



SENATE STANDING COMMITTEE REPORT

February 17, 2005

Page 1 of 2

Mr. President:

We, your committee on **Public Health, Welfare and Safety** recommend that **Senate Bill 324** (first reading copy -- white) **do pass as amended.**

Signed: _____


Senator Brent R. Cromley, Chair

And, that such amendments read:

1. Title, line 13.

Following: "MCA;"

Strike: "AND"

2. Title, line 14.

Following: "2003"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 2.

Following: line 5

Insert: "(7) (a) The department may not contract with either an in-state or out-of-state mail service pharmacy, as defined in 37-7-702, for the purposes of the pharmacy access program for at least 1 year after persons eligible for the program have begun to purchase drugs through the program. At that time, the department shall evaluate the number of pharmacies within the state providing prescription drugs as part of the pharmacy access program.

(b) If the department determines that there are insufficient pharmacies participating in the program to allow reasonable access to persons qualified to purchase prescription drugs through the program, it may, after the evaluation provided for in subsection (7) (a), use one or more in-state or out-of-state mail service pharmacies, or both, for the purposes of the program."

Committee Vote:

Yes 9, No 0.

391314SC.sjo

4. Page 4, line 14.

Following: "shall"

Insert: ", if the department determines that sufficient funds are available,"

5. Page 6, line 4 and line 5.

Following: "they" on line 4

Strike: remainder of line 4 through "and" on line 5

6. Page 6, line 5.

Following: the second "equivalent"

Insert: "and the department determines them to be cost-effective"

7. Page 6, line 10.

Strike: "shall"

Insert: "may"

Strike: ", rebates and supplemental rebates,"

8. Page 6.

Following: line 30

Insert: "NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2005."

- END -

COMMITTEE FILE COPY

TABLED BILL

The **SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE** TABLED **SB 446**, by motion,
on **Wednesday, February 16, 2005**.



(For the Committee)



(Secretary of Senate)

11:40.12-17
(Time) (Date)

February 17, 2005

Rita A. Tenneson, Secretary

Phone: 6799



SENATE STANDING COMMITTEE REPORT

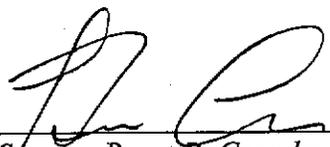
February 17, 2005

Page 1 of 7

Mr. President:

We, your committee on **Public Health, Welfare and Safety** recommend that **Senate Bill 317** (first reading copy -- white) **do pass as amended.**

Signed:


Senator Brent R. Cromley, Chair

And, that such amendments read:

1. Page 1, line 19.

Following: line 18

Insert: "(2) "Control or governance" means the possession, indirect or direct, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise unless the power is solely the result of an official position with a corporate office held by the person."

Renumber: subsequent subsections

2. Page 1, line 20.

Strike: "conversion,"

3. Page 1, line 21.

Following: "disposition"

Insert: "by a nonprofit health entity or another person or entity"

Following: "governance"

Insert: "to a person or entity other than the nonprofit health entity"

4. Page 1, line 22.

Strike: "full"

Committee Vote:

Yes 9, No 0.

391324SC.ssc

5. Page 1, line 23.
Strike: "full"

6. Page 1, line 25 and line 26.
Following: "transactions."
Strike: remainder of line 25 through "mission." on line 26
Insert: "In determining the value of a tangible asset under this definition, the value of the asset must be calculated net of any mortgage, lien, or other encumbrance on the asset that exists of record."

7. Page 1, line 27.
Following: "include"
Insert: "
 (i) "

8. Page 1, line 28.
Following: "result in a"
Insert: "material"

9. Page 1, line 29.
Following: "mission"
Strike: ", including but not limited to:"
Insert: "
 (ii) a transaction or series of transactions in the ordinary course of a nonprofit health entity's business if the effect of the transaction or series of transactions is not to convert the nonprofit health entity from a nonprofit to a for-profit entity, to transfer the nonprofit health entity's business or operations to a for-profit entity, or to transfer the control or benefit of public assets to a mutual benefit or for-profit entity;
 (iii) awards, grants, or payments to or on behalf of intended members or beneficiaries, consistent with the lawful purposes of a nonprofit health entity;
 (iv) a change in the membership of the board of directors or officers of the nonprofit health entity or a wholly owned subsidiary of the nonprofit health entity if the change in membership does not result in a change in the nonprofit corporate status of the nonprofit health entity, does not result from a transfer of control, governance, or ownership of the nonprofit health entity, and does not result from exercise of a power of appointment of directors or officers of the nonprofit health entity or a wholly owned subsidiary of the nonprofit health entity;
 (v) settlement, satisfaction, or payment of a claim or suit

against or debt of the nonprofit health entity or a wholly owned subsidiary of the nonprofit health entity incurred in the ordinary course of business;

(vi) execution of a promissory note, guaranty, or other evidence of indebtedness for the amount of a loan, the proceeds of which are paid solely to the nonprofit health entity or a wholly owned subsidiary of the nonprofit health entity;

(vii) any payment, transfer, or other transaction required by law or by order of any authorized administrative officer or agency, including but not limited to payment of taxes, fees, fines, penalties, or other assessments to a government or a nonprofit health entity or a transaction ordered by the commissioner or the attorney general;

(viii) purchases, sales, or transfers in the ordinary course of business for fair market value of cash or cash equivalents owned by the nonprofit health entity or any wholly owned subsidiary in exchange for goods, products, services, or an interest in property, including negotiable instruments as defined in 30-3-104, to be held by the nonprofit health entity or its wholly owned subsidiary;"

Renumber: subsequent subsections

10. Page 2, line 4.

Following: "encumbrance;"

Strike: "or"

11. Page 2, line 5.

Strike: "full"

12. Page 2, line 7.

Following: "subsidiary"

Insert: "; or

(xi) any other transaction or proposed transaction for fair market value if:

(A) the nonprofit health entity or its wholly owned subsidiary retains or will retain substantially the same degree of control, governance, or ownership of the proceeds of the transaction that the nonprofit health entity or its wholly owned subsidiary held in the assets or operations prior to the transaction or proposed transaction;

(B) the nonprofit health entity maintains its operations as a nonprofit health entity and public assets are maintained as public assets; and

(C) none of the assets or operations of the nonprofit health entity or its wholly owned subsidiary inure or will inure directly or indirectly to the benefit of any officer, director, trustee, or employee of the nonprofit health entity or its wholly

owned subsidiary"

13. Page 2, line 8 through line 12.

Strike: subsection (3) in its entirety

Insert: "(4) "Fair market value" means the fair market value as of the date of the transaction or proposed transaction as determined by an independent appraisal of the assets or operations performed and communicated by a qualified appraiser according to applicable professional appraisal standards."

14. Page 2, line 14.

Following: line 13

Insert: "(6) "Health service corporation" has the meaning provided in 33-30-101."

Renumber: subsequent subsections

15. Page 2, line 16.

Strike: ", as defined in 33-30-101"

16. Page 2, line 19.

Following: line 18

Insert: "(8) "Ordinary course of business" means with respect to a transaction or disposition that the transaction comports the usual and customary practices on the kind of business in which the nonprofit health entity is engaged."

Renumber: subsequent subsections

17. Page 3, line 9.

Strike: "information may be considered"

18. Page 3, line 10.

Strike: "or"

Insert: "and"

Following: "secrets"

Insert: "are protected from public disclosure"

Following: "6]"

Insert: "to the extent allowed by law"

19. Page 3, line 13.

Following: "powers."

Insert: "(1)"

20. Page 3, line 17.

Following: line 16

Insert: "(2) Nothing in [sections 1 through 18] precludes the attorney general or commissioner from seeking a declaratory judgment on whether an action may be considered a conversion transaction or a transaction in the ordinary course of business."

21. Page 3, line 27.

Following: "conversion"

Insert: "and the extent to which the assets proposed to be converted are public assets"

22. Page 4, line 1.

Strike: "full"

23. Page 4, line 3.

Following: "entity;"

Insert: "and"

24. Page 4, line 4 through line 5.

Following: "expert" on line 4

Strike: remainder of line 4 through "transaction" on line 5

25. Page 4, line 8.

Strike: "rule"

Insert: "law"

26. Page 4, line 12.

Following: "record"

Insert: ", except that any proprietary information or trade secret that may by law be kept confidential is not a public record"

27. Page 5, line 6.

Following: "2-4-612"

Strike: ", "

Insert: "through"

28. Page 5, line 20.

Strike: "full"

29. Page 6, line 12 and line 13.

Strike: "90 calendar days after"

Insert: "on"

Following: "on which"

Strike: remainder of line 12 through "earlier" on line 13

Insert: "both the commissioner and the attorney general have issued orders under [section 11]"

30. Page 6, line 17.

Following: "interest."

Insert: "If the attorney general determines that the transaction does not involve public assets, the attorney general may not disapprove the conversion transaction under the provisions of [sections 1 through 18]."

31. Page 6, line 20.

Strike: "full"

32. Page 6, line 21.

Strike: "full"

33. Page 6, line 23.

Strike: "full"

34. Page 6, line 30.

Strike: "fair"

Insert: "reasonable"

35. Page 7, line 11.

Strike: "full"

36. Page 7, line 12 through line 13.

Strike: "full"

Following: "factors,"

Strike: remainder of line 12 through "general" on line 13

Insert: "that may include but are not limited to"

37. Page 7, line 25.

Following: "interest."

Insert: "If the attorney general determines that the transaction

does not involve public assets, the commissioner may not disapprove the conversion transaction under the provisions of [sections 1 through 18]."

38. Page 8, line 8.

Strike: "fair"

Insert: "reasonable"

39. Page 9, line 9.

Following: "transaction"

Insert: "that are public assets"

- END -



SENATE STANDING COMMITTEE REPORT

February 17, 2005

Page 1 of 2

Mr. President:

We, your committee on **Public Health, Welfare and Safety** recommend that **Senate Bill 281** (first reading copy -- white) do pass as amended.

Signed: _____

A handwritten signature in cursive script, appearing to read "Brent R. Cromley".

Senator Brent R. Cromley, Chair

And, that such amendments read:

1. Title, line 7.

Following: "WILDLIFE;"

Insert: "PROVIDING CONDITIONS WHEN MITIGATION MAY BE IMPOSED;"

2. Page 4, line 24.

Following: "(5) (a) (ii)"

Insert: "and (5) (a) (iii) "

3. Page 4, line 26.

Following: "based on"

Insert: "likely"

4. Page 4, line 28.

Following: "wildlife"

Insert: "if a project sponsor and an agency have not, pursuant to subsection (5) (b), addressed the impacts identified in the environmental review. In implementing this subsection (5) (a) (ii), an agency is not required to impose conditions based on identified impacts, but the agency may not arbitrarily or capriciously decline to impose conditions.

(iii) Before an agency may impose conditions on a permit or other authority to act based on subsection (5) (a) (ii), the agency shall make a written finding based on evidence in the agency record that a proposed mitigation condition:

Committee Vote:

Yes 5, No 4.

391322SC.ssc

(A) protects public health and safety and fish and wildlife;

(B) mitigates and is relevant to an impact on public health and safety and fish and wildlife identified through the process provided in subsection (5)(a)(ii); and

(C) is reasonable, economically feasible, and achievable using current technology"

5. Page 5, line 1.

Following: "(5)(c)(ii)"

Insert: "and (5)(c)(iii)"

6. Page 5, line 3.

Following: "based on"

Insert: "likely"

7. Page 5, line 5.

Following: "wildlife."

Insert: "In implementing this subsection (5)(c)(ii), an agency is not required to impose conditions based on identified impacts, but the agency may not arbitrarily or capriciously decline to impose conditions.

(iii) Before an agency may impose a condition on a permit or other authority to act based on subsection (5)(c)(ii), the agency shall make a written finding based on evidence in the agency record that the proposed mitigation condition:

(A) protects public health and safety and fish and wildlife;

(B) mitigates and is relevant to impacts on public health and safety and fish and wildlife identified through the process provided in subsection (5)(c)(ii); and

(C) is reasonable, economically feasible, and achievable using current technology."

- END -

PROXY VOTE

I, the undersigned, hereby authorize Senator ~~Garrett~~ ^{ESB} to

vote my proxy on any issue before the Senate Public Health

Committee held on FEB 16, 2005.

Table 446 25e


SENATOR
STATE OF MONTANA

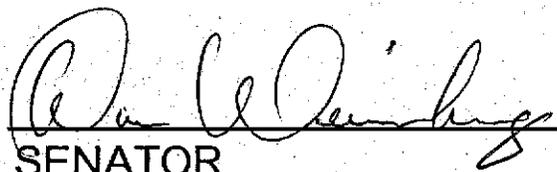
PROXY VOTE

I, the undersigned, hereby authorize Senator Moss to

vote my proxy on any issue before the Senate Health Welfare Safety

Committee held on 7-16-05, 2005.

317 yes
281 yes



SENATOR
STATE OF MONTANA

**MONTANA STATE SENATE
2005 LEGISLATURE**

VISITOR REGISTER

PUBLIC HEALTH, WELFARE, AND SAFETY

DATE 2-16-05 BILLS BEING HEARD TODAY SB440

SB446

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Jeff Smith	453-1899	Beulah Health System	446		✓
Jody Welton	683-6301	Self	446	✓	
Kelly Cooksey	683-5579	Family Council	446	✓	
Jo Smith	683-9348	Family Council	446	✓	
M. Jameson	442-5581	Shoobar Hospital	440	✓	
Bob Smith	453-1899				
Shelri Mahara	461-0896	Lantis Enterprises	446		✓
Denise Licata	546-8942	Sage Co	446		✓
DeAnn Smallwood	728-9162	Village Health Care Center	446		✓
KEV MCCOY	683-2980	160 SPRING CREEK RD	446	✓	✓
Erin Garlinghouse	782-5555	Alma & Reaney Building	446	✓	
KATHLEEN DOUGHERTY	442-6700	MT Nurses Assn	446	✓	
Ladawn Muir	453-4142	Central Montana Surgical Hosp	440		✓
Arla Blount	454-6990	Ombudsman	446	✓	
Alana Kietzman	454-6990	Ombudsman	446	✓	
Anna Kietzman	454-6990	Ombudsman	446	✓	
Betty Beverly	443-5341	MSCA	446	✓	
Mike Foster	237-3038	SVH, SJH, HRH, WMH	440	✓	
James Kiser	723-2449	St. James Healthcare Bldg	440	✓	
Ceandie Clifford	457-4705	AARP	446	✓	
John Solheim	444-2160	St. Peters Hospital	440	✓	

Jani McCall 670-3084 OSC
John Fink 442-1911 MHA

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

440
446
490
✓

