

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY

Call to Order: By CHAIRMAN STEVE BENEDICT, on January 29, 1997,
at 1:05 PM, in Room 410.

ROLL CALL

Members Present:

Sen. Steve Benedict, Chairman (R)
Sen. James H. "Jim" Burnett, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Fred Thomas (R)

Members Excused: Sen. Sharon Estrada (R)

Members Absent: None

Staff Present: Susan Fox, Legislative Services Division
Karolyn Simpson, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 190, 1/21/97
HB 144, 1/21/97
Executive Action: HB 144, SB 90

HEARING ON HB 144

Sponsor: REP. BRUCE SIMON, HD 77, Billings

Proponents: Emy Javomik, State Auditors Office
Claudia Clifford, State Auditors Office

Opponents: None

Opening Statement by Sponsor:

REP. BRUCE SIMON, HD 77, Billings, said HB 144 is at the request of the Legislative Audit committee. There is an anomaly in the law regarding the Small Employer Health Reinsurance Program. In some areas of the law it looked like it was a private entity and in other places it looked like it was a state entity. This bill

clarifies what it should be, a private entity and not part of state government. It takes the State Auditors office out of approving things and appointing people to the board.

Proponents' Testimony:

Emy Javomik, State Auditors Office, said HB 144 would reduce the State Auditors authority over the board, clearly making it a non-state entity. This bill clarifies that it is a non-state entity.

Claudia Clifford, State Auditors Office, said she had asked the board for the reinsurance program to review the provisions in this bill and review the recommendations of the legislative auditor, and they concurred with the bill.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: REP. BRUCE SIMON thanked the committee for the hearing and made no further comments.

HEARING ON SB 190

Sponsor: SENATOR J.D. LYNCH, SD 19, Butte

Proponents: SENATOR DEL GAGE, SD 43, Cut Bank
Tom Ebzery, St. Vincent Hospital, Billings
Keith Colbo, Deaconess, Billings
Chuck Butler, Blue Cross and Blue Shield of MT
Tom Hopgood, Health Insurance Assn. America

Opponents: Steve Shapiro, Advanced Practice Nurses Assn.
Barbara Booher, MT Nurses Association
Sue Weingartner, MT Optometric Assn, MT Podiatric Assn.

Opening Statement by Sponsor:

SENATOR J.D. LYNCH, SD 19, Butte, gave some history of SB 190. He referred to a bill passed in 1991 that came about because of a problem in the Billings area and feared it might be happening in other areas, where the only two hospitals in a town came out with a Preferred Provider Organization (PPO) in one hospital that gave a 20% reduction to all of their insured to go to one hospital, even to the point where a doctor wanted to do heart surgery, but was denied because it was not covered in that hospital. As a result, he put in the senate bill at the time, which had a sunset on it which expired in 1993. They came up with SB 331 which is the current one we live with today. It changed the whole idea of any type of willing provider, that will provide the same service, and simply required competitive bidding to be used when there were two parties who wanted the business from the insurer.

The reason for changing now is, a lot has happened in the last four years in the area of health care. The competitive bidding is

not working. In order to participate, the preferred provider, the carrier could impose ridiculous or non-attainable conditions on one or the other, and there are so many HMOs now, so it's probably a bill has served its time, but is not needed any further.

Proponents' Testimony:

SENATOR DEL GAGE, SD 43, Cut Bank, said he got involved when the State Auditor asked him if he would carry a housekeeping bill the session before that, but they didn't know there was a bombshell contained in it, which turned out to be the PPO section of the bill. The following Session they took that out of the housekeeping bill and had SB 331. He had some misgivings about the PPO section because of concern with setting up PPOs because they were giving breaks to those covered under the PPO at the expense to those who were not covered. At that time, he thought PPOs made a lot of sense and his concerns, that PPOs would continue exist as they do and part of society was getting a better deal and the rest wasn't being particularly harmed by it, were borne out. When PPOs no longer exist nobody is going to be getting a better deal.

Tom Ebzery, representing St. Vincent Hospital and Health Center, Billings, urged the Committee's support of SB 190. (EXHIBIT 1)

Keith Colbo, representing Deaconess-Billings Clinic, said they support SB 190 and seconds previous testimony. He said health delivery systems have moved past the point where provisions are needed.

Chuck Butler, representing Blue Cross and Blue Shield of Montana, said they were the organization that prompted this legislation in 1991 and support SB 190. They agree with the previous proponents, saying at one point it served its purpose in health care, but does not have a purpose in today's world of health care.

Tom Hopgood, Health Insurance Association of America (HIAA), said he was involved on behalf of the HIAA in the preparation and lobbying of this legislation in the 1987 session and support the merits the same piece of legislation, as it existed in 1987. They have always supported this particular provision and do so today.

Opponents' Testimony:

Steve Shapiro, representing Advanced Practice Nurses Assn., said their organization is composed of nurse practitioners, nurse midwives, nurse anesthetists, and clinical nurse specialists who provide mid-level health care to consumers. They are concerned that insurers who are trying to close ranks and limit the availability of classes of providers available to consumers. He said our members are providing quality health care and concerned about the provision in subsection 3 of section 1. It closes things off and lets the insurers make the decision to exclude a particular class of providers without regard to the actual merits of whether the providers can provide health care. It's important

to the consumers of Montana and makes good economic to leave it open for mid-level providers to participate in the system.

Barbara Booher, Executive Director, Montana Nurses Association, said they are opposed to the language on lines 2 and 3, and there may an unintended consequence with using language that pre-dates 1993 or 1989, don't believe either of the senators would have intentionally exclude a class of providers. They believe Advance Practice Nurses have been excluded in some managed care organizations and HMOs, and see that practice curtailed. They see the language in this bill as allowing that to continue, rather than rectifying it.

Sue Weingartner, MT Optometric Association, MT Podiatric Medical Association, said they are opposed to SB 190 for the reasons stated in previous testimony, that is excluding certain classes of providers.

Questions From Committee Members and Responses: None

Closing by Sponsor:

SENATOR J.D. LYNCH said he didn't think the opponents are involved in SB 190 because it is about insurers making agreements with large groups of people, not providers themselves.

EXECUTIVE ACTION ON HB 144

Motion/Vote: **SENATOR CHRIS CHRISTIAENS** moved HB 144 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 90

Discussion: **CHAIRMAN BENEDICT** said **SENATOR GROSFIELD** has agreed to the amendments. These amendments were requested by **SENATOR GROSFIELD** and worked out with the Department of Health and Human Services.

Susan Fox explained the amendments. (EXHIBIT 2)

Motion: **SENATOR EVE FRANKLIN** moved SB 90 DO PASS.

Motion: **SENATOR FRANKLIN** moved the AMENDMENTS TO SB 90 DO PASS.

Discussion: **SENATOR CHRIS CHRISTIAENS** asked **Kathleen Martin** to address section 3 being discretionary and now being mandatory.

Kathleen Martin, Department of Health, said this was a recommendation of the Legislative Auditor in their recent audit of the Food and Consumer Safety Section, that the pool inspection program become mandatory, rather than optional. Under current statute, counties can defer that program to the state.

SENATOR CHRISTIAENS asked if all counties have the ability to do these inspections.

Kathleen Martin said the three largest counties (Gallatin, Missoula, Lake) do not do their own local programs. They have a fairly large environmental health staff, and would technically be capable of doing the inspections.

SENATOR DOROTHY ECK said she thinks the reason they don't do their own inspections is the fees they can collect are not adequate to cover expense and SB 90 will be an unfunded mandate to the counties. She said the provision to collect fees was taken out of the bill, and what would happen if the locals won't do the inspections.

Kathleen Martin said most of the counties do their own program, and it's true the fees are not adequate to cover costs, but the Department of Health is asking for all counties to have the same requirements. It would still be possible for counties to enter into a cooperative agreement with the Department of Health to do another level of inspections based on a different level of public risk.

SENATOR ECK asked if there was a possibility of increasing the licensing fee.

Kathleen Martin said the Legislative Auditor's report said the fee should be based on the public health risk at the facility.

SENATOR ECK asked what kind of studies would need to be done to come up with an appropriate licensing fee to cover the costs of inspection.

Kathleen Martin said they would have to do studies across the state about the actual cost of the program throughout the state and decide if there are different levels of risk for different kinds of pools, or if it's basically the same, one flat fee situation. The Legislative Auditor estimated fees collected for licenses cover about 35% of the cost of the regulatory program, and the fee would need to be tripled to cover the actual cost.

SENATOR CHRISTIAENS asked how many pools does this involve and is this would increase the workload for counties. He is frustrated with the state requiring more work but does not fund that work adequately. He said if this is sent to the counties without funding, they have no mechanism to pay for the work.

CHAIRMAN BENEDICT asked how many pools are there.

Kathleen Martin said there are more than 500 licensed pools in the state and approximately 30% of those are inspected and regulated by the state, which would be 150 pools going back to the counties.

Vote: The DO PASS motion for the AMENDMENTS TO SB 90 CARRIED UNANIMOUSLY.

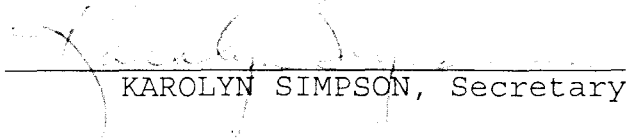
Motion/Vote: SENATOR CHRISTIANS moved to TABLE SB 90. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 1:48 PM



SEN. STEVE BENEDICT, Chairman



KAROLYN SIMPSON, Secretary

SB/ks