

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By CHAIRMAN JIM BURNETT, on March 8, 1995, at
3:00 PM.

ROLL CALL

Members Present:

Sen. James H. "Jim" Burnett, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Arnie A. Mohl (R)
Sen. Mike Sprague (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Terry Klampe (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Karolyn Simpson, Committee Secretary

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

Committee Business Summary:

Hearing: HB 301, HB 385, HB 421
Executive Action: HB 245, HJ 4, HB 301, HB 385, HB 436,
HB 169, HB 184, HB 407

{Tape: 1; Side: 1; Comments: first 1 1/2 minutes did not record.}

EXECUTIVE ACTION ON HB 245

Motion/Vote: SENATOR MOHL moved HB 245 BE CONCURRED IN. The
motion CARRIED with Senators Baer and Estrada voting NO.

SENATOR ECK will carry HB 245.

EXECUTIVE ACTION ON HJ 4

Motion/Vote: SENATOR ESTRADA moved HJ 4 BE CONCURRED IN. The
motion CARRIED UNANIMOUSLY.

SENATOR BURNETT will carry HJ 4

EXECUTIVE ACTION ON HB 301

Discussion: SENATOR BURNETT asked about amendments to HB 301.

Susan Fox said there were amendments regarding the Medical-Legal Panel, changing the definition to make sure the facilities not included under health care facilities aren't included in the Medical-Legal Act.

Motion: SENATOR MOHL moved HB 301 BE NOT CONCURRED IN.

Discussion: SENATOR MOHL said, if this is a consolidation, why will it cost more money. Referring to the Fiscal Note, he said the money will come from the General Fund. EXHIBIT 1. He said with consolidation, some FTE's be eliminated. This is not being done, so he opposes the bill.

SENATOR BAER referring to the Fiscal Note, he said the net impact is a General Fund increase. He asked if this is a revenue increase, money saved, or money cost.

SENATOR ECK said these homes are currently licensed at \$20.00 per year, except for the DFS homes where nothing has been charged, but now all are going into one administration, which means they will be receiving an extra \$3,000 per year from those DFS homes at the rate of \$20.00 per home.

SENATOR BURNETT said \$6,000 would be going into the General Fund, and reduces DFS by \$4,500 each year of the biennium. He said DFS thinks they need it.

Motion: SENATOR ECK made a substitution motion HB 301 BE CONCURRED IN.

Discussion: SENATOR BURNETT read the amendments. EXHIBIT 2.

Susan Fox said the whole section would have to be put into the bill. It clarifies, for the purposes only of the Medical-Legal Panel, that the health care facilities would not include chemical dependency facility, end-stage renal dialysis facilities, home infusion therapy agency, or residential care facility.

SENATOR SPRAGUE said, as he remembers, there were no opponents to this bill.

SENATOR BURNETT asked if SENATOR ECK wanted to include the amendments in her motion.

SENATOR ECK recalled Jerry Loendorf's testimony. If a particular home wanted to be included, they could, by paying that \$55.00.

Susan Fox, recalled what Jerry Loendorf said. Currently all health care facilities that are defined in the amendments participate in paying the cost for the Medical-Legal Panel. If

this amendment is not included, these different facilities would be assessed the cost of the Medical-Legal Panel. She said since these facilities had not previously participated in the Medical-Legal Panel, this amendment is to preclude their being assessed the cost, unless, at a future date they choose to participate they would be assessed to participate.

Motion/Vote: SENATOR ECK moved the Amendments to HB 301 DO PASS. The motion CARRIED UNANIMOUSLY.

Motion: SENATOR ECK moved HB 301 BE CONCURRED IN AS AMENDED.

SENATOR ESTRADA asked for a refresher on HB 301 and for SENATOR ECK to explain what this bill does.

SENATOR ECK said it primarily relates to adult foster care homes, which are small homes that take care of from one to five elderly people who do not need nursing home care. This bill moves their licensing from DFS to the Department of Health and Environmental Sciences.

SENATOR ESTRADA asked about retirement homes.

SENATOR SPRAGUE referred to line 6 on the Fiscal Note. He said what's important is the 122 adult foster care homes, and the licensing. He had a question about some of these homes never having had to pay a license fee.

SENATOR MOHL said he has a problems with item #4 of the Fiscal Note, that no FTE's will be transferred, and recommended adding an amendment to reduce some FTE's.

SENATOR BURNETT said that would be handled by Finance and Claims.

SENATOR BENEDICT said this is a Finance and Claims area, and if this bill is referred to Finance and Claims, that is the place to take care of the FTE issue.

Vote: The Be Concurred In motion for HB 301 AS AMENDED CARRIED with Senator Mohl voting NO.

SENATOR BURNETT will carry HB 301.

HEARING ON HB 385

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 10, Billings, said, with this bill, the Department will collect a lot of money and not add any FTE's. He is carrying this bill on behalf of the Department of Social and Rehabilitation Services. HB 385 would authorize the Department to make a concerted effort to develop a means of collecting monies that are due the state for child support. With the welfare reform package, they think they could get about \$3.6 million in AFDC

collections, and to stay cost neutral, there will be no additional FTE's. Some of the work will be contracted out, so there will be someone, effectively and efficiently, going after this money, but most of it will be done by the Department itself. There has been some concern about this bill, but it passed the house by vote of 95 to 4.

