

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Eleanor Vaughn, on January 29, 1993,
at 10:00 a.m.

ROLL CALL

Members Present:

Sen. Eleanor Vaughn, Chair (D)
Sen. Jeff Weldon, Vice Chair (D)
Sen. Harry Fritz (D)
Sen. John Hertel (R)
Sen. Bob Hockett (D)
Sen. Bob Pipinich (D)
Sen. Bernie Swift (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: Sen. Burnett

Staff Present: David Niss, Legislative Council
Deborah Stanton, Committee Secretary

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

Committee Business Summary:

Hearing: SB 213
Executive Action: SB 100, SR 2

HEARING ON SB 213

Opening Statement by Sponsor:

Sen. Pipinich, Senate District #33, presented SB 213. SB 213 would provide for inclusion of smoking areas in newly constructed buildings for the receipt of tobacco tax revenue. Most of the buildings in the State of Montana do not have adequate smoking areas. \$21 million is brought into the state through tobacco tax revenue every year but the department heads do not provide smoking areas.

Proponents' Testimony:

Rex Manual, representing Phillip Morris spoke in favor of SB 213. The cigarette tax has built a lot of buildings in Montana. Smokers essentially built these buildings and they should be allowed to smoke in the buildings. He urged support of SB 213.

Sen. Pipinich asked to have the bill delayed because some of the proponents could not be here.

Opponents' Testimony:

Debra Fulton, Administrator of General Services Division, Department of Administration, spoke in opposition to SB 213. This bill is a direct contradiction to the public policy of the State of Montana to protect non-smokers from the hazardous health effects of second hand smoke. It also denies the purpose of the Montana Clean Air Act. The fiscal note to this bill does conclude that there is no cost to the long range building program. That is not where we stop when we look at the expense associated with this bill. If agencies who are remodeling buildings have to provide smoking areas, that is going to result in expense to that agency. One of the problems with the bill is it only provides for a ventilating smoking area, not a comfortable smoking area for smokers. What the bill does not provide is protection for non-smokers against exposure to second hand smoke. SB 213 does not clear up the confusion that exists in the implementation of the current statute. While on line 23, page 5, he appears to try to indicate that the areas cannot be designated as smoking areas, it seems that on page 6, line 7 some of those areas are still allowed. There are good points about not discriminating against smokers, but unfortunately our legal obligations appear to protect non-smokers. In order to protect non-smokers and accommodate smokers it's going to cost money. Second hand smoke has been classified class A carcinogen by the EPA. This bill will result in increased costs to state agencies at a time when they are asked to cut back on essential services. Ms. Fulton also represents the School Board Associations. Many schools are tobacco free and that is an important example to children. The Montana School Board Association also rises in opposition to SB 213.

Don Waldron, representing the Montana Rural Education Association, spoke in opposition to SB 213. He urged the committee to exempt schools from this provision. He opposes the bill based on that reason.

Will Selzer, Lewis and Clark County Health Department, spoke in opposition to SB 213. He stated second-hand smoke kills people. He submitted written testimony (EXHIBIT #1).

Dave Evenson, University System, stated they have concerns with the bill. He would like an amendment to regulate smoking where it is not compatible to the function of the buildings.

Questions From Committee Members and Responses:

Sen. Weldon asked Sen. Pipinich about the right of the people who smoke and pay tobacco tax and help pay for the building of public buildings in some way have the right to smoke in those buildings. He asked for Sen. Pipinich to expand on that argument. Sen. Pipinich said there are people who literally sit in closets to smoke. They need a designated smoking area. That's the purpose of the bill, to make a comfortable smoking area.

Sen. Weldon said the bill would affect his particular firm. This bill is not good public policy.

Sen. Pipinich said his bill is not designated for the school system. He does not want to see children use tobacco products, however, there are teachers who would like to smoke and have to go outside to do so. If the school systems want to put in a designated smoking area they can; if they don't want to they don't have to.

Sen. Hockett asked Sen. Pipinich if this bill would affect private employers. Sen. Hockett said he does not hire people who smoke because of the fire hazard. Sen. Pipinich said there was a bill just passed for harassment so he said Sen. Hockett falls under that category. Sen. Hockett asked if it is mandated that private employers must have a designated smoking area. Sen. Pipinich said Stone Container, Bonner, Plum Creek Companies called and asked that private employers be added to the bill because there are not designating smoking areas to the people for their breaks. Stone Container went out of their way to make their seven smoking area comfortable.

Sen. Hockett asked if this bill applied to smokeless tobacco. Sen. Pipinich it is tax revenue from all tobacco products.

Sen. Hertel asked Sen. Pipinich about the lack of an attached fiscal note and yet there have to be rooms properly equipped for smokers. Sen. Pipinich said he requested a fiscal note. Sen. Hertel said the cost of fans for 2400 buildings adds up. Sen. Pipinich replied a \$59 fan is better than \$600 for the other bill involved (SB 100).

Sen. Hertel stated the teachers can go outside to smoke and people have accepted that.

Sen. Pipinich said the educational community must not be too concerned about this bill because Nancy Keenan is not here.

Sen. Hockett asked if the person from the Architectural & Engineering Division would comment on the cost involved. The person from A & E said there would be a cost involved. Putting a fan in a window would not provide the architecturally appropriate area the bill requests. There would be a cost attached to the bill but not to the long range building program.

Sen. Weldon commented state operating budgets would have to provide the resources needed to develop this. The comfortable space will cost money.

Sen. Swift asked the architectural engineer about the cost of SB 100. The engineer stated the cost would vary from several hundred to several thousand dollars with each building.

Sen. McClernan asked Ms. Fulton about the bathrooms being designated as smoking areas both for smokers and non-smokers. Ms. Fulton said in the Capitol there are several agencies involved making it difficult to agree on a suitable smoking area.

Closing by Sponsor:

Sen. Pipinich said SB 100 is for one building and one person. Some buildings should be smoke free but SB 213 is designed for the whole state. Montana is always trying to be last. Sen. Pipinich urged the committee to let Montana set some guidelines. Sen. Pipinich commented that there are two kinds of people, the smokers and non-smokers and both need to be taken care of. SB 213 provides guidelines and if the schools want an amendment to take the schools out he agrees. He urged support for SB 213.

EXECUTIVE ACTION ON SB 100

Motion: Sen. Weldon moved SB 100 DO PASS.

Discussion: Sen. Weldon stated Sen. Pipinich's point is well taken. The trend in the country is to recognize the harm in smoking. Smoking is a dinosaur, and on its way out. SB 100 is a position step. The cost associated could be as little as 0. If employees convince a department head to designate a smoking area then there will be a cost. The burden lies with the department head.

Sen. Weldon said the committee has held Sen. Forrester's bill long enough. There was an amendment to the bill, page 2, line 17, where it says an agency head may establish, the amendment would change it to shall. The amendment has not been moved.

Motion: Sen. Pipinich made a substitute motion to AMEND SB 100.

Discussion: Sen. Hockett asked if we should wait for Sen. Pipinich's other proponents for SB 213. He is sympathetic to smokers to have a designated smoking area but he is concerned about the cost.

Sen. McClernan asked Mr. Evenson if the University System has an opinion on SB 100. Mr. Evenson said they were not in attendance at the hearing and he is unsure of the support.

MOTION/VOTE: Sen. Swift moved to hold action on SB 100. Motion CARRIED.

EXECUTIVE ACTION ON SR2

Motion/Vote: Sen. Weldon moved SR2 DO PASS. Motion SR2 DO PASS CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 11:10 a.m.


SENATOR ELEANOR VAUGHN, Chair


DEBORAH STANTON, Secretary

EV/ds

ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 1-29-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett		✓	
Sen. Harry Fritz	✓	✓	
Sen. John Hertel	✓		
Sen. Bob Hockett	✓		
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit	✓	✓	
David Niss	✓		

F08

Attach to each day's minutes

ROLL CALL VOTE

amendment

SENATE COMMITTEE State Administration

BILL NO. SB 100

DATE 1-29 TIME _____ A.M. P.M.

NAME	YES	NO
Sen. Jim Burnett		
Sen. Harry Fritz		
Sen. John Hertel		✓
Sen. Bob Hockett		✓
Sen. Henry McClernan	✓	
Sen. Bob Pipinich	✓	
Sen. Bernie Swift	✓	
Sen. Larry Tveit	✓	
Sen. Jeff Weldon		✓
Sen. Eleanor Vaughn		✓

Debbie Stanton

 SECRETARY

Senator Vaughn

 CHAIR

MOTION: _____

SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 1-29-93

BILL NO. SB 213

NAME State Administration

ADDRESS 728 N. Warren St.

HOME PHONE 442-4169 WORK PHONE 447-8354

REPRESENTING L & C City - Co. Health

APPEARING ON WHICH PROPOSAL? SB 213

DO YOU: SUPPORT OPPOSE AMEND

COMMENTS:

Please, each committee member
read this fact sheet - especially
the sections on effects on children.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

January 1993



Respiratory Health Effects of Passive Smoking

Fact Sheet

Summary

The U.S. Environmental Protection Agency (EPA) has published a major assessment of the respiratory health risks of passive smoking (*Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders; EPA/600/6-90/006F*). The report concludes that exposure to environmental tobacco smoke (ETS) -- commonly known as secondhand smoke -- is responsible for approximately 3,000 lung cancer deaths each year in nonsmoking adults and impairs the respiratory health of hundreds of thousands of children.

Background

EPA studies of human exposure to air pollutants indicate that indoor levels of many pollutants often are significantly higher than outdoor levels. These levels of indoor air pollutants are of particular concern because it is estimated that most people spend approximately 90 percent of their time indoors.

In recent years, comparative risk studies performed by EPA and its Science Advisory Board have consistently ranked indoor air pollution among the top five environmental risks to public health. EPA, in close cooperation with other federal agencies and the private sector, has begun a concerted effort to better understand indoor air pollution and to reduce peoples' exposure to air pollutants in offices, homes, schools and other indoor environments where people live, work and play.

Tobacco smoking has long been recognized as a major cause of death and disease, responsible for an estimated 434,000 deaths per year in the United States. Tobacco use is known to cause lung cancer in humans, and is a major risk factor for heart disease.

In recent years, there has been concern that non-smokers may also be at risk for some of these health effects as a result of their exposure ("passive smoking") to the smoke exhaled by smokers and smoke given off by the burning end of cigarettes.

As part of its effort to address all types of indoor air pollution, in 1988, EPA's Indoor Air Division requested that EPA's Office of Research and Development (ORD) undertake an assessment of the respiratory health effects of passive smoking. The report was prepared by ORD's Office of Health and Environmental Assessment.

The document has been prepared under the authority of Title IV of Superfund (The Radon Gas and Indoor Air Quality Research Act of 1986), which directs EPA to conduct research and disseminate information on all aspects of indoor air quality.

Public and Scientific Reviews

A draft of this assessment was released for public review in June 1990. In December 1990, EPA's Science Advisory Board, a committee of independent scientists, conducted a review of the draft report and submitted its comments to the EPA Administrator in April 1991. In its comments, the SAB's Indoor Air Quality/Total Human Exposure Committee concurred with the primary findings of the report, but made a number of recommendations for strengthening it.

Incorporating these recommendations, the Agency again transmitted a new draft to the SAB in May of 1992 for a second review. Following a July 1992 meeting, the SAB panel endorsed the major conclusions of the report, including its unanimous endorsement of the classification of environmental tobacco smoke (ETS) as a Group A (known human) carcinogen.

EPA also received and reviewed more than 100 comments from the public, and integrated appropriate revisions into the final risk assessment.

Major Conclusions

Based on the weight of the available scientific evidence, EPA has concluded that the widespread exposure to environmental tobacco smoke in the U.S. presents a serious and substantial public health risk.

In adults:

- ETS is a human lung carcinogen, responsible for approximately 3,000 lung cancer deaths annually in U.S. nonsmokers. ETS has been classified as a Group A carcinogen under EPA's carcinogen assessment guidelines. This classification is reserved for those compounds or mixtures which have been shown to cause cancer in humans, based on studies in human populations.

In children:

- ETS exposure increases the risk of lower respiratory tract infections such as bronchitis and pneumonia. EPA estimates that between 150,000 and 300,000 of these cases annually in infants and young children up to 18 months of age are attributable to exposure to ETS. Of these, between 7,500 and 15,000 will result in hospitalization.

- ETS exposure increases the prevalence of fluid in the middle ear, a sign of chronic middle ear disease.

- ETS exposure in children irritates the upper respiratory tract and is associated with a small but significant reduction in lung function.

- ETS exposure increases the frequency of episodes and severity of symptoms in asthmatic children. The report estimates

that 200,000 to 1,000,000 asthmatic children have their condition worsened by exposure to environmental tobacco smoke.

- ETS exposure is a risk factor for new cases of asthma in children who have not previously displayed symptoms.

Scope of the Report

In 1986, the National Research Council (NRC) and the U.S. Surgeon General independently assessed the health effects of exposure to ETS. Both of these reports concluded that ETS can cause lung cancer in adult non-smokers and that children of parents who smoke have increased frequency of respiratory symptoms and lower respiratory tract infections. The EPA scientific assessment builds on these reports and is based on a thorough review of all of the studies in the available literature.

Since 1986, the number of studies which examine these issues in human populations has more than doubled, resulting in a larger database with which to conduct a comprehensive assessment of the potential effects which passive smoking may have on the respiratory health of adults as well as children.

Because only a very small number of studies on the possible association between exposure to secondhand smoke and heart disease and other cancers existed in the scientific literature at the time this assessment was first undertaken, EPA has not conducted an assessment of the possible association of heart disease and passive smoking. EPA is considering whether such an assessment should be undertaken in the future, but has no plans to do so at this time.

Scientific Approach

EPA reached its conclusions concerning the potential for ETS to act as a human carcinogen based on an analysis of all of the available data, including more than 30 epidemiologic (human) studies looking specifically at passive smoking as well as information on active or direct smoking. In addition, EPA considered animal data, biological measurements of human uptake of tobacco smoke components and other available data. The conclusions were based on what is commonly known as the total "weight-of-evidence" rather than on any one study or type of study.

The finding that ETS should be classified as a Group A carcinogen is based on the conclusive evidence of the dose-related lung carcinogenicity of mainstream smoke in active smokers and the similarities of mainstream and sidestream smoke given off by the burning end of the cigarette. The finding is bolstered by the statistically significant exposure-related increase in lung cancer in nonsmoking spouses of smokers which is found in an analysis of more than 30 epidemiology studies that examined the association between secondhand smoke and lung cancer.

The weight-of-evidence analysis for the noncancer respiratory effects in children is based primarily on a review of more than 100 studies, including 50 recent epidemiology studies of children whose parents smoke.

Beyond the Risk Assessment

Although EPA does not have any regulatory authority for controlling ETS, the

document #1
1-29-93
SB-213

Agency expects this report to be of value to other health professionals and policymakers in taking appropriate steps to minimize peoples' exposure to tobacco smoke in indoor environments.

In cooperation with other government agencies, EPA will carry out an education and outreach program over the next two years to inform the public and policy makers on what to do to reduce the health risks of ETS as well as other indoor air pollutants.

For Further Information

A limited number of copies of the complete report can be obtained free of charge from:

Center for Environmental Research
Information (CERI)
U.S. EPA
26 W. Martin Luther King Drive
Cincinnati, OH 45268
Telephone: 513-569-7562
Fax: 513-569-7566

Ordering Number: EPA/600/6-90/006F

or

U.S. Environmental Protection Agency
Indoor Air Quality Information
Clearinghouse (IAQ INFO)
P.O. Box 37133
Washington D.C. 20013-7133
Telephone: 1-800-438-4318
Fax: 301-588-3408

A number of government agencies can provide additional information addressing the health risks of environmental tobacco smoke. These include:

Office on Smoking and Health/Centers for
Disease Control
Center for Chronic Disease Prevention and
Health Promotion
Mail Stop K-50, 4770 Buford Highway
Atlanta, GA 30341

National Cancer Institute
Building 31, Room 10A24
Bethesda, MD 20892
1-800-4-CANCER

The National Heart, Lung, and Blood
Institute
Information Center
4733 Bethesda Avenue, Suite 530
Bethesda, MD 20814

National Institute for Occupational Safety
and Health
4676 Columbia Parkway
Cincinnati, Ohio 45226-1998
1-800-35-NIOSH

I support Repersonal Amendment
on SB 100

I support SB 100 as ^(Repersonal.) amended

Sen Trent

I vote no on SB 213

Sen Trent

DATE 1-29-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 213

Name	Representing	Bill No.	Check One	
			Support	Oppose
Will Selsler	LTC City-Co. Health	213		✓
Bruce W. Moers	MSBA	SB 213		✓
REX MANUEL	Phillip Morris	213	✓	
David J Thompson	—	213		✓
Debra Fulton	Dept of Can	213		✓
Jim Whaley	ASE DIVISION	213		
Tom McJannet	Montana Technical Council	213		
Don Waldron	Int Rural EQ Assn	213		✓
DAVE EREWSON	U-System	213		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY