

HOUSE BILL NO. 119

INTRODUCED BY MILES

BY REQUEST OF THE DEPARTMENT  
OF HEALTH AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

January 7, 1985	Introduced and referred to Committee on Human Services and Aging.
January 12, 1985	Committee recommend bill do pass. Report adopted.  Statement of Intent attached.  Bill printed and placed on members' desks.
January 15, 1985	Second reading, do pass.  Considered correctly engrossed.
January 16, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 18, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
January 28, 1985	Committee recommend bill be concurrred in as amended. Report adopted. Statement of Intent amended.
January 29, 1985	Second reading, concurrred in.
January 31, 1985	Third reading, concurrred in. Ayes, 48; Noes, 0.  Returned to House.

IN THE HOUSE

February 1, 1985

Received from Senate with amendments and amended Statement of Intent.

February 2, 1985

Second reading, amendments concurred in.

March 5, 1985

Third reading, amendments concurred in.

Sent to enrolling.

Reported correctly enrolled.

1                    HOUSE    BILL NO.    119  
 2    INTRODUCED BY    MILES  
 3                    BY REQUEST OF THE DEPARTMENT  
 4                    OF HEALTH AND ENVIRONMENTAL SCIENCES  
 5  
 6    A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 7    UPDATE THE LAWS RELATING TO TUBERCULOSIS CONTROL; ALLOWING  
 8    ENFORCEMENT OF TUBERCULOSIS TREATMENT OUTSIDE OF A HOSPITAL;  
 9    AMENDING SECTIONS 50-17-101 THROUGH 50-17-105, 50-17-107,  
 10   50-17-108, 50-17-110, 50-17-112, AND 50-17-113, MCA; AND  
 11   PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
 12  
 13   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 14        Section 1. Section 50-17-101, MCA, is amended to read:  
 15        "50-17-101. Policy of state. It is the public policy  
 16   of the state to:  
 17        (1) protect persons from the danger of tuberculosis in  
 18   ~~a-communicable-state~~;  
 19        (2) provide and maintain a comprehensive program for  
 20   the prevention, abatement, and adequate control working  
 21   toward eradication of the disease;  
 22        (3) cooperate with other state agencies and the  
 23   federal government in carrying out these objectives."  
 24        Section 2. Section 50-17-102, MCA, is amended to read:  
 25        "50-17-102. Definitions. As used in this chapter,

1    unless the context clearly indicates otherwise, the  
 2    following definitions apply:  
 3        (1) "Department" means the department of health and  
 4    environmental sciences, provided for in Title 2, chapter 15,  
 5    part 21.  
 6        (2) "Local board" means a city, county, city-county,  
 7    or district board of health.  
 8        (3) "Tuberculosis" means a disease caused by the  
 9    ~~tubercle--bacillus--characterized--by--the---production---~~  
 10   ~~tuberculous-lesions~~ mycobacterium tuberculosis."  
 11        Section 3. Section 50-17-103, MCA, is amended to read:  
 12        "50-17-103. Powers and duties of department. (1) The  
 13   department shall:  
 14        (a) accept, spend, and distribute federal funds  
 15   available for tuberculosis control;  
 16        (b) collect and study data on the incidence of  
 17   tuberculosis;  
 18        (c) adopt rules for the determination and control of  
 19   tuberculosis ~~in-a-communicable-state~~.  
 20        (2) The department may, if appropriate, contract with  
 21   federal agencies or other state agencies for receipt and  
 22   expenditure of federal funds."  
 23        Section 4. Section 50-17-104, MCA, is amended to read:  
 24        "50-17-104. Facilities for diagnosis and treatment of  
 25   tuberculosis. (1) The Montana state hospital shall maintain

1 facilities ~~to---carry---out---this---chapter~~ for inhospital  
2 treatment of tuberculosis.

3 (2) The charge for care, treatment, and maintenance at  
4 the Montana state hospital shall be at the rate fixed by  
5 law."

6 Section 5. Section 50-17-105, MCA, is amended to read:

7 "50-17-105. Application to require examination or  
8 treatment for tuberculosis. (1) The department or a local  
9 board may apply for an order from the district court if a  
10 person is reasonably suspected to have or to have been  
11 exposed to communicable tuberculosis, upon request of:

12 (a) a physician legally authorized to practice  
13 medicine in the state;

14 (b) the department; or

15 (c) a local health officer.

16 (2) The application shall request that the person be  
17 ordered to:

18 (a) submit to an examination for tuberculosis and, if  
19 he is found to have tuberculosis, to complete a course of  
20 treatment prescribed by the rules of the department; or

21 (b) enter or return to a hospital for treatment if the  
22 person is a menace to public health or follow whatever  
23 course of treatment outside of a hospital is prescribed by  
24 the rules of the department.

25 (3) The application for an order provided for in

1 subsections (1) and (2) of this section shall allege that  
2 the person:

3 (a) is suspected of having tuberculosis ~~in a~~  
4 ~~communicable state~~ or has been exposed to ~~communicable~~  
5 ~~tuberculosis, is a menace to public health,~~ and has refused  
6 to be examined for tuberculosis as required by rules adopted  
7 by the department; or

8 (b) ~~is suffering from~~ has tuberculosis ~~in a~~  
9 ~~communicable state, is a menace to public health,~~ and has  
10 refused to ~~enter or has left a hospital against the advice~~  
11 ~~of a physician or health officer~~ be treated or to complete a  
12 course of treatment prescribed by the rules of the  
13 department.

14 (4) The application shall state the names of witnesses  
15 by which facts alleged may be proved. At least one witness  
16 shall must be a physician."

17 Section 6. Section 50-17-107, MCA, is amended to read:

18 "50-17-107. Adjudication of application. Following the  
19 hearing, the court shall find that the allegations of the  
20 application are:

21 (1) true and order the person committed to enter or  
22 return to a hospital for treatment or to follow a course of  
23 treatment outside of a hospital;

24 (2) true and order the person to submit to an  
25 examination for tuberculosis within a specified time and to

1 complete a course of treatment; or  
 2 (3) not true and order the person discharged."  
 3 Section 7. Section 50-17-108, MCA, is amended to read:  
 4 "50-17-108. Commitment to hospital on noncompliance  
 5 with order ~~for--examination.~~ If a person fails to comply  
 6 with an order to submit to an examination for tuberculosis  
 7 within the time set or to complete a course of treatment,  
 8 the court shall order him committed to a hospital."  
 9 Section 8. Section 50-17-110, MCA, is amended to read:  
 10 "50-17-110. Confinement in hospital -- submission to  
 11 treatment. (1) A person committed under 50-17-107 or  
 12 50-17-108 shall remain at the hospital until discharged  
 13 under 50-17-112 or 50-17-113, but he is not required to  
 14 submit to medical or surgical treatment without his written  
 15 consent, the consent of his next of kin or guardian if if  
 16 the person is incompetent, ~~consent-by-his--next--of--kin--or~~  
 17 ~~guardian--is--required--if-a~~ or the consent of his parent or  
 18 guardian if the person is a minor, ~~consent-by-his-parent--or~~  
 19 ~~guardian-is-required.~~  
 20 (2) The person in charge of the hospital may use  
 21 reasonable means to insure that the person committed remains  
 22 at the hospital."  
 23 Section 9. Section 50-17-112, MCA, is amended to read:  
 24 "50-17-112. Procedure to obtain release from  
 25 commitment. (1) One hundred and eighty days or more after

1 the date of his commitment, A a person committed under  
 2 50-17-107 or 50-17-108 may apply to the court that ordered  
 3 his commitment for a release.  
 4 ~~(2)--The-procedure-for-the-request-and-a-hearing-is:~~  
 5 ~~(a)--not-fewer-than--180--days--after--commitment,~~ ~~the~~  
 6 ~~person---applies---to---the---court---that---ordered---commitment~~  
 7 ~~requesting-release;~~  
 8 ~~(b)--not (2) Not fewer than 3 or more than 7 days~~  
 9 ~~after receipt of the request, the court holds shall hold a~~  
 10 ~~hearing.~~  
 11 (3) Following the hearing, the court shall:  
 12 (a) orders order his discharge if it finds he no  
 13 longer---has---tuberculosis---in---a---communicable---state; has  
 14 completed a course of treatment meeting the standards set by  
 15 rules of the department or does not have tuberculosis; or  
 16 (b) dismisses dismiss the request if it finds he still  
 17 has tuberculosis in-a-communicable-state or he has refused  
 18 to submit to an examination to determine whether he has  
 19 tuberculosis or has not yet completed a course of treatment  
 20 meeting department standards."  
 21 Section 10. Section 50-17-113, MCA, is amended to  
 22 read:  
 23 "50-17-113. Voluntary release. (1) If the person in  
 24 charge of the hospital and the department or local board  
 25 that requested commitment concur that a person ~~is-no-longer~~

1 ~~a-menace-to-public-health,~~ either does not have tuberculosis  
2 or has submitted to a course of treatment meeting the  
3 standards set in the rules of the department, the person  
4 shall be released from the hospital.

5 (2) The person in charge of the hospital shall file a  
6 notice of date of release with the court that ordered  
7 commitment."

8 NEW SECTION. Section 11. Saving clause. This act does  
9 not affect rights and duties that matured, penalties that  
10 were incurred, or proceedings that were begun before the  
11 effective date of this act.

12 NEW SECTION. Section 12. Severability. If a part of  
13 this act is invalid, all valid parts that are severable from  
14 the invalid part remain in effect. If a part of this act is  
15 invalid in one or more of its applications, the part remains  
16 in effect in all valid applications that are severable from  
17 the invalid applications.

18 NEW SECTION. Section 13. Extension of authority. Any  
19 existing authority of the department of health and  
20 environmental sciences to make rules on the subject of the  
21 provisions of this act is extended to the provisions of this  
22 act.

23 NEW SECTION. Section 14. Effective date. This act is  
24 effective on passage and approval.

-End-

APPROVED BY COMM. ON  
HUMAN SERVICES AND AGING

STATEMENT OF INTENT

HOUSE BILL 119

House Human Services and Aging Committee

A statement of intent is required for House Bill 119 because it adds authority to adopt rules concerning control of tuberculosis to the current authority of the department of health and environmental sciences in section 50-17-103, MCA, to adopt rules to determine whether tuberculosis exists.

The object of the specific chapter relating to tuberculosis (Title 50, chapter 17, MCA) has always been control of the disease, though the section in that chapter granting the department rulemaking authority only grants DHES the power to set standards for determining the existence of TB. However, since DHES has independent authority to adopt rules for control of any communicable disease (section 50-1-202, MCA), a category including tuberculosis, the department at present has rules in force prescribing TB control measures. Adding authority to Title 50, chapter 17, for DHES to adopt tuberculosis control rules will implement the primary purpose of that chapter and render the rulemaking authority specific to tuberculosis consistent with that granted for control of communicable diseases in general.

Therefore, it is the intent of the legislature that the department of health and environmental sciences has express rulemaking authority to adopt tuberculosis control rules setting standards for effective outpatient, as well as inpatient, treatment of tuberculosis, necessary measures to prevent transmission of the disease to others, and reporting to DHES and/or local health departments.

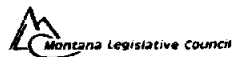
SECOND READING



1 HOUSE BILL NO. 119  
 2 INTRODUCED BY MILES  
 3 BY REQUEST OF THE DEPARTMENT  
 4 OF HEALTH AND ENVIRONMENTAL SCIENCES  
 5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 7 UPDATE THE LAWS RELATING TO TUBERCULOSIS CONTROL; ALLOWING  
 8 ENFORCEMENT OF TUBERCULOSIS TREATMENT OUTSIDE OF A HOSPITAL;  
 9 AMENDING SECTIONS 50-17-101 THROUGH 50-17-105, 50-17-107,  
 10 50-17-108, 50-17-110, 50-17-112, AND 50-17-113, MCA; AND  
 11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 14 Section 1. Section 50-17-101, MCA, is amended to read:  
 15 "50-17-101. Policy of state. It is the public policy  
 16 of the state to:  
 17 (1) protect persons from the danger of tuberculosis ~~in~~  
 18 ~~a-communicable-state~~;  
 19 (2) provide and maintain a comprehensive program for  
 20 the prevention, abatement, and adequate control working  
 21 toward eradication of the disease;  
 22 (3) cooperate with other state agencies and the  
 23 federal government in carrying out these objectives."  
 24 Section 2. Section 50-17-102, MCA, is amended to read:  
 25 "50-17-102. Definitions. As used in this chapter,

1 unless the context clearly indicates otherwise, the  
 2 following definitions apply:  
 3 (1) "Department" means the department of health and  
 4 environmental sciences, provided for in Title 2, chapter 15,  
 5 part 21.  
 6 (2) "Local board" means a city, county, city-county,  
 7 or district board of health.  
 8 (3) "Tuberculosis" means a disease caused by the  
 9 ~~tubercle--bacillus--characterized--by--the--production--of~~  
 10 ~~tuberculous-lesions~~ mycobacterium tuberculosis."  
 11 Section 3. Section 50-17-103, MCA, is amended to read:  
 12 "50-17-103. Powers and duties of department. (1) The  
 13 department shall:  
 14 (a) accept, spend, and distribute federal funds  
 15 available for tuberculosis control;  
 16 (b) collect and study data on the incidence of  
 17 tuberculosis;  
 18 (c) adopt rules for the determination and control of  
 19 tuberculosis ~~in-a-communicable-state~~.  
 20 (2) The department may, if appropriate, contract with  
 21 federal agencies or other state agencies for receipt and  
 22 expenditure of federal funds."  
 23 Section 4. Section 50-17-104, MCA, is amended to read:  
 24 "50-17-104. Facilities for diagnosis and treatment of  
 25 tuberculosis. (1) The Montana state hospital shall maintain





1 facilities ~~to---carry---out---this---chapter~~ for inhospital  
 2 treatment of tuberculosis.

3 (2) The charge for care, treatment, and maintenance at  
 4 the Montana state hospital shall be at the rate fixed by  
 5 law."

6 Section 5. Section 50-17-105, MCA, is amended to read:

7 "50-17-105. Application to require examination or  
 8 treatment for tuberculosis. (1) The department or a local  
 9 board may apply for an order from the district court if a  
 10 person is reasonably suspected to have or to have been  
 11 exposed to ~~communicable~~ tuberculosis, upon request of:

12 (a) a physician legally authorized to practice  
 13 medicine in the state;

14 (b) the department; or

15 (c) a local health officer.

16 (2) The application shall request that the person be  
 17 ordered to:

18 (a) submit to an examination for tuberculosis and, if  
 19 he is found to have tuberculosis, to complete a course of  
 20 treatment prescribed by the rules of the department; or

21 (b) enter or return to a hospital for treatment if-the  
 22 person--is--a--menace--to--public--health or follow whatever  
 23 course of treatment outside of a hospital is prescribed by  
 24 the rules of the department.

25 (3) The application for an order provided for in

1 subsections (1) and (2) of this section shall allege that  
 2 the person:

3 (a) is suspected of having tuberculosis ~~in--a~~  
 4 ~~communicable-state~~ or has been exposed to ~~communicable~~  
 5 ~~tuberculosis;--is--a--menace--to--public--health,~~ and has refused  
 6 to be examined for tuberculosis as required by rules adopted  
 7 by the department; or

8 (b) ~~is--suffering---from~~ has tuberculosis ~~in---a~~  
 9 ~~communicable--state;--is--a--menace--to--public--health,~~ and has  
 10 refused to ~~enter-or-has-left-a-hospital-against--the--advice~~  
 11 ~~of-a-physician-or-health-officer~~ be treated or to complete a  
 12 course of treatment prescribed by the rules of the  
 13 department.

14 (4) The application shall state the names of witnesses  
 15 by which facts alleged may be proved. At least one witness  
 16 ~~shall~~ must be a physician."

17 Section 6. Section 50-17-107, MCA, is amended to read:

18 "50-17-107. Adjudication of application. Following the  
 19 hearing, the court shall find that the allegations of the  
 20 application are:

21 (1) true and order the person committed to enter or  
 22 return to a hospital for treatment or to follow a course of  
 23 treatment outside of a hospital;

24 (2) true and order the person to submit to an  
 25 examination for tuberculosis within a specified time and to

1 complete a course of treatment; or

2 (3) not true and order the person discharged."

3 Section 7. Section 50-17-108, MCA, is amended to read:

4 "50-17-108. Commitment to hospital on noncompliance  
5 with order for--examination. If a person fails to comply  
6 with an order to submit to an examination for tuberculosis  
7 within the time set or to complete a course of treatment,  
8 the court shall order him committed to a hospital."

9 Section 8. Section 50-17-110, MCA, is amended to read:

10 "50-17-110. Confinement in hospital -- submission to  
11 treatment. (1) A person committed under 50-17-107 or  
12 50-17-108 shall remain at the hospital until discharged  
13 under 50-17-112 or 50-17-113, but he is not required to  
14 submit to medical or surgical treatment without his written  
15 consent, the consent of his next of kin or guardian if if  
16 the person is incompetent, consent-by-his--next--of--kin--or  
17 guardian--is--required--if-a or the consent of his parent or  
18 guardian if the person is a minor, consent-by-his-parent--or  
19 guardian-is-required.

20 (2) The person in charge of the hospital may use  
21 reasonable means to insure that the person committed remains  
22 at the hospital."

23 Section 9. Section 50-17-112, MCA, is amended to read:

24 "50-17-112. Procedure to obtain release from  
25 commitment. (1) One hundred and eighty days or more after

1 the date of his commitment, A a person committed under  
2 50-17-107 or 50-17-108 may apply to the court that ordered  
3 his commitment for a release.

4 ~~(2)--The procedure for the request and a hearing is:~~  
5 ~~(a)--not fewer than 100 days after commitment, the~~  
6 ~~person---applies---to---the---court---that---ordered---commitment~~  
7 ~~requesting release;~~

8 ~~(b)--not (2) Not fewer than 3 or more than 7 days~~  
9 ~~after receipt of the request, the court holds shall hold a~~  
10 ~~hearing.~~

11 (3) Following the hearing, the court shall:

12 (a) orders order his discharge if it finds he no  
13 longer---has---tuberculosis---in---a---communicable---state; has  
14 completed a course of treatment meeting the standards set by  
15 rules of the department or does not have tuberculosis; or

16 (b) dismisses dismiss the request if it finds he still  
17 has tuberculosis in-a-communicable-state or he has refused  
18 to submit to an examination to determine whether he has  
19 tuberculosis or has not yet completed a course of treatment  
20 meeting department standards."

21 Section 10. Section 50-17-113, MCA, is amended to  
22 read:

23 "50-17-113. Voluntary release. (1) If the person in  
24 charge of the hospital and the department or local board  
25 that requested commitment concur that a person is-no--longer

1 ~~a-menace-to-public-health; either does not have tuberculosis~~  
2 ~~or has submitted to a course of treatment meeting the~~  
3 ~~standards set in the rules of the department, the person~~  
4 shall be released from the hospital.

5 (2) The person in charge of the hospital shall file a  
6 notice of date of release with the court that ordered  
7 commitment."

8 NEW SECTION. Section 11. Saving clause. This act does  
9 not affect rights and duties that matured, penalties that  
10 were incurred, or proceedings that were begun before the  
11 effective date of this act.

12 NEW SECTION. Section 12. Severability. If a part of  
13 this act is invalid, all valid parts that are severable from  
14 the invalid part remain in effect. If a part of this act is  
15 invalid in one or more of its applications, the part remains  
16 in effect in all valid applications that are severable from  
17 the invalid applications.

18 NEW SECTION. Section 13. Extension of authority. Any  
19 existing authority of the department of health and  
20 environmental sciences to make rules on the subject of the  
21 provisions of this act is extended to the provisions of this  
22 act.

23 NEW SECTION. Section 14. Effective date. This act is  
24 effective on passage and approval.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 119

3 House Human Services and Aging Committee

4

5 A statement of intent is required for House Bill 119

6 because it adds authority to adopt rules concerning control

7 of tuberculosis to the current authority of the department

8 of health and environmental sciences in section 50-17-103,

9 MCA, to adopt rules to determine whether tuberculosis

10 exists.

11 The object of the specific chapter relating to

12 tuberculosis (Title 50, chapter 17, MCA) has always been

13 control of the disease, though the section in that chapter

14 granting the department rulemaking authority only grants

15 DHES the power to set standards for determining the

16 existence of TB. However, since DHES has independent

17 authority to adopt rules for control of any communicable

18 disease (section 50-1-202, MCA), a category including

19 tuberculosis, the department at present has rules in force

20 prescribing TB control measures. Adding authority to Title

21 50, chapter 17, for DHES to adopt tuberculosis control rules

22 will implement the primary purpose of that chapter and

23 render the rulemaking authority specific to tuberculosis

24 consistent with that granted for control of communicable

25 diseases in general.

1 Therefore, it is the intent of the legislature that the

2 department of health and environmental sciences has express

3 rulemaking authority to adopt tuberculosis control rules

4 setting standards for effective outpatient, as well as

5 inpatient, treatment of tuberculosis, necessary measures to

6 prevent transmission of the disease to others, and reporting

7 to DHES and/or local health departments.

1 HOUSE BILL NO. 119  
 2 INTRODUCED BY MILES  
 3 BY REQUEST OF THE DEPARTMENT  
 4 OF HEALTH AND ENVIRONMENTAL SCIENCES  
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 7 UPDATE THE LAWS RELATING TO TUBERCULOSIS CONTROL; ALLOWING  
 8 ENFORCEMENT OF TUBERCULOSIS TREATMENT OUTSIDE OF A HOSPITAL;  
 9 AMENDING SECTIONS 50-17-101 THROUGH 50-17-105, 50-17-107,  
 10 50-17-108, 50-17-110, 50-17-112, AND 50-17-113, MCA; AND  
 11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 50-17-101, MCA, is amended to read:  
 15 "50-17-101. Policy of state. It is the public policy  
 16 of the state to:

- 17 (1) protect persons from the danger of tuberculosis in  
 18 a-communicable-state;
- 19 (2) provide and maintain a comprehensive program for  
 20 the prevention, abatement, and adequate control working  
 21 toward eradication of the disease;
- 22 (3) cooperate with other state agencies and the  
 23 federal government in carrying out these objectives."

24 Section 2. Section 50-17-102, MCA, is amended to read:  
 25 "50-17-102. Definitions. As used in this chapter,

1 unless the context clearly indicates otherwise, the  
 2 following definitions apply:

- 3 (1) "Department" means the department of health and  
 4 environmental sciences, provided for in Title 2, chapter 15,  
 5 part 21.
- 6 (2) "Local board" means a city, county, city-county,  
 7 or district board of health.
- 8 (3) "Tuberculosis" means a disease caused by the  
 9 tubercle--bacillus--characterized--by--the---production---of  
 10 tuberculous-lesions mycobacterium tuberculosis."

11 Section 3. Section 50-17-103, MCA, is amended to read:  
 12 "50-17-103. Powers and duties of department. (1) The  
 13 department shall:

- 14 (a) accept, spend, and distribute federal funds  
 15 available for tuberculosis control;
- 16 (b) collect and study data on the incidence of  
 17 tuberculosis;
- 18 (c) adopt rules for the determination and control of  
 19 tuberculosis in-a-communicable-state.

20 (2) The department may, if appropriate, contract with  
 21 federal agencies or other state agencies for receipt and  
 22 expenditure of federal funds."

23 Section 4. Section 50-17-104, MCA, is amended to read:  
 24 "50-17-104. Facilities for diagnosis and treatment of  
 25 tuberculosis. (1) The Montana state hospital shall maintain

1 facilities ~~to carry out this chapter~~ for in-hospital  
 2 treatment of tuberculosis.

3 (2) The charge for care, treatment, and maintenance at  
 4 the Montana state hospital shall be at the rate fixed by  
 5 law."

6 Section 5. Section 50-17-105, MCA, is amended to read:

7 "50-17-105. Application to require examination or  
 8 treatment for tuberculosis. (1) The department or a local  
 9 board may apply for an order from the district court if a  
 10 person is reasonably suspected to have or to have been  
 11 exposed to ~~communicable~~ tuberculosis, upon request of:

12 (a) a physician legally authorized to practice  
 13 medicine in the state;

14 (b) the department; or

15 (c) a local health officer.

16 (2) The application shall request that the person be  
 17 ordered to:

18 (a) submit to an examination for tuberculosis and, if  
 19 he is found to have tuberculosis, to complete a course of  
 20 treatment prescribed by the rules of the department; or

21 (b) enter or return to a hospital for treatment ~~if the~~  
 22 person is a menace to public health or follow whatever  
 23 course of treatment outside of a hospital is prescribed by  
 24 the rules of the department.

25 (3) The application for an order provided for in

1 subsections (1) and (2) of this section shall allege that  
 2 the person:

3 (a) is suspected of having tuberculosis in a  
 4 ~~communicable state~~ or has been exposed to ~~communicable~~  
 5 ~~tuberculosis, is a menace to public health,~~ and has refused  
 6 to be examined for tuberculosis as required by rules adopted  
 7 by the department; or

8 (b) ~~is suffering from~~ has tuberculosis in a  
 9 ~~communicable state, is a menace to public health,~~ and has  
 10 refused to ~~enter or has left a hospital against the advice~~  
 11 ~~of a physician or health officer~~ be treated or to complete a  
 12 course of treatment prescribed by the rules of the  
 13 department.

14 (4) The application shall state the names of witnesses  
 15 by which facts alleged may be proved. At least one witness  
 16 ~~shall~~ must be a physician."

17 Section 6. Section 50-17-107, MCA, is amended to read:

18 "50-17-107. Adjudication of application. Following the  
 19 hearing, the court shall find that the allegations of the  
 20 application are:

21 (1) true and order the person committed to enter or  
 22 return to a hospital for treatment or to follow a course of  
 23 treatment outside of a hospital;

24 (2) true and order the person to submit to an  
 25 examination for tuberculosis within a specified time and to

1 complete a course of treatment; or  
 2 (3) not true and order the person discharged."  
 3 Section 7. Section 50-17-108, MCA, is amended to read:  
 4 "50-17-108. Commitment to hospital on noncompliance  
 5 with order for--examination. If a person fails to comply  
 6 with an order to submit to an examination for tuberculosis  
 7 within the time set or to complete a course of treatment,  
 8 the court shall order him committed to a hospital."  
 9 Section 8. Section 50-17-110, MCA, is amended to read:  
 10 "50-17-110. Confinement in hospital -- submission to  
 11 treatment. (1) A person committed under 50-17-107 or  
 12 50-17-108 shall remain at the hospital until discharged  
 13 under 50-17-112 or 50-17-113, but he is not required to  
 14 submit to medical or surgical treatment without his written  
 15 consent, the consent of his next of kin or guardian if ~~if~~  
 16 the person is incompetent, ~~consent-by-his--next--of--kin--or~~  
 17 ~~guardian--is--required--if-a~~ or the consent of his parent or  
 18 guardian if the person is a minor, consent-by-his-parent--or  
 19 guardian-is-required.  
 20 (2) The person in charge of the hospital may use  
 21 reasonable means to insure that the person committed remains  
 22 at the hospital."  
 23 Section 9. Section 50-17-112, MCA, is amended to read:  
 24 "50-17-112. Procedure to obtain release from  
 25 commitment. (1) One hundred and eighty days or more after

1 the date of his commitment, A a person committed under  
 2 50-17-107 or 50-17-108 may apply to the court that ordered  
 3 his commitment for a release.  
 4 ~~(2)--The-procedure-for-the-request-and-a-hearing-is-~~  
 5 ~~(a)--not-fewer-than--180--days--after--commitment,--the~~  
 6 ~~person---applies---to---the---court---that---ordered---commitment~~  
 7 ~~requesting-release,~~  
 8 ~~(b)--not (2) Not~~ fewer than 3 or more than 7 days  
 9 after receipt of the request, the court ~~holds~~ shall hold a  
 10 hearing.  
 11 (3) Following the hearing, the court shall:  
 12 (a) orders order his discharge if it finds he no  
 13 longer--has--tuberculosis--in--a--communicable--state; has  
 14 completed a course of treatment meeting the standards set by  
 15 rules of the department or does not have tuberculosis; or  
 16 (b) dismisses dismiss the request if it finds he still  
 17 has tuberculosis ~~in-a-communicable-state~~ or he has refused  
 18 to submit to an examination to determine whether he has  
 19 tuberculosis or has not yet completed a course of treatment  
 20 meeting department standards."  
 21 Section 10. Section 50-17-113, MCA, is amended to  
 22 read:  
 23 "50-17-113. Voluntary release. (1) If the person in  
 24 charge of the hospital and the department or local board  
 25 that requested commitment concur that a person ~~is-no--longer~~

1 ~~a-menace-to-public-health, either does not have tuberculosis~~  
2 ~~or has submitted to a course of treatment meeting the~~  
3 ~~standards set in the rules of the department, the person~~  
4 shall be released from the hospital.

5 (2) The person in charge of the hospital shall file a  
6 notice of date of release with the court that ordered  
7 commitment."

8 NEW SECTION. Section 11. Saving clause. This act does  
9 not affect rights and duties that matured, penalties that  
10 were incurred, or proceedings that were begun before the  
11 effective date of this act.

12 NEW SECTION. Section 12. Severability. If a part of  
13 this act is invalid, all valid parts that are severable from  
14 the invalid part remain in effect. If a part of this act is  
15 invalid in one or more of its applications, the part remains  
16 in effect in all valid applications that are severable from  
17 the invalid applications.

18 NEW SECTION. Section 13. Extension of authority. Any  
19 existing authority of the department of health and  
20 environmental sciences to make rules on the subject of the  
21 provisions of this act is extended to the provisions of this  
22 act.

23 NEW SECTION. Section 14. Effective date. This act is  
24 effective on passage and approval.

-End-



# STANDING COMMITTEE REPORT

JANUARY 25, 1985

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration THE STATEMENT OF INTENT FOR HOUSE Bill No. 119

THIRD reading copy (BLUE color)

Respectfully report as follows: That THE STATEMENT OF INTENT FOR HB No. 119

be amended as follows:

1. Page 2, line 5.

Following: "tuberculosis;"

Insert: "except for treatment prescribed by a physician in accordance with current acceptable medical standards;"

2. Page 2, line 6.

Following: "others"

Strike: ", "

Insert: ";"

*JJ*  
AND AS AMENDED,  
BE ADOPTED

XXXXXX

XXXXXX

*Judy Jacobson*  
SENATOR JUDY JACOBSON Chairman.

SENATE

# STANDING COMMITTEE REPORT

JANUARY 25, 1985

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY  
having had under consideration HOUSE No. 119

THIRD reading copy ( BLUE )  
color

TB CONTROL REVISION

Respectfully report as follows: That HOUSE No. 119

be amended as follows:

1. Page 2, line 11.  
Following: line 10  
Insert: "(4) "Approved course of treatment" means a course of treatment for tuberculosis which includes medical treatment prescribed by a physician and consistent with accepted medical standards, as well as appropriate follow-up to assure public health and safety as set out in the rules of the department."

2. Page 3, line 19.  
Following: "complete"  
Strike: "a"  
Insert: "an approved"

3. Page 3, line 20.  
Following: "treatment"  
Strike: "prescribed by the rules of the department"

4. Page 3, line 22.  
Following: "follow"  
Strike: "whatever"  
Insert: "an approved"

PAGE 1 of 3

SENATE PUBLIC HEALTH  
PAGE 2 of 3  
HB 119

JANUARY 25, 1985

5. Page 3, lines 23 and 24.  
Following: "hospital" on line 23  
Strike: remainder of line 23 through "department" in line 24

6. Page 4, line 11.  
Following: "complete"  
Strike: "a"  
Insert: "an approved"

7. Page 4, lines 12 and 13.  
Following: "treatment" in line 12  
Strike: remainder of line 12 through "department" in line 13

8. Page 4, line 22  
Following: "follow"  
Strike: "a"  
Insert: "an approved"

9. Page 5, line 1.  
Following: "complete"  
Strike: "a"  
Insert: "an approved"

10. Page 5, line 7.  
Following: "complete"  
Strike: "a"  
Insert: "an approved"

11. Page 6, line 14.  
Following: "completed"  
Strike: "a"  
Insert: "an approved"

12. Page 6, lines 14 and 15.  
Following: "treatment"  
Strike: remainder of line 14 through "department" in line 15

13. Page 6, line 19.  
Following: "completed"  
Strike: "a"  
Insert: "an approved"

14. Page 6, line 20.  
Following: line 19  
Strike: "meeting department standards"

CONTINUED

CONTINUED

SENATE PUBLIC HEALTH

JANUARY 25, 1985

PAGE 3 of 3

HB 119

15. Page 7, line 2.

Following: "submitted to"

Strike: "a"

Insert: "an approved"

16. Page 7, lines 2 and 3.

Following: "treatment"

Strike: remainder of line 2 through "department" in line 3

*Jo*  
AND AS AMENDED, BE CONCURRED IN

*H. J. ...*

STATEMENT OF INTENT

HOUSE BILL 119

House Human Services and Aging Committee

A statement of intent is required for House Bill 119 because it adds authority to adopt rules concerning control of tuberculosis to the current authority of the department of health and environmental sciences in section 50-17-103, MCA, to adopt rules to determine whether tuberculosis exists.

The object of the specific chapter relating to tuberculosis (Title 50, chapter 17, MCA) has always been control of the disease, though the section in that chapter granting the department rulemaking authority only grants DHES the power to set standards for determining the existence of TB. However, since DHES has independent authority to adopt rules for control of any communicable disease (section 50-1-202, MCA), a category including tuberculosis, the department at present has rules in force prescribing TB control measures. Adding authority to Title 50, chapter 17, for DHES to adopt tuberculosis control rules will implement the primary purpose of that chapter and render the rulemaking authority specific to tuberculosis consistent with that granted for control of communicable diseases in general.

Therefore, it is the intent of the legislature that the department of health and environmental sciences has express rulemaking authority to adopt tuberculosis control rules setting standards for effective outpatient, as well as inpatient, treatment of tuberculosis, EXCEPT FOR TREATMENT PRESCRIBED BY A PHYSICIAN IN ACCORDANCE WITH CURRENT ACCEPTABLE MEDICAL STANDARDS; necessary measures to prevent transmission of the disease to others; and reporting to DHES and/or local health departments.



1 HOUSE BILL NO. 119  
 2 INTRODUCED BY MILES  
 3 BY REQUEST OF THE DEPARTMENT  
 4 OF HEALTH AND ENVIRONMENTAL SCIENCES  
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 7 UPDATE THE LAWS RELATING TO TUBERCULOSIS CONTROL; ALLOWING  
 8 ENFORCEMENT OF TUBERCULOSIS TREATMENT OUTSIDE OF A HOSPITAL;  
 9 AMENDING SECTIONS 50-17-101 THROUGH 50-17-105, 50-17-107,  
 10 50-17-108, 50-17-110, 50-17-112, AND 50-17-113, MCA; AND  
 11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 50-17-101, MCA, is amended to read:  
 15 "50-17-101. Policy of state. It is the public policy  
 16 of the state to:

17 (1) protect persons from the danger of tuberculosis in  
 18 ~~a-communicable-state;~~

19 (2) provide and maintain a comprehensive program for  
 20 the prevention, abatement, and adequate control working  
 21 toward eradication of the disease;

22 (3) cooperate with other state agencies and the  
 23 federal government in carrying out these objectives."

24 Section 2. Section 50-17-102, MCA, is amended to read:  
 25 "50-17-102. Definitions. As used in this chapter,

1 unless the context clearly indicates otherwise, the  
 2 following definitions apply:

3 (1) "Department" means the department of health and  
 4 environmental sciences, provided for in Title 2, chapter 15,  
 5 part 21.

6 (2) "Local board" means a city, county, city-county,  
 7 or district board of health.

8 (3) "Tuberculosis" means a disease caused by the  
 9 ~~tubercle--bacillus--characterized--by--the---production---of~~  
 10 ~~tuberculous-lesions~~ Mycobacterium tuberculosis.

11 (4) "APPROVED COURSE OF TREATMENT" MEANS A COURSE OF  
 12 TREATMENT FOR TUBERCULOSIS WHICH INCLUDES MEDICAL TREATMENT  
 13 PRESCRIBED BY A PHYSICIAN AND CONSISTENT WITH ACCEPTED  
 14 MEDICAL STANDARDS, AS WELL AS APPROPRIATE FOLLOWUP TO ASSURE  
 15 PUBLIC HEALTH AND SAFETY AS SET OUT IN THE RULES OF THE  
 16 DEPARTMENT."

17 Section 3. Section 50-17-103, MCA, is amended to read:  
 18 "50-17-103. Powers and duties of department. (1) The  
 19 department shall:

20 (a) accept, spend, and distribute federal funds  
 21 available for tuberculosis control;

22 (b) collect and study data on the incidence of  
 23 tuberculosis;

24 (c) adopt rules for the determination and control of  
 25 tuberculosis ~~in-a-communicable-state.~~

1 (2) The department may, if appropriate, contract with  
2 federal agencies or other state agencies for receipt and  
3 expenditure of federal funds."

4 Section 4. Section 50-17-104, MCA, is amended to read:

5 "50-17-104. Facilities for diagnosis and treatment of  
6 tuberculosis. (1) The Montana state hospital shall maintain  
7 facilities ~~to---carry---out---this---chapter~~ for inhospital  
8 treatment of tuberculosis.

9 (2) The charge for care, treatment, and maintenance at  
10 the Montana state hospital shall be at the rate fixed by  
11 law."

12 Section 5. Section 50-17-105, MCA, is amended to read:

13 "50-17-105. Application to require examination or  
14 treatment for tuberculosis. (1) The department or a local  
15 board may apply for an order from the district court if a  
16 person is reasonably suspected to have or to have been  
17 exposed to ~~communicable~~ tuberculosis, upon request of:

18 (a) a physician legally authorized to practice  
19 medicine in the state;

20 (b) the department; or

21 (c) a local health officer.

22 (2) The application shall request that the person be  
23 ordered to:

24 (a) submit to an examination for tuberculosis and, if  
25 he is found to have tuberculosis, to complete a AN APPROVED

1 course of treatment prescribed--by--the--rules--of--the  
2 department; or

3 (b) enter or return to a hospital for treatment ~~if-the~~  
4 ~~person-is-a-menace-to-public-health~~ or follow whatever AN  
5 APPROVED course of treatment outside of a hospital is  
6 prescribed-by-the-rules-of-the-department.

7 (3) The application for an order provided for in  
8 subsections (1) and (2) of this section shall allege that  
9 the person:

10 (a) is suspected of having tuberculosis ~~in---a~~  
11 ~~communicable---state~~ or has been exposed to ~~communicable~~  
12 ~~tuberculosis;is-a-menace-to-public-health;~~ and has refused  
13 to be examined for tuberculosis as required by rules adopted  
14 by the department; or

15 (b) ~~is---suffering---from~~ has tuberculosis ~~in--a~~  
16 ~~communicable-stater-is-a-menace-to-public--health;~~ and has  
17 refused to ~~enter-or-has-left-a-hospital-against-the-advice~~  
18 ~~of-a-physician-or-health-officer~~ be treated or to complete a  
19 AN APPROVED course of treatment prescribed-by-the--rules--of  
20 the-department.

21 (4) The application shall state the names of witnesses  
22 by which facts alleged may be proved. At least one witness  
23 ~~shall~~ must be a physician."

24 Section 6. Section 50-17-107, MCA, is amended to read:

25 "50-17-107. Adjudication of application. Following the

1 hearing, the court shall find that the allegations of the  
2 application are:

3 (1) true and order the person committed to enter or  
4 return to a hospital for treatment or to follow a AN  
5 APPROVED course of treatment outside of a hospital;

6 (2) true and order the person to submit to an  
7 examination for tuberculosis within a specified time and to  
8 complete a AN APPROVED course of treatment; or

9 (3) not true and order the person discharged."

10 Section 7. Section 50-17-108, MCA, is amended to read:

11 "50-17-108. Commitment to hospital on noncompliance  
12 with order for-examination. If a person fails to comply  
13 with an order to submit to an examination for tuberculosis  
14 within the time set or to complete a AN APPROVED course of  
15 treatment, the court shall order him committed to a  
16 hospital."

17 Section 8. Section 50-17-110, MCA, is amended to read:

18 "50-17-110. Confinement in hospital -- submission to  
19 treatment. (1) A person committed under 50-17-107 or  
20 50-17-108 shall remain at the hospital until discharged  
21 under 50-17-112 or 50-17-113, but he is not required to  
22 submit to medical or surgical treatment without his written  
23 consent, the consent of his next of kin or guardian if ~~if~~  
24 the person is incompetent, consent-by-his-next-of-kin-or  
25 guardian--is--required--if-a or the consent of his parent or

1 guardian if the person is a minor,--consent-by-his-parent--or  
2 guardian-is-required.

3 (2) The person in charge of the hospital may use  
4 reasonable means to insure that the person committed remains  
5 at the hospital."

6 Section 9. Section 50-17-112, MCA, is amended to read:

7 "50-17-112. Procedure to obtain release from  
8 commitment. (1) One hundred and eighty days or more after  
9 the date of his commitment, A a person committed under  
10 50-17-107 or 50-17-108 may apply to the court that ordered  
11 his commitment for a release.

12 ~~{2}--The-procedure-for-the-request-and-a-hearing-is:~~

13 ~~{a}--not-fewer-than--180--days--after--commitment;--the~~  
14 ~~person---applies---to---the---court---that---ordered---commitment~~  
15 ~~requesting-release;~~

16 ~~{b}--not (2) Not fewer than 3 or more than 7 days~~  
17 ~~after receipt of the request, the court holds shall hold a~~  
18 ~~hearing.~~

19 (3) Following the hearing, the court shall:

20 (a) ~~orders order~~ his discharge if it finds he ~~no~~  
21 ~~longer---has---tuberculosis---in---a---communicable---state;~~ has  
22 completed a AN APPROVED course of treatment meeting--the  
23 standards--set--by--rules-of-the-department or does not have  
24 tuberculosis; or

25 (b) ~~dismisses dismiss~~ the request if it finds he still

1 has tuberculosis ~~in-a-communicable-state~~ or he has refused  
2 to submit to an examination to determine whether he has  
3 tuberculosis or has not yet completed a AN APPROVED course  
4 of treatment ~~meeting-department-standards.~~"

5 Section 10. Section 50-17-113, MCA, is amended to  
6 read:

7 "50-17-113. Voluntary release. (1) If the person in  
8 charge of the hospital and the department or local board  
9 that requested commitment concur that a person ~~is-no--longer~~  
10 ~~a-menace-to-public-health,~~ either does not have tuberculosis  
11 or has submitted to a AN APPROVED course of treatment  
12 ~~meeting-the-standards-set-in-the-rules--of--the--department,~~  
13 the person shall be released from the hospital.

14 (2) The person in charge of the hospital shall file a  
15 notice of date of release with the court that ordered  
16 commitment."

17 NEW SECTION. Section 11. Saving clause. This act does  
18 not affect rights and duties that matured, penalties that  
19 were incurred, or proceedings that were begun before the  
20 effective date of this act.

21 NEW SECTION. Section 12. Severability. If a part of  
22 this act is invalid, all valid parts that are severable from  
23 the invalid part remain in effect. If a part of this act is  
24 invalid in one or more of its applications, the part remains  
25 in effect in all valid applications that are severable from

1 the invalid applications.

2 NEW SECTION. Section 13. Extension of authority. Any  
3 existing authority of the department of health and  
4 environmental sciences to make rules on the subject of the  
5 provisions of this act is extended to the provisions of this  
6 act.

7 NEW SECTION. Section 14. Effective date. This act is  
8 effective on passage and approval.

-End-