The important parts of the bill are on page 3, line 5. They are going after people who are delinquent in child support payments because this is a real problem. Also with this bill, they will look at assets of both the person who owes the money and the recipient the money. If the recipient has certain assets, they are entitled to child support payments, but not to AFDC payments, and not entitled to the state payments plus the child support payments.

Proponents' Testimony:

Mary Ann Wellbank, Administrator, Child Support Enforcement Division, SRS, said this bill can be considered a part of the Department's welfare reform. They are charged with raising \$3.5 million in new AFDC funds to reimburse AFDC over the next biennium and they are going to do this without additional FTE's. Because the goal of increasing collections is entirely dependent upon improving their efficiency as a division, HB 385 tightens some of the areas of the law. She said child support is a very legally driven administrative process because every single action they take, from establishing paternity to enforcing child support, goes through a administrative process, so they are continuously sending out legal forms and have legal proceedings. To begin collecting their cases sooner, they need to establish paternity sooner with collected case information, so they can establish a child support order and begin collecting. This process takes anywhere from a day to a couple of years, all depending on how fast they get the information. This bill enhances the Department's authority to gather information from sources, clarify the state's interest in child support for AFDC cases, clarify's the state's role in working child support cases, expedites child support enforcement, and carefully safeguards all confidential information obtained in proceedings. They believe this legislation, coupled with other Department initiatives, will help the welfare reform effort and this bill is effective on passage and approval to tie in with welfare reform.

She said the bill has a lot of different diverse parts, and she explained each.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR BENEDICT said he is uncomfortable with the parts of this bill containing language added by the House, regarding the sale or discount of the contract or uncollected debt. He said its being discounted up to 90% is excessive, when it could be taken

to a collection agency and have them take 40 or 50%, or whatever was negotiated.

Mary Ann Wellbank said the reason it's at 10% is that's just the bottom line. The only time this would be used is when all other possibilities have been exhausted and still couldn't collect, but someone is willing to buy it.

SENATOR BAER asked if it wouldn't be better to offer the debt for sale to the highest bidder, and all bids are subject to approval. This way, 10% is not being established in writing, which means there will be a lot of 10 1/2 and 11% bids. If this 10% were not established, it may be possible to recover more money.

Mary Ann Wellbank said the Department would have no objections to that.

SENATOR ECK asked which Committee dealt with this in the House.

Mary Ann Wellbank said the Health and Human Services on Aging.

SENATOR ECK said she had a similar bill before the Senate Judiciary Committee.

Mary Ann Wellbank said most of their bills end up in the Judiciary Committee.

Closing by Sponsor:

REP. JOHNSON said if there is a problem, they wouldn't mind having the bill back in the House for that kind of amendment.

HEARING ON HB 436

Opening Statement by Sponsor:

REP. DEB KOTTEL, HD 45, Great Falls, said HB 436 is a housekeeping bill to update the educational requirements for a Chemical Dependency Counselor to a Masters Degree, permit to change the number required for the examination for certification, permits the development of a level system for certification in terms of the hours for an internship and work experience, and allows the task force to identify specific criteria for Montana to accept out-of-state certificates for experienced Chemical Dependency Counselors.

Proponents' Testimony:

Darryl Bruno, Administrator, Alcohol and Drug abuse Division, Department of Corrections and Human Services, read his written testimony in support of HB 436. **EXHIBIT 3.**

Phyllis MacMillan, Department of Corrections and Human Services, said the certification of the Chemical Dependency Counselors is what the Department developed in 1978, when they put together the requirements, and before the field made many advancements. They have been under pressure to bring the requirements up to date. The task force is made up of members outside of State Government, and people impacted by certification. There needs to be an upgrade in certification because of the current knowledge of chemical dependency.

Pat Melby, Rimrock Foundation, Billings spoke in support of HB 436. He said it provides the flexibility to the Department of Corrections and Human Services to change the standards and testing for Chemical Dependency Counselors.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. KOTTEL said chemical dependency is an important issue in crime and Montana needs to have the best certified Chemical Dependency Counselors available.

HEARING ON HB 421

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, Helena, said HB 421 has to do with Title VII, which is local government. There are many ways to finance public medical facilities in Montana, one of which is county hospital districts. HB 421 deals only with that section of Title VII that the county hospital law section. He distributed some background information and explanation HB 421 makes. **EXHIBIT 4.**

He said many of the present statutes have been on the books since the 1930's and a lot has changed in how medical services are delivered since the 1930's. Facilities are more sophisticated than being just a county hospital, yet there are many reverences in the statutes to a county hospital. HB 421 aims to be more sophisticated in defining hospital care. He referred to page 3, saying there is reference to a health care facility rather than hospital.

Many counties are closing their county hospitals because non-hospital care facilities, called Medical Assistance Facilities, have been established in many small towns in Montana. HB 421 will bring the definition up to the 1990's and contains a repealer. It repeals an archaic part of the statute, 7-34-2412, that there can't be more than one county hospital service in the county. He said having a county hospital does not mean that a county has all of the public financed facilities needed.

HB 421 clarifies that many facilities are financed by revenues, part of which may be the 3 mills enabled in the

statutes, but if 10 mills are pledged, there must be voter approval. This bill mandates that if the taxpayers are going to be liable, then bonds must be authorized by a vote of the people. But, there are some contradictions as to what can be pledged, and this bill clarifies this issue.

Proponents' Testimony:

Gene Huntington, Dain Bosworth Inc., said they are underwriters and finance advisors for municipal bonds. When they worked with the Montana Health Facility Authority and several rural hospitals, they discovered a lot of archaic definitions in the statutes. Many rural hospitals that are going through the evolution of how they are going to change to keep a doctor in the community, must decide whether they will be a medical assistance facility or concentrate on areas of nursing home care, which they couldn't do if they were organized as a county hospital.

{Tape: 1; Side: 2}

Bob Olson, Montana Hospital Association, gave some examples of the problems that counties can encounter when dealing with some of the physical plant issues. Toole county there was an old hospital that was closed when a new hospital was built, but now the county wants to use that vacant hospital as a personal care facility. To do this, they must have access to the bond market, but they have a hospital, so the current law precludes them from dealing with the old hospital because they have a hospital.

There is a challenge for hospitals to change from being the standard old-style hospital or nursing home. Presumably, if a county has a hospital they could not erect and operate a nursing home, even if that is what is needed for the county. For people to have access to medical care, the county needs to construct, remodel and maintain these facilities, and to do so, they must have access to the bond market, which is the primary source of funding for hospitals and nursing homes.

This bill brings the language up to modern standards and provides them the basis to quickly enter the bond markets and provide for those services on the local level.

Gordon Morris, Director, Association of Counties, said MACO worked with **REP. EWER** in drafting of this bill. It brings us out of the dark ages, and for all the reasons stated, they urged the Committee's support of HB 421.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR BENEDICT asked about the difference between a health care facility and a personal care home.

Gene Huntington said there is other legislation that updates the definitions of health care facilities. HB 370 provides a

definition, under licensed medical facility, for personal care and other facilities.

SENATOR BENEDICT asked if licensed medical facility is in the definition in HB 421.

Gene Huntington referring to section 10, line 19-20, said health care facilities created under 7-8-2102, 7-34-2201, 7-34-2502, which are in the regulatory portions of the Department of Health and Environmental Science laws.

SENATOR SPRAGUE said he thinks this bill is more than just clarification, and asked if it was really an authorization to tax, and why there was no Fiscal Note included with the bill.

REP. EWER said there was no Fiscal Note because there would be no fiscal impact on State government.

SENATOR SPRAGUE said the Fiscal Note tells the cause and effect more so than a draw down of State funds, and asked **REP. EWER** if he had asked for a Fiscal Note.

REP. EWER said he did not ask for a fiscal note, because there would be no impact on State finances. He agreed that this is not just a clarification bill.

SENATOR SPRAGUE referring to lines 15-21, he asked about the bonding project, and whether this bill gives authorization to the county commissions to tax and/or bond, which is a delayed tax.

REP. EWER said it's current obligation paid for tax or revenues. This bill clarifies that when the credit of the county is pledged, it must be authorized by a vote of the people, which is current law. But this bill also says revenues of the hospital can be pledged, and those revenues must be sufficient so the bond market will accept a bond backed by those revenues, and a vote of the people is not needed. Under current law, up to 3 mills, and this statute will allow those 3 mills to be used without a vote. This bill clarifies that if 10 mills are to be used to pledge bonds, then it must be authorized by a vote of the people.

SENATOR MOHL referring to page 1, lines 28-30, page 2, lines 1-3, he asked for clarification of pledge of taxes to pay bonds.

REP. EWER said the mechanism in this bill is different from the mechanism in a revolving fund for a special improvement district. Referring to page 2, lines 2-5, he said he hopes it means revenue bonds, which are obligation bonds, that are for projects with only revenues of the funds. If there is going to be a 10-mill pledge for county hospitals, there must be voter approval, then when the bonds are issued, they become a debt.

SENATOR MOHL asked if he is talking about county hospitals only or is he talking about private hospitals guaranteed by county bonding.

REP. EWER said, in this context, it is referring only to publicly owned facilities. He said there can be publicly authorized bonds, and counties can issue health facility bonds, 501C3 private activity bonds under the federal tax code, either issued by the State of Montana, but this bill does not cover this.

SENATOR BENEDICT asked for clarification and if this bill does not authorize any more taxing authority than is already in current law, but that it clarifies what is only in current law.

REP. EWER said that is true. This bill allows those 3 mills to be pledged as dedicated revenue, but does not authorize another tax increase.

SENATOR SPRAGUE asked if it gives counties the authority to build with obligation bonds up to 10 mills. Referring to page 5, lines 1-3, he asked if it can obligate rents and leases to that bond. He then asked if a county sold a hospital, can they get back in business.

REP. EWER said revenues of a facility can be part or the lease payments. A county can own a health care facility, but be leased and run by the private sector. If a county sells its hospital, the county can get back into the health care business if the county commissioners think it is beneficial to the public.

SENATOR SPRAGUE asked about rental and lease, whether that's obligated.

REP. EWER said it can be done, but the bill doesn't mandate it. He referred to page 5, lines 2-3, and said this new law.

Susan Fox said that section is specific only for county boarding homes.

SENATOR SPRAGUE asked if boarding the elderly in a nursing home is considered as boarding.

Susan Fox said the nursing home portion of that section was deleted, so it does not include nursing homes.

SENATOR SPRAGUE asked if aged and infirmed is left in.

Susan Fox said it could, but a boarding home would be closer to a personal care home where people don't require skilled nursing services, versus a nursing home.

REP. EWER said for a deal to happen, there has to be some kind of hook for revenue strings.

SENATOR SPRAGUE said he's trying to clarify this seemingly modern-day language bill that is more complex than simplistic in terms of modernizing the language. He said Yellowstone County has a convoluted, complex system. They have a trade port and it has assumed some of the duties of the county in terms of obligatory bonds, and wondered if whether other assets can be obligated along with the mills.

REP. EWER said he is somewhat familiar with trade ports and they can pledge other assets. These facilities have more revenues at their disposal, and that is the main asset than the tax monies.

Closing by Sponsor:

REP. EWER said his intent was to convey that the current statute is out of date and need clarification. This is not a housekeeping bill, and there are some policy calls that aren't too much of a consequence to the taxpayer.

SENATOR SPRAGUE said he wants a Fiscal Note.

SENATOR BURNETT said the leadership has to ask for a Fiscal Note.

Susan Fox said she drafted the bill, and in that process can note whether a Fiscal Note is needed. The problem is, to whom would you send it to find out what affect will be. She suggested asking Dave Lewis for an opinion.

SENATOR SPRAGUE said he's not for it nor against it, but he is not clear on it.

SENATOR ECK said she thinks if **SENATOR SPRAGUE** wants to wait and talk to others who have used this process, it might be of help.

SENATOR BURNETT said they used this in Carbon County and he has no problems with it.

SENATOR ESTRADA said they have major problems in Yellowstone County, and she is concerned about it. She would like to wait to act on the bill until she has had a chance to research it.

EXECUTIVE ACTION ON HB 385

Motion/Vote: **SENATOR ESTRADA** moved HB 385 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

SENATOR ESTRADA will carry HB 385.

EXECUTIVE ACTION ON HB 436

Motion/Vote: SENATOR MOHL moved HB 436 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

SENATOR MOHL will carry HB 436.

EXECUTIVE ACTION ON HB 169

Motion/Vote: SENATOR MOHL moved HB 169 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

SENATOR KLAMPE will carry HB 169.

EXECUTIVE ACTION ON HB 184

Discussion: Susan Fox explained the amendments. She said there was some concern how the Department of Commerce Board bill would coordinate with this bill, and said 37-17-304 is repealed in the other bill. EXHIBIT 5.

Motion/Vote: SENATOR ECK moved the Amendments to HB 184 DO PASS. The motion CARRIED UNANIMOUSLY.

Motion/Vote: SENATOR ECK moved HB 184 AS AMENDED BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

Discussion: Susan Fox said HB 421 conflicts with SB 377, which is a local government bill giving county commissioners authority to authorize a commission, which makes it a consolidated effort. There is a section of HB 421 that county commissioners may authorize a commission to support health care facilities. The amendment in SB 377 would change that to a building commission. The provisions in both bills gives more flexibility at the county level. A further complication, SB 377 may be incorporated into another bill.

EXECUTIVE ACTION ON HB 407

Motion: SENATOR FRANKLIN moved HB 407 BE NOT CONCURRED IN.

Discussion: SENATOR FRANKLIN said she is not in favor of the bill because of the consumer protection argument. It was

presented as an economics savings bill, but the bill will lower the quality of care.

SENATOR MOHL said he agrees with **SENATOR FRANKLIN**. There are no specifics in the bill as to how far they would go in delegating and feels there needs to be proper supervision. He said the Board of Nursing should take the responsibility in specifying, but doesn't think the Legislature should do that.

SENATOR BURNETT said he has had a number of calls about this bill and suggested that it be tabled.

SENATOR SPRAGUE said he is opposed to the bill and feels the Board of Nursing was derelict in its duties and should be delegated before now, and needs to do it.

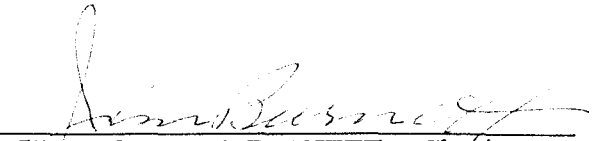
SENATOR BAER said he agrees with **SENATOR SPRAGUE**. He said the concept is good, but before the concept is enacted a foundation must be established with regard to education, requirements, and accreditation system, and specify which functions can be delegated, and provide for adequate training. He said even though the concept is good, he thinks it is premature, and so is against the bill.

SENATOR ECK said the Board of Nursing has the authority, but she doesn't think the Legislature can decide for the Board. Referring to HB 121, she said, in this case, the Board does not have the authority, and the hospital credentialing does not have the authority unless the law is changed.

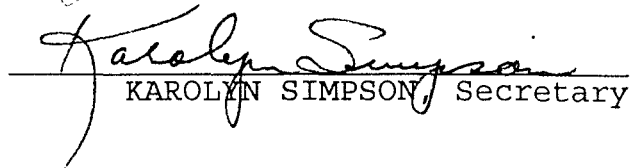
Motion/Vote: **SENATOR BURNETT** made a substitute motion for HB 407 TO BE TABLED. The motion passed UNANIMOUSLY.

ADJOURNMENT

Adjournment: 4:43 PM



SENATOR JIM BURNETT, Chairman



KAROLYN SIMPSON, Secretary

JB/ks

stage renal dialysis facility, a home infusion therapy agency, or a residential care facility.

(3) "Health care provider" means a physician, a dentist, or a health care facility.

(4) "Hospital" means a hospital as defined in 50-5-101.

(5) "Malpractice claim" means ~~any~~ a claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted standards of health care ~~which~~ that proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

(i) has as ~~his~~ the individual's principal residence or place of medical practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of medicine;
or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as ~~his~~ the principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3."

Renumber: subsequent sections

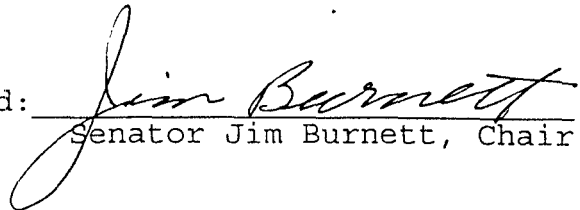
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SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 301 (third reading copy -- blue), respectfully report that HB 301 be amended as follows and as so amended be concurred in.

Signed: 
Senator Jim Burnett, Chair

That such amendments read:

1. Title, line 12.
Following: "SECTIONS"
Insert: "27-6-103,"

2. Page 17, line 10.
Insert: "Section 14. Section 27-6-103, MCA, is amended to read:
"27-6-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as ~~his~~ the individual's principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry;
or


(b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as ~~his~~ the principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose shareholders, partners, or owners were individual dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.

(2) (a) "Health care facility" means a facility (other than a governmental infirmary but including a university or college infirmary) licensed as a health care facility under Title 50, chapter 5.

(b) For the purposes of this chapter, a health care facility does not include a chemical dependency facility, an end-


Amd. Coord.
Sec. of Senate

SEN BURNETT
Senator Carrying Bill

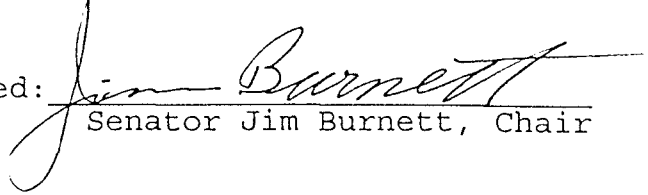
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 184 (third reading copy -- blue), respectfully report that HB 184 be amended as follows and as so amended be concurred in.

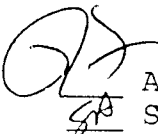
Signed: 
Senator Jim Burnett, Chair

That such amendments read:

1. Page 3, line 11.

Insert: "NEW SECTION. Section 7. Coordination instruction. If [this act] and House Bill No. 518 are both passed and approved and if House Bill No. 518 repeals 37-17-304, then the repeal of 37-17-304 in House Bill No. 518 is void."

-END-


Amd. Coord.
Sec. of Senate

SEN. BURNETT
Senator Carrying Bill

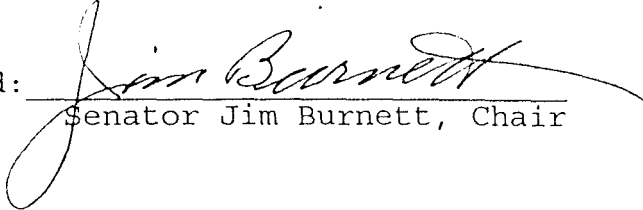
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HJR 4 (third reading copy -- blue), respectfully report that HJR 4 be concurred in.

Signed: 

Senator Jim Burnett, Chair


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Amd. Coord.
Sec. of Senate

SEN. BURNETT
Senator Carrying Bill

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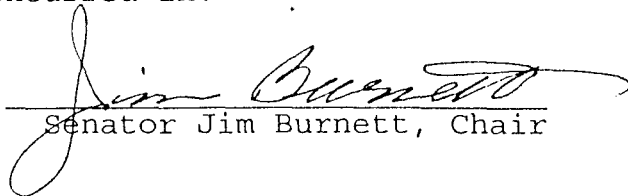
SENATE STANDING COMMITTEE REPORT

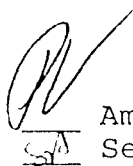
Page 1 of 1
March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 169 (third reading copy -- blue), respectfully report that HB 169 be concurred in.

Signed: _____


Senator Jim Burnett, Chair



Amd. Coord.
Sec. of Senate

SEN. KLAMPE
Senator Carrying Bill

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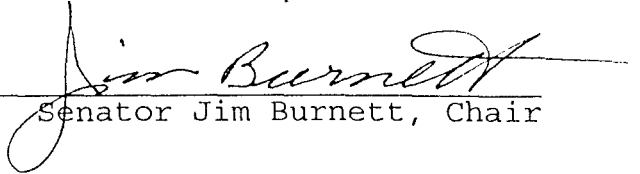
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 245 (third reading copy -- blue), respectfully report that HB 245 be concurred in.

Signed:



Senator Jim Burnett, Chair



SA

Amd. Coord.
Sec. of Senate

SEN. ECL
Senator Carrying Bill

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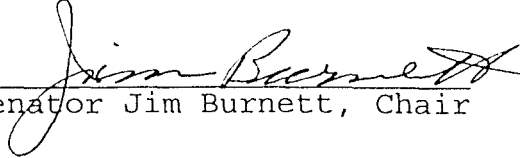
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 385 (third reading copy -- blue), respectfully report that HB 385 be concurred in.

Signed: _____


Senator Jim Burnett, Chair


SA

Amd. Coord.
Sec. of Senate

SEN. ESTRADA
Senator Carrying Bill

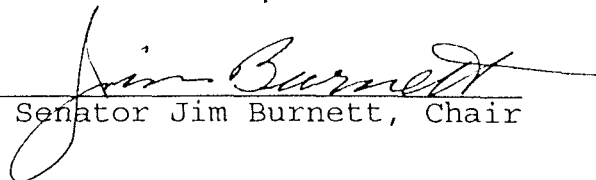
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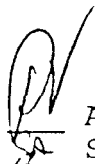
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 436 (third reading copy -- blue), respectfully report that HB 436 be concurred in.

Signed: 
Senator Jim Burnett, Chair



Amd. Coord.
SA Sec. of Senate

SEN. MOHL
Senator Carrying Bill

551115SC.SPV

STATE OF MONTANA - FISCAL NOTE

Revised Fiscal Note for HB0301, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A act relating to health care facilities; providing definitions; clarifying that the Department of Health and Environmental Sciences (DHES) may require written evidence for licensure; requiring notice to the department that a health care facility is ready to be inspected; removing the requirement for an annual physicians statement and visit for placement of a resident in a Category A personal care facility; deleting minimum resident requirements for Category A personal care facilities; providing requirements for home infusion therapy services and for retirement homes.

ASSUMPTIONS:

1. The Executive Budget present law base serves as the starting point for calculating any fiscal impact due to this proposed legislation.
2. The licensure of adult foster care homes is transferred to DHES from the Department of Family Services (DFS). DFS does not currently charge fees for licensure of these homes.
3. Since DHES would license the homes under the same category as DFS, the Supplemental Security Income (SSI) payments would not change from \$52.75 per client per month to \$94.00 per client per month, as stated in the initial fiscal note.
4. DFS will see a reduction of 3% in licensing responsibility, amounting to approximately \$4,500 per year which will be transferred from DFS to DHES to perform the licensing tasks. No FTE will be transferred. The funding is entirely general fund.
5. DHES will license approximately 980 retirement home beds in 19 facilities. Based on current license fees, the department estimates it will generate \$1,050 in fees which will be deposited to the general fund.
6. DHES will license 122 adult foster care facilities. Based on current license fees, the department estimates it will generate \$2,440 in license revenue which will be deposited to the general fund.

FISCAL IMPACT:

Expenditures:

| | <u>FY96</u> <u>Difference</u> | <u>FY97</u> <u>Difference</u> |
|--|----------------------------------|----------------------------------|
| Reduce DFS Expenditures for Licensure | (4,500) | (4,500) |
| Increase DHES Expenditures for Licensure | <u>4,500</u> | <u>4,500</u> |
| Total Expenditures | 0 | 0 |

Revenues:

| | | |
|------------------------------|--------------|--------------|
| Retirement Home Fees (to GF) | 1,050 | 1,050 |
| Adult Foster Care (to GF) | <u>2,440</u> | <u>2,440</u> |
| General Fund Increase | 3,490 | 3,490 |

Net Impact:

| | | |
|-----------------------|-------|-------|
| General Fund Increase | 3,490 | 3,490 |
|-----------------------|-------|-------|

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties currently receive 85% of the license fee for Retirement Homes to offset the cost of inspecting the facilities by county sanitarians. These fees would no longer go to the county. However, the county would no longer be required to inspect retirement homes and incur the related expenditures, so there would be no fiscal impact.

Dave Lewis 1-30-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Loren Soft 1-31-95
 LOREN SOFT, PRIMARY SPONSOR DATE

Revised Fiscal Note for HB0301, as introduced

Amendments to House Bill No. 301
Third Reading Copy

For the Committee on Public Health, Welfare, and Safety

Prepared by Susan Byorth Fox
March 7, 1995

1. Title, line 12.
Following: "SECTIONS"
Insert: "27-6-103,"

2. Page 17, line 10.
Insert: "Section 14. Section 27-6-103, MCA, is amended to read:
"27-6-103. Definitions. As used in this chapter, the
following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as his the individual's principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry;
or

(b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as his the principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose shareholders, partners, or owners were individual dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.

(2) (a) "Health care facility" means a facility (other than a governmental infirmary but including a university or college infirmary) licensed as a health care facility under Title 50, chapter 5.

(b) For the purposes of this chapter, a health care facility does not include a chemical dependency facility, an end-stage renal dialysis facility, a home infusion therapy agency, or a residential care facility.

(3) "Health care provider" means a physician, a dentist, or a health care facility.

(4) "Hospital" means a hospital as defined in 50-5-101.

(5) "Malpractice claim" means ~~any a~~ claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted standards of health care which

that proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

(i) has as ~~his~~ the individual's principal residence or place of medical practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of medicine;
or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as ~~his~~ the principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3."

Renumber: subsequent sections

Testimony HB 436

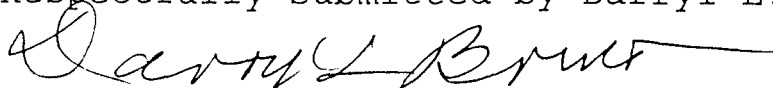
This bill, introduced by Representative Kottel is supported by Department of Corrections and Human Services (DCHS) Alcohol and Drug Abuse Division (ADAD), the Montana Advisory Council on Chemical dependency and state approved chemical dependency providers.

ADAD legislative responsibility under 53-24-204 include approving chemical dependency programs, developing standards for state approved programs, and **certifying and establishing standards for the certification of chemical dependency counselors** who work in state approved programs.

In 1994 tasks forces were assembled to work on some critical issues regarding services in the chemical dependency arena including **counselor certification**. The Certification Task Force, chaired by a member of the Governor's Advisory Council on Chemical Dependency, is made up of individuals representing organizations and state approved treatment programs impacted by our certification system.

Phyllis MacMillan, manager of the certification system for ADAD and the ADAD staff person on the task force will provide supporting testimony on how this bill will enhance our certification system and expedite community programs ability to hire qualified counselors in state approved programs, without diminishing the standards.

Respectfully Submitted by Darryl L. Bruno



Administrator of the Alcohol and Drug abuse Division
Department of Corrections and Human Services.

DORSEY & WHITNEY

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MEMORANDUM

RE: HB 421 - Bill Revising and Clarifying Laws Relating to County Health Care Facilities

The purpose of this Memorandum is to explain briefly the proposed amendments contained in the above-described legislation. In general, the bill proposes expanding references to county "hospitals" to certain of the "health care facilities" defined in 50-5-101 and limiting part 23 of Title 7, chapter 34, which currently governs nursing homes and boarding homes, to boarding homes. The term "health care facility" will be defined in Section 7-34-2201, as amended. (Bracketed language would permit the cross-reference to cover any amendment of the definition in Section 50-5-501.) We initially thought of making the definition by reference Section 50-5-101, but concluded that it is perhaps too broad to get the consensus necessary to pass the legislation and too narrow in that it would not include offices of private physicians or dentists. It appears to us that in many communities the ability to finance private doctors offices may be critical to the operation and viability of a hospital. References below to conforming amendments changing references to "hospitals and nursing homes" to "health care facilities" would thus have the effect of expanding the scope of such sections to any health care facility.

The bill also repeals Section 7-34-2412, which authorizes financing or refinancing of hospital facilities only for those counties in which no hospital exists or in which the only existing hospital has been ordered closed or cannot be reasonably brought into compliance with applicable DHES standards. This provision, as recently interpreted by the Attorney General, precludes a county from issuing bonds to construct or remodel a nursing home or any other type of facility if a hospital already exists in one county, and further raises questions about the ability for a county to remodel an existing hospital. The other amendments are discussed by reference to the particular sections of the bill.

Section 1. Amendment of Section 7-6-2512. This section is amended to change references to hospitals, nursing homes and "hospital facilities" to health care

DORSEY & WHITNEY

RE: HB 421 - Bill Revising and Clarifying Laws
Relating to County Health Care Facilities

Page 2

facilities, consistent with the amendments made in Title 7, Chapter 34, Part 22. It is further amended to authorize the pledge of the 10-mill levy to the payment of bonds issued under Section 7-34-2411, if the voters have so approved.

Section 2. *Amendment of Section 7-8-2102.* This section is amended to change a reference to hospitals to health care facilities.

Section 3. *Amendment of Section 7-8-2103.* This section is amended to change a reference to hospitals to health care facilities.

Section 4. *Amendment of Section 7-34-2201.* This section is amended, as is the rest of Part 22, to refer to health care facility instead of hospital. It also defines "health care facility" as described above, and authorizes counties not only to erect, furnish and maintain health care facilities, but also expressly authorizes counties to expand and improve such facilities.

The amendment also clarifies that a county may provide only those health care services that are otherwise permitted by law to be furnished at the health care facility.

Section 5. *Amendment of Section 7-34-2202.* This section is amended to change a reference to hospitals to health care facilities. The authority to create a commission for the management of nursing homes is not currently granted in Part 23.

Section 6. *Amendment of Section 7-34-2203.* This section is amended to make conforming changes from hospital to health care and to remove references to indigent. This section's counterpart in Part 23, relating to nursing homes (Section 7-34-2302), is being repealed by this legislation. This section could arguably be repealed as well. The only remaining statement after the amendments is contained in Section 7-34-2201, as amended.

Section 7. *Amendment of Section 7-34-2204.* This section is amended to make conforming and clarifying changes from hospital to health care facilities. Under current law, the authorized terms of leases of county hospitals (Section 7-34-2204(2)(a)) and of county nursing homes (Section 7-34-2303(3)) are inconsistent. This discrepancy causes difficulties for county hospital and nursing homes operating as a unified facility. The amendment would harmonize the limitation, using the current provision applicable to hospitals.

