SB 369

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MONTANA CONGRESS OF

PTA

PARENTS AND TEACHERS

TESTIMONY S.B. ~~350~~ 369

Public Health, Welfare, and Safety

SENATE HEALTH & WELFARE
EXHIBIT NO. 2
DATE 2/20
BILL NO. SB 369

Chairman Eck and Members of the Committee;

I am Ellen Bourgeau, legislative coordinator for the Montana Congress of Parents and Teachers. We are better known as the PTA and we are the largest child advocacy organization in the state. I represent our 10,000 members. The welfare and safety of children and youth is at the heart of all we do and say. It is one of our goals to secure adequate laws for the care and protection of children and youth.

Positions of the Montana PTA are not contrived or developed upon a whim. Through the democratic processes at our state and national conventions, we determine the stand we will take on such issues as the sale of tobacco products to minors. Issues brought for consideration to the floor of the convention must be carefully researched and documented. The list of issues worthy of PTA activity is lengthly; so we prioritize and the issue before you in S.B. 369 was selected as one of our top five concerns, as well it should be. The selling of tobacco products to minors must be stopped for the sake of our children and youth.

There is good reason to believe that teenage smoking rates are rising. According to a recent Gallup Poll, 13% of teenagers aged 13-17 were regular smokers, compared with only 10% a year before. According to C. Everett Koop, we add 3,000 more to that number every day.

One of the two most important environmental factors that influence adolescents to use tobacco is easy access. It assures that they can obtain tobacco despite what the law says, what their parents want, or in the case of peer pressure. So long as the nation's tobacco distribution network is allowed to sell lethal, addictive drugs to children with impunity, we will not be effective in reducing the drug addiction among our young people.

Vending machines are one means of easy access and they send a message that cigarettes are no more dangerous than candy. Indeed, increasingly vending machines are located in restaurants, bowling alleys, gas stations and other locations that attract lots of young people. We do not allow alcohol to be sold via vending machines, although it is still legal for adults. We should not tolerate cigarettes, which are more addictive and cause greater overall social and human harm to be indiscriminantly sold to children in this manner.

This brings me to the reason we support this bill. Cigarettes are still the most commonly used drugs in adolescence even though smoking will eventually kill more of our young people than any other drugs. The younger a person is when he/she begins to smoke, the more likely he/she will be to die of lung cancer.(1989 Surgeon General's Report) Research has also identified tobacco as a gateway drug, or entrance ticket to the drug scene at large. Starting

Exhibit # 3
2/20/91 SB 369

in the early teens or pre-teens, youngsters usually try beer or wine first, then cigarettes, followed by marijuana, psychedelics and other illicit substances in the late teens and early twenties. (K.H. Ginzel, M.D.)

Please put our children first...before business... and vote to support this bill.

Thank you for your time.

Ellen Bourgeau
1111 Eaton
Missoula, MT 59801
728-6059

NATIONAL PTA
700 NORTH RUSH STREET
CHICAGO, ILLINOIS 60611-2571
(312) 787-0977

Exhibit #3
2/20/91 SB 369

R E S O L U T I O N

SALE OF TOBACCO PRODUCTS TO MINORS

WHEREAS, Tobacco use is the most common form of drug addiction, causing disease and one of every four deaths in the United States; and

WHEREAS, Ninety percent of smokers began smoking as minors; sixty percent by the age of 14; and

WHEREAS, Approximately 4,000 American children become tobacco users every day with 13 as the average age they begin smoking and 10, for using snuff; and

WHEREAS, Minors have no difficulty purchasing tobacco products; and

WHEREAS, Many states have laws prohibiting the sale of tobacco products to minors; therefore be it

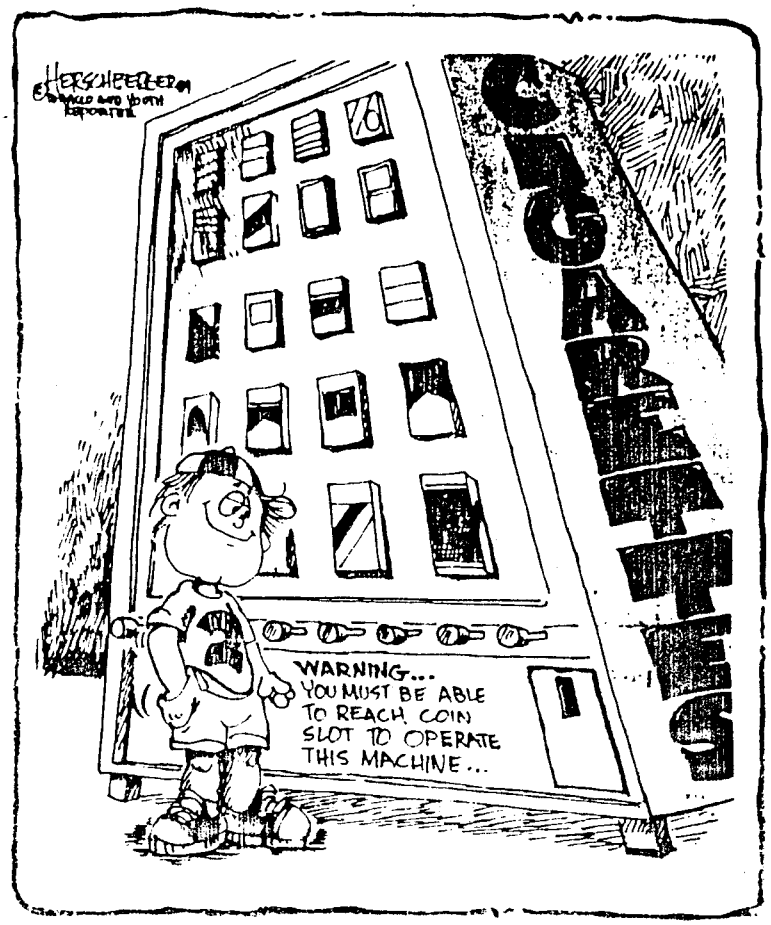
Resolved, That the National PTA urge its constituent bodies to seek the cooperation of their local law enforcement agencies to enforce existing laws regulating the sale of tobacco products to minors; and be it further

Resolved, That the National PTA urge its constituent bodies to encourage state governments that do not currently have laws relating to limiting the sale of tobacco products to minors to enact such laws; and be it further

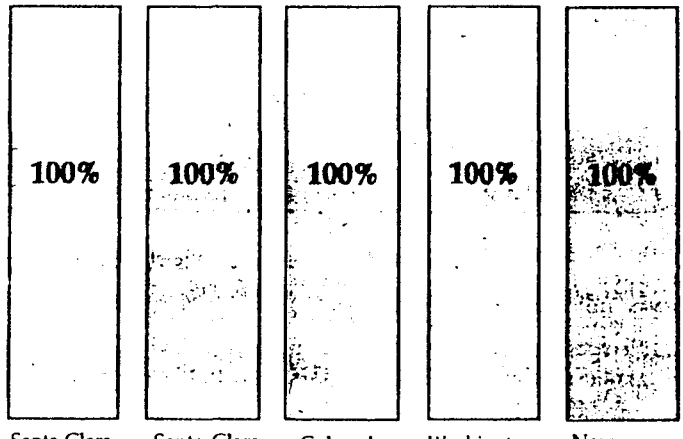
Resolved, That the National PTA encourage its constituent bodies to seek state legislation that penalizes merchants who violate laws relating to the sale of tobacco products to minors either through retail sales or from vending machines and adults who furnish or buy tobacco products for minors; and be it further

Resolved, That the National PTA urge its constituent bodies to seek the support of the business community in complying with the existing laws and appealing to them to voluntarily support parents in their efforts to assure the well-being of their children.

Exhibit #3
2/20/91 SB 369



100% OF VENDING MACHINES SELL CIGARETTES TO CHILDREN



The evil sought to be reached by forbidding the sale of cigarettes in automatic vending machines was the purchase of cigarettes by immature minors. Automatic vending machines, in order to achieve their purpose, namely, dispensing with salesmen and making facile the purchase of goods without the intervention of human service, are placed in localities easily accessible to the public, are inanimate and automatic, and respond equally efficiently to coins placed therein by a boy or girl as to coins inserted by an adult.

From a 1937 decision by the Seventh Circuit Court of Appeals up-

SENATE HEALTH & WELFARE
EXHIBIT NO. 4
DATE 2/20
BILL NO. SB 369

Montana Council for Maternal and Child Health

The Voice of the Next Generation
in Montana's State Capitol

2030 11th Ave., Suite 10 Helena, MT 59601 (406) 443-1674

TESTIMONY FOR THE SENATE PUBLIC HEALTH COMMITTEE
Re: SB 369, TOBACCO SALES TO MINORS
Date: February 20, 1991

The Montana Council for Maternal and Child Health. a non-profit public policy research, education, and advocacy organization, supports SB 369 as a tool for local communities to use in combating the problem of youth addiction to tobacco products.

SB 369 provides a basic set of regulations banning the sale of tobacco to minors in Montana, and restricting their access to vending machines, which are a major source of tobacco products for young people in Montana. In a cooperative scheme of enforcement, the bill allows local civil authorities to impose fines for violators, and backs up their efforts with license revocations at the state level for repeat offenders.

Because violations occur at the local level, local regulation and enforcement are the most effective tools to combat sale of tobacco products to minors. SB 369 provides a basic set of restrictions, and allows local authorities to exercise their inherent powers to add to this "floor." The city of Missoula, for example, could use its local authority to go beyond the requirements of SB 369 and ban cigarrette vending machines within the city limits, but also use the new enforcement provisions to address violations of the statewide act.

Because vending machines are notorious for their anonymous sales to youngsters, SB 369 restricts their use to locations where minors are not likely to be. In places open to the public, their use must be directly supervised by the proprietor or an employee. The bill makes a resasonable accomodation to the occasional slipup by exonerating a licensee for sales made without his or her knowledge if there is a plan to prevent such sales in effect.

SB 369 is a good preventive measure to limit the number of teen smokers who will become the addicts of Montana's next generation. We urge you to vote to pass SB 369.

Respectfully Submitted,

Paulette Kohman

Paulette Kohman
Executive Director

Exhibit #49
2/20/91 SB 369

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 20 day of Feb., 1991.

Name: Betty Jean Wood

Address: 1615 Cleveland
Helena MT 59601

Telephone Number: 443-4432

Representing whom?
American Cancer Society

Appearing on which proposal?
SB 369

Do you: Support? X Amend?____ Oppose?____

Comments:
ACS supports all measures to reduce chances of teenagers starting smoking

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Jerome Anderson

SENATE HEALTH & WELFARE
EXHIBIT NO. 5
DATE 3/20
BILL NO. 369 SB.

DIFFERENCES BETWEEN SB 369 AND HB 378

Licensing

Tobacco retailers are now required to obtain a retail license (Section 16-11-120 and Section 16-11-122, MCA). The license fee for a retailer of tobacco products is $10. This license requirement also covers vending machine operators. SB 369 provides that the retailer and vending machine operators obtain a license. This requirement is not necessary because such licenses are now required.

Sales To and Purchases by Minors

Both HB 378 and SB 369 prohibit sales of tobacco products to minors under the age of 18.

Only HB 378 makes it unlawful for a minor to purchase or receive a tobacco product or sample.

Distribution of Samples to Minors

HB 378 prohibits distribution of "samples" of tobacco products to those under 18. SB 369 does not contain any such prohibition.

HB 378 also makes it illegal for distributors to distribute samples of tobacco products in or on any public park, street, or sidewalk within 500 feet of the center of youth activities. SB 369 does not address this matter.

Vending Machines

HB 378 limits the places where tobacco products may be sold through vending machines to specific locations and areas.

SB 369 does not address the location of vending machines.

Signing

Both HB 378 and SB 369 require posting of signs stating that sales of tobacco products to minors is illegal.

Persons Responsible

SB 369 would charge the person making the sale of a tobacco product to a minor with the violation and would penalize such person. The license holder would not be held responsible if the sale was without the knowledge of the license holder and if the license holder could show that he had a system in place to prevent such sales.

HB 378 would also hold the person making the sale or distributing the sample responsible. The employer would not be held responsible unless the sale or distribution of the tobacco product was ordered

or knowingly allowed by the employer. HB 378 would make the owner of an establishment where vending machines are located responsible for a sale to minors through a vending machine unless that owner has made an employee responsible for supervising the machine. In that case, the employee would be responsible unless the owner ordered or knowing allowed the sale.

Identification

HB 378 defines a driver's license or other generally-accepted means of identification that contains a picture of the individual and that appears on its face to be valid as proof of age. It further provides that the seller must require proof of age from a prospective purchaser or recipient if an ordinary person would conclude, on the basis of appearance, that the purchaser may be under 18. Reasonable reliance upon proof of age and a reasonable belief that a person appears to be 18 are defenses to prosecution.

SB 369 provides that if there is a reasonable doubt as to the purchaser's age, the seller shall require presentation of a driver's license or other generally-accepted identification that includes a picture of the purchaser.

Prosecution of Minors

HB 378 provides that minors who violate the act may be prosecuted under the "Montana Youth Court Act."

SB 369 makes no provision for prosecution of a minor since it contains no restrictions against the purchasing of tobacco products by minors.

Penalties

Both bills provide for civil fines and dollar amounts with the amounts of the fines increasing for more than one violation within specified periods of time.

SB 369, however, is more punitive in that it calls for license suspensions for periods up to 18 months depending upon the number of violations within specified time periods.

SB 369 also provides that if civil penalties are imposed for three or more violations at each of three or more premises under common ownership or control, all licenses issued to all premises under that common ownership shall be suspended for a period of 9 to 18 months. Such provisions would affect such chains as Buttrey, Safeway, Albertson's, convenience store chains, Town Pump, and more.

HB 378 does not contain such punitive provisions.

Preemption

HB 378 provides for uniformity of the law throughout the state by stating that a local government, including one with self-governing powers, may not regulate sales of and distribution of samples of tobacco products to minors.

SB 369 would allow a local government, by ordinance, to adopt regulations on sales of tobacco products to minors which regulations are more stringent than the state act.

This provision in SB 369 would result in a hodgepodge of local laws on the subject.

Conclusion

We believe that SB 369 is unreasonably punitive in its provisions regarding license suspension.

We believe that SB 369, by not addressing the matter of sampling, and not addressing the supervision at all of vending machines, omits necessary provisions.

We respectfully submit that HB 378 provides the more reasonable and consistent approach to the matter of sales and distribution of tobacco products to minors and urge your support of HB 378 and rejection of SB 369.

Jerome Anderson
Representing the Tobacco Institute

Mark C. Staples
Representing The Montana Association of Tobacco and Candy Distributors

John Delano
Representing Phillip Morris Ltd.

Roger W. Tippy
Representing R.J. Reynolds

Gene Phillips
Representing The Smokeless Tobacco Council

COMMENTS OF PROPONENTS OF HOUSE BILL 378

H.B. 378 is proposed and supported by the Tobacco Industry in Montana in realization of the fact that Montana is one of only four states of the 51 states and the District of Columbia that does not have any restriction on the sale of tobacco products to minors. The Tobacco Industry has conducted and is conducting an active national campaign to support restrictions on the sale of tobacco products to those under 18 years of age, and this legislation is offered in Montana to further that effort.

Restrictive laws are in effect in other states as follows:

- Three states set a minimum of age of 19 years.
- Thirty-six states set a minimum age of 18 years.
- Four states set a minimum age of 17 years.
- Three states set a minimum age of 16 years.
- One state allows local option.

H.B. 378 not only covers the sale of cigarettes but also the sale and "sampling" of all tobacco products. The legislation would prohibit the sale of tobacco products or distribution of samples of tobacco products to those under 18 years of age.

H.B. 378 prohibits the distribution of samples of tobacco products within 500 feet of a center of youth activity.

H.B. 378 limits places where tobacco products may be sold through vending machines to:

(a) factories, businesses, offices, and other places not open to the general public;
(b) places to which persons under 18 years of age are not permitted access;
(c) places where alcoholic beverages are offered for sale; and
(d) places where the vending machine is under the supervision of the owner or an employee of the establishment.

H.B. 378 provides civil penalties for the knowing or purposeful retail sale or distribution of a tobacco product in violation of the act or failure to request proof of age as required by the act as follows:

$100 for the first conviction;
$500 for a conviction preceded by a conviction within the past 365 days; and
$1,000 for a conviction preceded by two convictions within the past 730 days.

If a sale in violation of the act is made through a vending machine, the owner of the establishment in which the vending machine is located is guilty of an offense punishable by a penalty not to exceed $100, except that if the owner has made an employee

responsible for supervising the vending machine, the employee is guilty of the offense and is punishable by the same penalty unless the owner ordered or knowingly allowed the sale.

H.B. 378 requires that notice of the 18-year-old sale prohibition must be displayed in the establishment where tobacco products are sold, as well as on each vending machine located in the establishment. The penalty for violation of this part of the act is $200.

H.B. 378 provides for uniformity of the law throughout the state by providing for state preemption.

We would appreciate your support of H.B. 378

Jerome Anderson
Representing The Tobacco Institute

Mark C. Staples
Representing The Montana Association
of Tobacco and Candy Distributors

John Delano
Representing Phillip Morris Ltd.

Roger W. Tippy
Representing R.J. Reynolds

Gene Phillips
Representing The Smokeless Tobacco Council

Montana Council
for Maternal and Child Health
The Voice of the Next Generation
in Montana's State Capitol

2030 11th Ave., Suite 10 Helena, MT 59601 (406) 443-1674

SENATE HEALTH & WELFARE
EXHIBIT NO. 6
DATE 2/20/91
BILL NO. SB 371

TESTIMONY FOR THE SENATE PUBLIC HEALTH COMMITTEE
Re: SB 371, WELL CHILD INSURANCE
Date: February 20, 1991

The Montana Council for Maternal and Child Health. a non-profit public policy research, education, and advocacy organization, supports SB 371 as a partial solution to the twin problems of inadequate access to care for young children and very low immunization levels for Montana children under two years of age.

Our research into these issues began with national statistics showing that 10% of young children have no physician contact in the first two years of life. The Governor has estimated that 20% of Montanans have no health insurance, and 49,000 of these are children. Very young children who have no medical care are clearly medically neglected.

We proceeded with a study of the Montana immunization program. As you may know, Montana has been struggling to meet the immunization needs of its entire population with a federal grant which was intended to be supplemented with state funds. As a result, vaccine shortages have led to cutbacks in local public health immunization clinic hours and services.

When we looked at statistics maintained by the Department of Health and Environmental Sciences, we discovered that only 43% of Montana's two year olds have received the full schedule of immunizations recommended by the Centers for Disease Control. Recent recommendations for earlier vaccination for Hemophilus Influenza type "b" at 2 and 4 months of age have added to the woes of the public immunization program. Currently, public clinics serve only about 70% of the state's population.

When we talked to local health departments, again and again we learned that local physicians were routinely referring patients to the public health departments for immunization. Demand was increasing beyond supply. The department estimates that as many as 30% of current public health immunization clinic patients are referred from private physicians whose patients lack insurance coverage.

SB 371 is designed to target this very young and very vulnerable group of children for a vary specific series of health examinations and immunizations. Although it is an "insurance mandate," and sure to be opposed by the industry, it is actually designed to have minimal impact on premiums.

As the attached papers demonstrate, well-child health insurance programs are not expensive frills. In Florida, many insurance companies responding to a well-child mandate did not raise rates at all. The most current actuarial study, commissioned by the American Academy of Pediatrics, computes a rate of only $1.77 per month per covered employee for the added insurance this bill requires.

SB 371 is also designed to complement the Governor's "Healthy Montanans" insurance package for the uninsured. The bills in this package provide for immunization and well-child care as a basic component even of "no-frills" coverage.

By incorporating the EPSDT schedule of the state Medicaid program, SB 371 adopts a proven preventive health care program that the department of Social and Rehabilitative Services has studied in detail. When the department compared the total health care costs of children who participated in the EPSDT program (received at least one well-child screening in a calendar year) to those of non-participating children, it found the participating group had average medical care costs only 58% as high as the others, even including the cost of the exams.

Clearly, well-child care is an inexpensive and very important key to achieving freedom from preventable childhood diseases, and will go a long way to making Montana's next generation healthier, happier, and more productive.

Respectfully Submitted,

Paulette Kohman
Executive Director

SENATE HEALTH & WELFARE
EXHIBIT NO. 7
DATE 2/20/91
BILL NO. SB 372

STATEMENT

Senate Bill 372 to require children entering preschool and day-care to be immunized against meningitis.

My name is Les Conger. I am the Christian Science Committee on Publication for Montana. In this position I speak on behalf of those Montanans who are adherents of the Christian Science religion. One important part of my duties concerns legislation, that is watching proposed bills to insure the right of Christian Scientists to practice their religion free from restrictions or limitations.

I am grateful for the opportunity to make this statement today regarding Senate Bill 372. The author and sponsors of this bill obviously are concerned about the health of children in our pre-schools and day-care centers statewide and curbing the spread of disease. This bill would expand immunization requirements to include vaccination of preschool children and those entering day-care facilities against Haemophilus influenza type B. The provision for religious exemption from vaccination is maintained in the case of the pre-school requirement of Section 20-5-403. Our concern is with the day-care requirement of Section 52-2723. Here the bill omits the provisions for medical or religious exemption that are an important part of the code covering immunization of school children.

Since the 1989 Legislature was careful to protect the right of Montana citizens to freely practice their religion, and to provide their young children with the best protection against disease that they know of -- namely spiritual protection -- we believe that the 1991 Legislature intends to do no less. The inconsistency in the day-care section appears to be an ommission that would inadvertently impair the Constitutional rights of families that need day-care services when those same rights are protected for families with children in schools.

I respectfully request that Senate Bill 372 be amended to continue to protect religious rights in Montana. This could be done by amending the bill as follows:

Section 3. Section 52-2-723, MCA, is amended to read:

"52-2-723. Requirements for licensure.

(1)

(h) The applicant shall require proof that a child under 5 years of age has been immunized against Haemophilus influenza type "b" before admitting the child for care in the facility, unless exemption has been claimed.

(new)

(3) Religious exemption. When a parent, guardian, or adult who has the responsibility for the care and custody of a child seeking enrollment in day-care signs and files with the governing authority a written statement on an affidavit

form prescribed by the department stating that immunization is contrary to the religious tenets and practices of the signer, immunization of the child to be admitted to day-care may not be required prior to admittance for care in any licensed facility."

Your careful consideration of this request for an amendment will be sincerely appreciated by the Christian Scientists in this state.

SENATE HEALTH & WELFARE
EXHIBIT NO. 8
DATE 2/20
BILL NO. SB 393

Mme. Chair and Committee:

~~[illegible]~~ Senator Ed Kennedy

I introduced Senate Bill 393 at the request of the Montana State Pharmaceutical Association in order to respond to recent changes in the Medicaid law in a way which reflects some new trends in the practice of pharmacy. Today's pharmacist does a lot more than just mix potions or count out pills. The interaction with the patient who comes in to pick up his or her prescription is a very important part of the health care delivery system. Patient counselling helps to avoid adverse interactions between drugs, helps patients understand dosage instructions better, and so forth.

After federal health agencies estimated that incorrect medication was leading to enormous health care costs in terms of extra hospitalization and the like, Congress decided to combat mis-medication by requiring pharmacists to offer to counsel Medicaid patients when they dispense prescriptions. This was included in a provision of the budget bill enacted last October under the nickname of OBRA-90. This law requires each state to include in its Medicaid plan by January 1, 1993 counselling standards which govern the practice of pharmacy with respect to Medicaid patients. Section 1 of my bill is basically the same language Congress used in the OBRA-90 provision, except that it is not limited to Medicaid patients.

It is easy for the Board of Pharmacy to set counselling standards for pharmacists who deal with their patients face-to-face. However, many people now get their medications by mail. They send the prescription to a mail-order pharmacy in New Jersey or somewhere else out of state and a few days later the medicine shows up in the mailbox. Counselling should be available from that mail-order outlet through an 800 number, but the Board of Pharmacy has no current jurisdiction to enforce such a requirement.

Another part of the OBRA-90 mandate for counselling is that drug dispensing done in this remote manner have a toll-free number staffed by competent people a sufficient number of hours each week. Sections 2 through 8 of this bill would give the Board of Pharmacy authority to license out-of-state mail order pharmacy outlets.

SENATE HEALTH & WELFARE
EXHIBIT NO. 9
DATE 2/20
BILL NO. SB 408

TESTIMONY ON SB 408

BY DAN ANDERSON

SENATE PUBLIC HEALTH WELFARE AND SAFETY COMMITTEE

FEBRUARY 20, 1991

MADAM CHAIRMAN, MEMBERS OF THE COMMITTEE. MY NAME IS DAN ANDERSON. I AM ADMINISTRATOR OF THE MENTAL HEALTH DIVISION OF THE DEPARTMENT OF INSTITUTIONS.

THE PURPOSE OF THIS LEGISLATION IS TO CLARIFY THE MEANINGS OF SOME TERMINOLOGY IN THE STATE'S COMMUNITY MENTAL HEALTH CENTER LAWS, TO ELIMINATE SOME

INAPPROPRIATE AND MISLEADING TERMINOLOGY AND TO CLARIFY THE DEPARTMENT OF INSTITUTION'S ROLE AND AUTHORITY WITHIN THE COMMUNITY MENTAL HEALTH PROGRAM. I DON'T INTEND TO GO THROUGH EVERY AMENDMENT IN DETAIL ALTHOUGH I WOULD BE HAPPY TO ANSWER ANY QUESTIONS THAT MEMBERS OF THE COMMITTEE MAY HAVE.

HOWEVER, I WOULD LIKE TO HIGHLIGHT FOR YOU A COUPLE OF THE CHANGES PROPOSED BY THIS BILL.

STARTING ON PAGE 1, LINE 17 THROUGH PAGE 2, LINE 14, THE DEPARTMENT IS PROPOSING TO AMEND THE DEFINITION OF COMMUNITY MENTAL HEALTH CENTER. THIS CHANGE IS INTENDED FIRST OF ALL, TO MAKE CLEAR THAT COMMUNITY MENTAL HEALTH CENTERS ARE HEALTH CARE FACILITIES WHICH ARE LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES. SECONDLY, WE WISH TO DELETE THE REQUIREMENT THAT COMMUNITY MENTAL HEALTH CENTERS PROVIDE 24-HOUR INPATIENT CARE. THE CENTERS OBTAIN INPATIENT CARE FROM LOCAL

HOSPITALS AND IT IS NOT NECESSARY THAT THE CENTERS THEMSELVES PROVIDE THIS SERVICE. THIRD, THESE AMENDMENTS MAKE THE DEFINITION OF COMMUNITY MENTAL HEALTH CENTERS CONSISTENT WITH THE WAY THEY ARE DEFINED IN THE FEDERAL LAW WHICH PROVIDES FUNDING FOR THE COMMUNITY MENTAL HEALTH PROGRAM THROUGH THE DEPARTMENT OF INSTITUTIONS.

THE SECOND PART OF THIS BILL I WOULD LIKE TO HIGHLIGHT IS ON PAGE 3, LINES 6 THROUGH 8. THE DEPARTMENT HAS NEVER ENGAGED IN

SCIENTIFIC AND MEDICAL RESEARCH AND I DON'T BELIEVE THAT ANYONE SERIOUSLY THINKS THAT THAT IS THE ROLE OF A STATE AGENCY, THEREFORE, WE BELIEVE IT IS APPROPRIATE TO ELIMINATE THAT LANGUAGE.

THE THIRD CHANGE I WOULD LIKE TO EMPHASIZE FOR YOU IS ON PAGE 4, LINES 2 THROUGH 7. THESE ARE CHANGES TO WHAT ARE NOW NUMBERED SUBSECTIONS 6 AND 7. CURRENT LANGUAGE IN THE LAW WOULD IMPLY THAT THE DEPARTMENT HAS BROAD AUTHORITY TO ESTABLISH STANDARDS

AND EVALUATE PERFORMANCE OF A WIDE VARIETY OF MENTAL HEALTH PROGRAMS INCLUDING PSYCHIATRIC UNITS IN HOSPITALS, PRIVATE CLINICS, PRIVATE PRACTITIONERS OFFICES, ETC. AS A POLICY MATTER, THE DEPARTMENT HAS LIMITED THE SCOPE OF ITS AUTHORITY TO ESTABLISHING STANDARDS AND EVALUATING THE PERFORMANCE OF PROGRAMS WHICH RECEIVE FUNDS FROM THE DEPARTMENT. I BELIEVE THAT IS THE APPROPRIATE SCOPE OF OUR RESPONSIBILITIES AND THIS BILL WOULD MAKE THAT CLEAR.

THE PURPOSE OF THIS BILL IS NOT TO CHANGE THE COMMUNITY MENTAL HEALTH PROGRAM. THE PURPOSE IS SIMPLY TO CLARIFY THE LANGUAGE AND TO DESCRIBE ACCURATELY THE DEPARTMENT'S RESPONSIBILITIES AS THE STATE MENTAL HEALTH AUTHORITY.

THIS BILL HAS BEEN REVIEWED BY THE STATE MENTAL HEALTH PLANNING AND ADVISORY COUNCIL AND WAS UNANIMOUSLY ENDORSED BY THE COUNCIL AT ITS MOST RECENT MEETING.

I AM AVAILABLE TO ANSWER QUESTIONS THAT COMMITTEE MEMBERS MAY HAVE ABOUT OTHER PARTS OF THIS WILL WHICH I DID NOT DISCUSS.

THANK YOU.

Prospective Drug Utilization Review Requirement

(g) DRUG USE REVIEW.-

(1) IN GENERAL.-

(A) In order to meet the requirement of section 1903(i)(10)(B), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs in order to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results. The program shall be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs including education on therapeutic appropriateness, overutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse-misuse.

(B) The program shall assess data on drug use against predetermined standards, consistent with the following:

(I) American Hospital Formulary Service Drug Information;

(II) United States Pharmacopeia-Drug Information; and

(III) American Medical Association Drug Evaluations; and

(ii) the peer-reviewed medical literature.

(C) The Secretary, under the procedures established in section 1903, shall pay to each State an amount equal to 75 per centum of so much of the sums expended by the State plan during calendar years 1991 through 1993 as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of this subsection.

(D) States shall not be required to perform additional drug use reviews with respect to drugs dispensed to residents of nursing facilities which are in compliance with the drug regimen review procedures prescribed by the Secretary for such facilities in regulations implementing section 1919, currently at section 483.60

of title 42, Code of Federal Regulations.

(2) DESCRIPTION OF PROGRAM.-Each drug use review program shall meet the following requirements for covered outpatient drugs:

(A) PROSPECTIVE DRUG REVIEW.-(i) The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title, typically at the point-of-sale or point of distribution. The review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Each State shall use the compendia and literature referred to in paragraph (1)(B) as its source of standards for such review.

(ii) As part of the State's prospective drug use review program under this subparagraph applicable State law shall establish standards for counseling of individuals receiving benefits under this title by pharmacists which includes at least the following:

(I) The pharmacist must offer to discuss with each individual receiving benefits under this title or caregiver of such individual (in person, whenever practicable, or through access to a telephone service which is toll-free for long-distance calls) who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provisions of such information), the pharmacist deems significant including the following:

(aa) The name and description of the medication.

(bb) The route, dosage form, dosage, route of administration, and duration of drug therapy.

(cc) Special directions and precautions for preparation, administration and use by the patient.

(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

42 U.S.C. 1396r-8

(ee) Techniques for self-monitoring drug therapy.

(ff) Proper storage.

(gg) Prescription refill information.

(hh) Action to be taken in the event of a missed dose.

(II) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

(aa) Name, address, telephone number, date of birth (or age), and gender.

(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

(cc) Pharmacist comments relevant to the individuals drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.

MONTANA STATE PHARMACEUTICAL ASSOCIATION

PO Box 4718 · 1215 11th Avenue · Helena, MT 59604 · 406 449-3843

SENATE HEALTH & WELFARE
EXHIBIT NO. 9 B
DATE 2/26
BILL NO. SB 393

Statement of Roger Tippy
Representing the Montana State Pharmaceutical Assn.

Section 1 of the bill is, as Senator Kennedy has indicated, a paraphrase of the minimum counselling standards the Congress requires states to implement through their Medicaid programs. These standards should be, in our view, applicable to the practice of pharmacy generally. It does not seem proper to have one standard of practice for Medicaid patients and another standard for all other patients.

In the event there should be any difficulty in implementing these standards across the board, the bill has been drawn to give the Board of Pharmacy the discretion to adopt the standards for one or more classes of patients. However, we would anticipate that the Board could make a single set of standards applicable to all patients. The National Association of Boards of Pharmacy (NABP) has a model state regulation for pharmacist counselling as well as one for mail-order pharmacy regulation. Mr. Warren Amole from the Montana Board of Pharmacy will be able to discuss these model regulations with the committee.

The committee may wish to assure itself that the state of Montana has jurisdiction over a business located in some other state which has no agents in Montana and which merely ships medicines by mail to residents of Montana. Sections 2 through 8 of SB393 are modelled on statutes enacted by Idaho and Utah in 1989. A study soon to be published by Prof. Greg Munro of the University of Montana Law School on the subject of mail order pharmacy looked at the laws of 13 or 14 states which regulate out-of-state mail order pharmacy. Prof. Munro concluded that statutes such as Idaho's and Utah's were on the best constitutional ground. He found that there is no express preemption by Congress or by the

FDA. Congress is in fact inviting the states to impose their counselling standards outside their boundaries through the Medicaid program. The burdens on interstate commerce are more than balanced by the benefits to public health, welfare, and safety expressed in section 2.

STATE OF FLORIDA

DEPARTMENT OF INSURANCE

DIVISION OF RATING

REPORT ON THE IMPACT OF THE "CHILD HEALTH ASSURANCE ACT"

March 1990

Exhibit # 10
2-20-91 SB 408

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EXECUTIVE SUMMARY

The Florida Legislature passed the Child Health Assurance Act in 1986 and amended this act in 1988. The 1986 act required all individual and group policies and certificates that provide dependent health insurance in Florida to include coverage for child health supervision services. The 1988 amendment to the Child Health Assurance Act directed the Department of Insurance to conduct a study to determine the increase in premiums and utilization that have resulted from the enactment of mandated coverage for child health supervision benefits. This act specified that the Department's study "shall include actual premium increases, actual utilization, actuarial determination of the cost of the mandated benefits, and the experience in other states with similar benefits." This report to the Legislature addresses those questions.

The methodology for the Department's study was developed in conjunction/consultation with representatives from the insurance industry and pediatric associations. This report is designed to provide both background and specific information regarding premium increases, utilization, actuarial cost, and the experience in other states with similar benefits. Background information was provided by an extensive review of relevant literature, and specific information was provided by two surveys of insurers that operate in Florida.

The literature review found many studies that relate to the potential impact of mandated child health supervision benefits. Available literature suggests that mandated benefits may increase the utilization of covered health care services. Although, increased utilization may initially increase the cost of health insurance, proponents of mandated benefits for child health supervision services argue that increased use of preventive pediatric services should result in long range cost savings. Numerous studies based on social programs that have encouraged preventive pediatric care have reported considerable savings from

the prevention and early treatment of otherwise quite costly illnesses and disabilities. Comparable information on insured programs is not available because preventive pediatric care has not traditionally been covered by insurance.

Specific information on the cost and utilization of child health supervision benefits was provided by two surveys of insurers. The first questionnaire was sent to all companies that sell health insurance in Florida. The second questionnaire was sent to the ten largest insurers which were able to provide detailed information concerning their experience with insuring child health supervision services. Of these ten companies, four companies writing in total 27.68% of the market (none representing less than 1.5% of the market in terms of premium volume) were selected for the purpose of representing actual premium charges and actuarial cost estimates.

Examination of the actual premium increases, utilization, actuarial cost, and the experience of other states with similar benefits indicate that the impact of the Child Health Assurance Act has been rather minimal. First, most insurers (93.1 percent) did not charge an additional premium for child health supervision benefits. Secondly, the utilization of this benefit was quite low in comparison with the recommended visits by the American Academy of Pediatricians. Thirdly, the actuarially determined net premium based on actual claims incurred by insurers in providing this benefit was small ($11.58 annually for individual policies and $20.27 for group). Finally, comparison of data from Florida insurers with available information in other states raises questions regarding the limited impact of the Child Health Assurance Act in encouraging utilization of the child health supervision benefit.

The low utilization of child health supervision benefits found by this study indicates that the Child Health Assurance Act has not been successful in accomplishing one of its main purposes. When the Child Health Assurance Act was proposed, the designers felt it would encourage the use of preventive health services and thereby

improve the health of children and reduce the cost of acute health care services. Any long range savings cannot be realized if the preventive services are not utilized. The low utilization of child health supervision benefits in Florida is an area where further study may be needed.

The findings in this Report on the Impact of Child Health Assurance Act may only be indicative of the large societal challenge to encourage parental awareness of and alter parental care patterns in response to the benefits of preventive care for all our state's children. Increased public education, employer awareness of the corporate benefits to be gained by making workday time available for working parents to take children for scheduled preventive physician visits, the removal of co-pay disincentives, and the potential for a public-private partnership involving school site delivery of preventive health care programs may well warrant public policy focus in the very near future.

SENATE HEALTH & WELFARE

Premiums for Preventive Pediatric Care Recommended by the American Academy of Pediatrics

prepared by

Actuarial Research Corporation
6928 Little River Turnpike
Annandale, Virginia 22003

February 1991

Premiums for Preventive Pediatric Health Care Recommended by the American Academy of Pediatrics

The American Academy of Pediatrics (AAP) recommends periodic physician visits for preventive pediatric health care. These visits include physical examinations, height, weight and blood pressure measurements, patient histories, vision and hearing screening, immunizations, laboratory tests, accident prevention information and counselling. The Actuarial Research Corporation was retained by the AAP to develop cost estimates for adding the preventive care recommended by the AAP for children and adolescents to employer-sponsored group health insurance plans in January 1989. This report is a 1991 update to that previous study.

I. Summary of Results

The 1991 average monthly premiums to cover the AAP recommended preventive health services at projected participation rates are estimated to be $3.55 per family to cover ages 0-2 (children from birth through two years of age, $4.53 per family to cover ages 0-5 (children from birth through five years of age) and $6.16 per family to cover ages 0-21 (children and adolescents from birth through age 21). These are premiums for self-insured plans and large employers (with more than 500 employees) not requiring deductibles or coinsurance for preventive services. The family premium to cover immunizations is $1.83 per month. With an average demographic composition (56% of the employees choosing family coverage), it would cost $1.99 to cover children ages 0-2, $2.54 for ages 0-5, and $3.45 for ages 0-21 per insured employee each month to cover the entire

preventive health package and $1.02 for immunizations only. If some employees have coverage from another firm or are married to another employee in the same company, the average premiums would be lower. The effect of this duplicate coverage reduces the average premiums by 11% to $1.77 for ages 0-2, $2.26 for ages 0-5, $3.07 for ages 0-21, and $0.91 for immunizations. Table 1 summarizes these results.

These estimates were derived from the March 1988 UCR levels for physician visits, immunizations, and laboratory tests of nine Blue Cross and Blue Shield Plans distributed throughout all regions of the U.S, updated to March 1991. The age distribution for children and adolescents, the number of children per family and the percentage of employees opting for family coverage were obtained from the March 1989 Current Population Survey (CPS) of persons with employer or union sponsored health insurance. Participation rates were derived after reviewing data from a number of sources, but reflect the level that would be adopted by a prudent actuary facing uncertainty and are set accordingly at a conservative level. The estimates include an allowance for the additional administrative expenses that an insurance program would find necessary to add the preventive benefits.

In this report we also reviewed the premiums and benefits for preventive pediatric services offered by insurance companies and Blue Cross and Blue Shield plans for non-group individual insurance plans. The separate premiums charged by five insurance companies for non-group individual insurance range from $4.17 to $7 a month per child. At least one insurance company does not charge an additional premium. Some plans

Premiums for Preventive Pediatric Health Care

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Table 1

1991 Monthly Premiums for Preventive Care

	Per Family	Per Insured Employee	Per Insured Employee Adjusted for Duplicate Coverage
Ages 0 through 2	$3.55	$1.99	$1.77
Ages 0 through 5	$4.53	$2.54	$2.26
Ages 0 through 21	$6.16	$3.45	$3.07
Immunizations Only	$1.83	$1.02	$0.91

SENATE HEALTH & WELFARE
EXHIBIT NO. 12
DATE 2-20-91
BILL NO SB 408

TESTIMONY OF DENNIS J. MCCARTHY, M.D.
Senate Public Health Committee
SB 371, Well-Child Health Insurance
Wednesday, February 20, 1991

Madame Chairman and fellow senators - thank you for providing testimony today. My name is Dennis McCarthy. I am a pediatrician, who has practiced in Butte for the past 18 years. I am a member of the Montana Chapter of the American Academy of Pediatrics, an organization of 39,000 members who share a deep commitment to the health and well being of children. It is with this in mind that I submit my testimony in support of SB 371, mandating insurance coverage for health maintenance for children.

The intent of this legislation is to facilitate health care access for children in their formative first two years. One of three office visits for children under two years is for preventive care.[1] Despite this, ten percent of children from birth through two years had no physician contact.[2] Basic preventive services are excluded from nearly all private health insurers in this state except for the Blue Cross-Blue Shield HMO available in selected areas in this state. As a result, only an approximate 15% of families with insurance incur no out of pocket expenses for basic health services.[2] This lack of adequate insurance was found to correlate with children receiving inadequate well child care.[3]

This bill will obviously be criticized for placing an excessive tariff to existing insurance policies. As a small business person myself, I can appreciate the escalating cost of insuring my employees, and the effect that mandated benefits have contributed to this increase. Each mandate, however, should be judged on its merits. A recent actuarial study by the American Academy of Pediatrics revealed to provide coverage within the provisions of this bill is $3.55 per month per family.[4] Coincidentally a survey in this state disclosed that eighty percent of families were willing to pay an extra premium for their present policy, and of those responding positively seventy percent were even willing to pay an extra five dollars per month.5

Some may contend that the state well child clinics provide the service outlined in this bill. Well child clinics, however, are not as readily accessible and despite their availability only 43% of children had received their necessary immunization by age two years. This bill would help to counter that deficiency.

Lastly, are there tangible benefits to this bill? A resounding affirmative in reference to immunization, where the benefit:cost ratio is 10:1 for polio vaccine and 14:1 for measles immunization.[6,7] Undoubtedly this is the genesis of the U>S> Public Health Service recommendation that: By 1990, no comprehensive health insurance policies should exclude immunizations.[8] Comprehensive health care has also had measurable benefit resulting in fewer hospitalizations and fewer out-patient visits.[9,10] Less definable are the comfort a parent has in establishing a relationship with a health care provider of his or her choice to guide them through the forest of child rearing in time of health as well as disease. I would hope this is no more than you would want for yourself, your children, or grandchildren.

I hope you will vote affirmatively for SB 371.

Thank You

Dennis J. McCarthy, M.D.
630 W. Mercury
Butte, Montana 59701
(406) 723-4337

Exhibit # 12
2-20-91 SB 408

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SB 369, 371, 372 - Jacobson
SB 393 - Kennedy
SB 408 - Keating

DATE 2-20-91

COMMITTEE ON Public Health, Welfare & Safety

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Les Conger	Christian Science Churches of Montana	SB372		✓
Bob Moon	State Hosp Dept.	SB 369		
Ellen Bourgeault	Montana PTA	SB 369	✓	
Warren Arndt	Bd of Pharmacy	SB393		
B Q Wood	Am Cancer Soc	SB 369		
Dan Anderson	Dept. Institutions	SB408	✓	
Kathy McGowan	MCMHC	"	✓	
Brendan Kenneyfick	~~State Dev. Com. Office~~	SB 371		
Lynne Anderson	Montana Assn of Realtors	SB369		✓
Mark Staples	MWhelan	SB369		✓
Judy Garrity	Healthy Mothers, Healthy Babies Montana Children's Alliance	SB 371 SB 369	✓	
Charles R. Brooks	MT Ret Ph Assoc	369		✓
Laurie Shadoan	Bozeman Chamber	369		✓
Jim Tutwiler	MT Chamber	SB 371	✓	✓
Ellen Loendorf	Mt. Med Assn	369	✓	
J.H. STRICKLER MD	Academy of Pediatrics	369 371 372	✓	
Gregory A. Van Hoosen	HIAA	SB 371		✓
GENE PHILLIPS	STC	SB369		✓
John Delano	P.M.	369		X
WARREN AKEY	MT ASSOC OF LIFE UNDERWRITERS	SB371		X
ELLEN BOURGEAULT	MPTA	SB371	✓	
Tom Hopgood	Health Ins Assoc America	SB371		✓
Mark Bott	BCBSMT	SB371		✓
Judith Carlson	MT Chpt NASW	SB 369 371	✓	
Roger Tippy	R J Reynolds	SB369		✓

DATE 2-20-91

COMMITTEE ON Public Health

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Roger Tippy	Mt-St. Pharmaceutical Assn	SB393	X	