DORSEY & WHITNEY

RE: HB 421 - Bill Revising and Clarifying Laws
Relating to County Health Care Facilities

Page 3

Sections 8 and 9. Amendment of Sections 7-34-2301 and 7-34-2303. As mentioned above, the bill would amend Part 23 to eliminate references to nursing homes, which under the bill would be governed under Part 22 as a health care facility, leaving the reference to county boarding homes. The amendments would expand the definition of county boarding home for the aged to include a boarding home for the infirm. At present, neither "aged" or "infirm" are defined in Part 23.

The amendments clarify that boarding homes may not constitute a health care facility (if they do, Part 22 is applicable), but boarding homes may be operated with any county health care facility. Section 7-34-2411 is amended (see discussion of Section 12 below) to permit the financing of county boarding homes on a revenue bond basis, without the support of a specific tax levy or the deficiency levy authorized by Section 7-34-2418.

Section 7-34-2303 is amended to conform the provisions for a lease of a county boarding home to those in Section 7-34-2204.

Sections 10 and 11. Amendment of Sections 7-34-2401 and 7-34-2402. These sections are amended to make conforming changes in references to hospital and nursing homes to health care facilities.

Section 12. Amendment of Section 7-34-2411. This section is amended to authorize a county to issue bonds to finance a health care facility and a boarding home, and to finance the acquisition, equipping, improving and expanding, as well as the construction, thereof. Conforming changes are made to implement the pledge authorized under Section 7-6-2615. (See discussion of Section 1 above.)

Section 13. Amendment of Section 7-34-2414. This section is amended to clarify that an election is required to authorize bonds issued under Section 7-34-2411 only if the 10-mill levy under Section 7-6-2615 or the deficiency levy under Section 7-34-2418 is pledged to the payment thereof. Thus, bonds may be secured by revenues of health care facilities and by the three mill levy authorized under Section 7-34-2417 without approval by the voters, as is currently permitted under 7-7-2501, but which would also be amended to provide this chapter the exclusive statute for county hospital financing.

Section 14 and 15. Amendment of Sections 7-34-2415 and 7-34-2416. These sections are being amended to reflect that 7-34-2412 is being repealed.

DORSEY & WHITNEY

RE: HB 421 - Bill Revising and Clarifying Laws
Relating to County Health Care Facilities

Page 4

Section 16. *Amendment of Section 7-34-2417.* This section is amended to clarify that the specific tax levies therein authorized may be levied if bonds have been issued and ordinary revenues are not expected to be sufficient to pay debt service thereon, rather than requiring that the bonds be delinquent or "cannot be paid" from such ordinary revenues. The amendments clarify that the bonds must be issued for a health care facility, instead of a county boarding home, so current law in this respect is preserved.

Section 17. *Amendment of Section 7-34-2418.* This section is amended to clarify that the deficiency levy therein authorized may be pledged only to bonds issued in respect of a health care facility, not a county boarding home, and only if approved by the voters. It thus preserves existing law. Subsection (3) is amended to clarify the circumstances to which the subsection is applicable.

Section 18 and 19. *Amendment of Section 7-34-2501 and Section 53-2-802.* These sections are amended to change a reference to hospital or nursing home to health care facility or boarding home.

Section 20. *Repeal of Section 7-34-2412.* This change is discussed in the second paragraph of this Memorandum.

Section 21. This section provides an immediate effective date.

The bill does not authorize a mortgage on county health care facilities or a county boarding home and does not make changes in the hospital district law. It also does not, apart from authorization of county boarding homes, authorize assisted living facilities, which we understand are proposed to be regulated by the Department of Health and Environmental Sciences under other legislation to be introduced next year.

Amendments to House Bill No. 184
Third Reading Copy

For the Committee on Public Health, Welfare, and Safety

Prepared by Susan B. Fox
March 2, 1995

1. Page 3, line 11.

Insert: "NEW SECTION. **Section 7. Coordination instruction.** If [this act] and House Bill No. 518 are both passed and approved and if House Bill No. 518 repeals 37-17-304, then the repeal of 37-17-304 in House Bill No. 518 is void."

DATE 3/8/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: HB 421, HB 436
HB 385

< ■ > PLEASE PRINT < ■ >

Check One

| Name | Representing | Bill No. | Support | Oppose |
|--------------------------|--------------------------------|---------------|-------------------------------------|--------|
| <i>Mary Ann McMillan</i> | <i>SRS - CSEI</i> | <i>HB 385</i> | | |
| <i>Rhuelis MacMillan</i> | <i>DCHS / ADAD</i> | <i>HB 436</i> | | |
| <i>Bob Olsen</i> | <i>Montana Hospital Assoc.</i> | <i>HB 421</i> | <input checked="" type="checkbox"/> | |
| <i>Pat Melby</i> | <i>Rimrock Foundation</i> | <i>HB 436</i> | <input checked="" type="checkbox"/> | |
| <i>Gene Harrington</i> | <i>Dain Bosworth</i> | <i>HB 421</i> | <input checked="" type="checkbox"/> | |
| <i>Gordon Morris</i> | <i>MIT Co</i> | <i>HB 421</i> | <input checked="" type="checkbox"/> | |
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY