

66th LEGISLATURE 2019 SESSION

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BUSINESS REPORT

MONTANA HOUSE OF REPRESENTATIVES 66th LEGISLATURE - REGULAR SESSION

HOUSE JUDICIARY COMMITTEE

Date: Monday, March 18, 2019

Place: Capitol

Time: 8:00 AM

Room: 137

BILLS and RESOLUTIONS HEARD:

SB 23 - Require accommodations to employer-mandated vaccinations to be uniformly offered - Sen. Keith Regier (R)

SB 26 - Remove requirement for state to pay travel costs for prosecution witnesses - Sen. Steve Fitzpatrick (R)

SB 114 - Generally revise stalking and orders of protection laws - Sen. Jen Gross (D)

SB 205 - Prevent abusers of vulnerable adults from benefiting financially - Sen. Steve Fitzpatrick (R)

SB 274 - Revise drug scheduling laws - Sen. Albert Olszewski (R)

EXECUTIVE ACTION TAKEN:

HB 480 - Tabled

HB 534 - Tabled

HB 500 - Do Pass

SB 85 - Do Pass

SB 82 - Do Pass

SB 84 - Do Pass

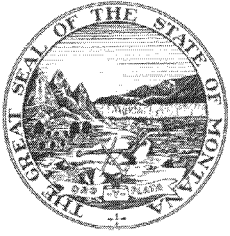
SB 36 - Do Pass

HB 222 - Tabled

Comments: None



REP. Alan Doane, Chair



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE: 3.18.19

| NAME | PRESENT | ABSENT/EXCUSED |
|-------------------------|---------|----------------|
| REP. USHER, VICE CHAIR | ✓ | |
| REP. BERGLEE | ✓ | |
| REP. KELKER, VICE CHAIR | ✓ | |
| REP. BOB BROWN | ✓ | |
| REP. TERRY MOORE | ✓ | |
| REP. BISHOP | ✓ | |
| REP. KROTKOV | ✓ | |
| REP. BESSETTE | ✓ | |
| REP. FARRIS-OLSEN | ✓ | |
| REP. LENZ | | ✓ |
| REP. SKEES | ✓ | |
| REP. PERRY | ✓ | |
| REP. MANZELLA | ✓ | |
| REP. DEVRIES | ✓ | |
| REP. DUNN | | ✓ |
| REP. MORIGEAU | | ✓ |
| REP. KEOGH | ✓ | |
| REP. CASEY KNUDSEN | | ✓ |
| REP. DOANE, CHAIR | ✓ | |

19 MEMBERS



HOUSE STANDING COMMITTEE REPORT

March 18, 2019

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 500** (first reading copy -- white) **do pass.**

Signed: _____

Alan Doane

Representative Alan Doane, Chair

- END -

Committee Vote:

Yes 11, No 8

Fiscal Note Required X

HB0500001SC.h1c

N38
3.18
① 2.20



HOUSE STANDING COMMITTEE REPORT

March 18, 2019

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **Senate Bill 85** (second house second reading copy -- tan) **be concurred in.**

Signed: *Alan Doane*
Representative Alan Doane, Chair

To be carried by Representative Seth Berglee

- END -

Committee Vote:

Yes 19, No 0

Fiscal Note Required ☐

SB0085001SC16493.hlc

JB
3.18
NBN



HOUSE STANDING COMMITTEE REPORT

March 18, 2019

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **Senate Bill 82** (second house second reading copy -- tan) **be concurred in.**

Signed: _____

Alan Doane
Representative Alan Doane, Chair

To be carried by Representative Terry Moore

- END -

Committee Vote:

Yes 19, No 0

Fiscal Note Required ____

SB0082001SC18806.hlc

113
3.18
Not



HOUSE STANDING COMMITTEE REPORT

March 18, 2019

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **Senate Bill 84** (second house second reading copy -- tan) **be concurred in.**

Signed: *Alan Doane*
Representative Alan Doane, Chair

To be carried by Representative Barbara Bessette

- END -

Committee Vote:

Yes 18, No 1

Fiscal Note Required X

SB0084001SC18801.h1c

1/3
3.18
2.19



HOUSE STANDING COMMITTEE REPORT

March 18, 2019

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **Senate Bill 36** (second house second reading copy -- tan) **be concurred in.**

Signed: 
Representative Alan Doane, Chair

To be carried by Representative Alan Doane

- END -

Committee Vote:

Yes 19, No 0

Fiscal Note Required ☐

SB0036001SC15246.hlc

13
3.18
NORM

COMMITTEE FILE COPY

BILL TABLED NOTICE

HOUSE JUDICIARY COMMITTEE

The HOUSE JUDICIARY COMMITTEE TABLED

HB 222 - Revise laws related to adolescent treatment facilities - Rep. Zac Perry (D)

HB 480 - Revise gun laws to provide for safe gun storage - Rep. Mary Ann Dunwell (D)

HB 534 - Increase penalties for 5th and subsequent DUI - Rep. Bill Mercer (R)

by motion, on **Monday, March 18, 2019** (PLEASE USE THIS ACTION DATE IN LAWS BILL STATUS).

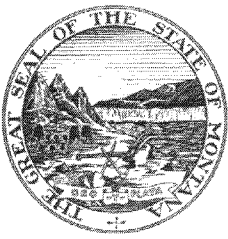
Abigail Konen
(For the Committee)

MK3
(For the Chief Clerk of the House)
12:43 / 3.18
(Time) (Date)

March 18, 2019 (12:37pm)

Abigail Konen, Secretary

Phone: 444-4847



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 480

DATE 3.18.19

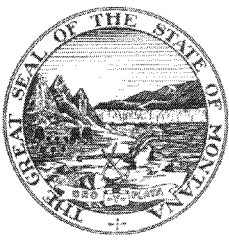
MOTION Be Tabled

| NAME | AYE | NO | PROXY |
|-------------------------|-----|----|-------|
| REP. USHER, VICE CHAIR | ✓ | | |
| REP. BERGLEE | ✓ | | |
| REP. KELKER, VICE CHAIR | | ✓ | |
| REP. BOB BROWN | ✓ | | |
| REP. TERRY MOORE | ✓ | | |
| REP. BISHOP | | ✓ | |
| REP. KROTKOV | ✓ | | |
| REP. BESSETTE | ✓ | | |
| REP. FARRIS-OLSEN | | ✓ | |
| REP. LENZ | ✓ | | |
| REP. SKEES | ✓ | | |
| REP. PERRY | ✓ | | |
| REP. MANZELLA | ✓ | | |
| REP. DEVRIES | ✓ | | |
| REP. DUNN | ✓ | | |
| REP. MORIGEAU | ✓ | | |
| REP. KEOGH | | ✓ | |
| REP. CASEY KNUDSEN | ✓ | | ✓ |
| REP. DOANE, CHAIR | ✓ | | |

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19 MEMBERS



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 534

DATE 3.18.19

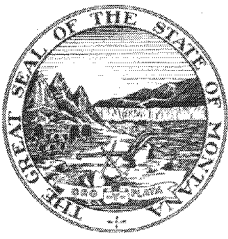
MOTION Do Pass

| NAME | AYE | NO | PROXY |
|-------------------------|-----|----|-------|
| REP. USHER, VICE CHAIR | ✓ | | |
| REP. BERGLEE | ✓ | | |
| REP. KELKER, VICE CHAIR | | ✓ | |
| REP. BOB BROWN | ✓ | | |
| REP. TERRY MOORE | ✓ | | |
| REP. BISHOP | | ✓ | |
| REP. KROTKOV | | ✓ | |
| REP. BESSETTE | | ✓ | |
| REP. FARRIS-OLSEN | | ✓ | |
| REP. LENZ | ✓ | | |
| REP. SKEES | ✓ | | |
| REP. PERRY | | ✓ | |
| REP. MANZELLA | ✓ | | |
| REP. DEVRIES | | ✓ | |
| REP. DUNN | ✓ | | |
| REP. MORIGEAU | | ✓ | |
| REP. KEOGH | | ✓ | |
| REP. CASEY KNUDSEN | | ✓ | ✓ |
| REP. DOANE, CHAIR | ✓ | | |

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19 MEMBERS



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 500

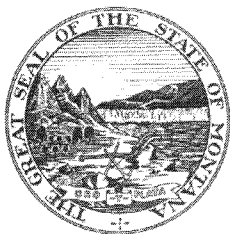
DATE 3.18.19

MOTION Do Pass

| NAME | AYE | NO | PROXY |
|-------------------------|-----|----|-------|
| REP. USHER, VICE CHAIR | ✓ | | |
| REP. BERGLEE | ✓ | | |
| REP. KELKER, VICE CHAIR | | ✓ | |
| REP. BOB BROWN | ✓ | | |
| REP. TERRY MOORE | ✓ | | |
| REP. BISHOP | | ✓ | |
| REP. KROTKOV | | ✓ | |
| REP. BESSETTE | | ✓ | |
| REP. FARRIS-OLSEN | | ✓ | |
| REP. LENZ | ✓ | | |
| REP. SKEES | ✓ | | |
| REP. PERRY | | ✓ | |
| REP. MANZELLA | ✓ | | |
| REP. DEVRIES | ✓ | | |
| REP. DUNN | ✓ | | |
| REP. MORIGEAU | | ✓ | |
| REP. KEOGH | | ✓ | |
| REP. CASEY KNUDSEN | ✓ | | ✓ |
| REP. DOANE, CHAIR | ✓ | | |

11 8 8

19 MEMBERS



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 222

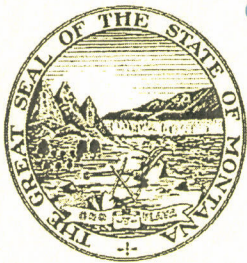
DATE 3.18.19

MOTION Do Pass

| NAME | AYE | NO | PROXY |
|-------------------------|-----|----|-------|
| REP. USHER, VICE CHAIR | | ✓ | |
| REP. BERGLEE | | ✓ | |
| REP. KELKER, VICE CHAIR | ✓ | | |
| REP. BOB BROWN | | ✓ | |
| REP. TERRY MOORE | | ✓ | |
| REP. BISHOP | ✓ | | |
| REP. KROTKOV | ✓ | | |
| REP. BESSETTE | ✓ | | |
| REP. FARRIS-OLSEN | ✓ | | |
| REP. LENZ | | ✓ | |
| REP. SKEES | | ✓ | |
| REP. PERRY | ✓ | | |
| REP. MANZELLA | | ✓ | |
| REP. DEVRIES | | ✓ | |
| REP. DUNN | | ✓ | |
| REP. MORIGEAU | ✓ | | |
| REP. KEOGH | ✓ | | |
| REP. CASEY KNUDSEN | | ✓ | ✓ |
| REP. DOANE, CHAIR | | ✓ | |

8 11

19 MEMBERS



Casey K

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 66TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Usher.

Directions: Please include **bill number** and **motion** or **amendment number**.

Example: HB 123 Do Pass, HB012301.AJJ, HB123 Do Pass as Amended, HB 345 Table.

| BILL/AMENDMENT | AYE | NO | BILL/AMENDMENT | AYE | NO |
|-------------------|-----|--------------|----------------|-----|----|
| HB480 (To Table) | X | X | | | |
| HB534 Do Pass | | X | | | |
| HB500 Do Pass | X | | | | |
| SB85 Be Concurred | X | | | | |
| SB82 Be Concurred | X | | | | |
| SB84 Be Concurred | X | | | | |
| SB36 Be Concurred | X | | | | |
| HB122 Do Pass | | X | | | |
| | | | | | |
| | | | | | |
| | | | | | |

I authorize my vote to be matched with that of Rep. Usher
for any amendments proposed on this date.

Rep. [Signature]
(Signature)

Date 3/18/19

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, March 18, 2019

SB 23 - Require accommodations to employer-mandated vaccinations to be uniformly offered

Sponsor: **Sen. Keith Regier (R)**

TESTIMONY LENGTH WILL BE AT THE DISCRETION OF THE CHAIR.

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, March 18, 2019

SB 274 - Revise drug scheduling laws

Sponsor: **Sen. Albert Olszewski (R)**

TESTIMONY LENGTH WILL BE AT THE DISCRETION OF THE CHAIR.

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, March 18, 2019

SB 114 - Generally revise stalking and orders of protection laws

Sponsor: Sen. Jen Gross (D)

TESTIMONY LENGTH WILL BE AT THE DISCRETION OF THE CHAIR.

PLEASE PRINT

| Name | Representing | Support | Oppose | Info |
|------------------|---------------------------|---------|--------|------|
| SK Rossi | ACLU-MT | | X | |
| Niles Henriksson | SB 114 | X | | |
| Nancy Henriksson | SB 114 | X | | |
| Angele Miller | SB 114 | X | | |
| Diana Spint | SB 114 | X | | |
| William Spint | SB 114 | X | | |
| Rachel Spint | SB 114 | X | | |
| Kevin Young | MCADSV | X | | |
| Anna Savend | Attorney General's office | X | | |
| Ben Halveron | City of Billings | X | | |
| Jan Ibernion | MT DJS | X | | |
| Craig Mohr | MT Magistrates Assoc | | | X |
| Michael Jones | MCAA | X | | |
| Boye Newkirk | SELF | X | | |
| Peter Olman | OPD | | | X |
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, March 18, 2019

SB 205 - Prevent abusers of vulnerable adults from benefiting financially

Sponsor: **Sen. Steve Fitzpatrick (R)**

TESTIMONY LENGTH WILL BE AT THE DISCRETION OF THE CHAIR.

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, March 18, 2019

SB 26 - Remove requirement for state to pay travel costs for prosecution witnesses

Sponsor: **Sen. Steve Fitzpatrick (R)**

TESTIMONY LENGTH WILL BE AT THE DISCRETION OF THE CHAIR.

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.



Public Health
Prevent. Promote. Protect.



AMPHO/MPHA

March 18, 2019

Dear Mr. Chair and Members of the House Judiciary Committee

The Association of Montana Public Health Officials (AMPHO) and the Montana Public Health Association (MPHA) are OPPOSED to SB23 – Require accommodations to employer-mandated vaccinations to be uniformly offered.

SB23 is being touted as a bill for employee equality regarding vaccine choice for employment. This is concerning for the following reasons:

1. Vaccine choice is not equitable – some people cannot receive vaccines due to age or certain health conditions; *and*
2. Vaccines help protect an individual from both getting a disease *and* spreading a disease, especially to children who are not fully vaccinated or to people who cannot be vaccinated due to certain health conditions or age.

SB23 poses risks for those individuals who otherwise do not have the choice to be vaccinated. It is not equitable for those who choose to be unvaccinated to place those who cannot be vaccinated at risk. We have provided an information sheet on how “herd immunity” works to protect those around us who cannot be or are not fully vaccinated.

Employers have the responsibility to know what risks their employees may encounter on the job and have the duty to mitigate those risks when possible. Employers also have the duty to keep not only their staff safe but also their patients, students, and customers. By allowing employees to have personal exemptions to vaccines this has the potential to:

- Put other employees who cannot be vaccinated at risk,
- Put patients, students, and customers who cannot be vaccinated at risk

In the event of an exposure to a vaccine-preventable disease, employers must exclude any staff with exemptions to that disease. By allowing additional personal exemptions, this would greatly impact the number of employees that need to be excluded from work putting an unfair burden on remaining employees to cover those absences.

We ask that you vote a NO PASS on SB23.

Thank you for your time and consideration.

Information on Herd Immunity:

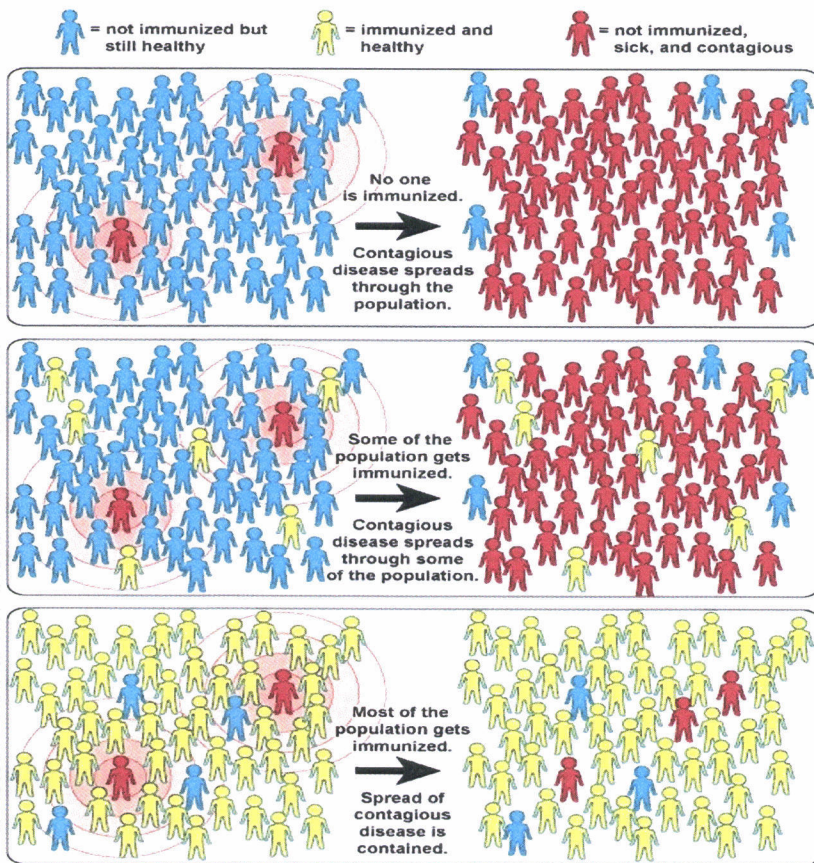
Like every medication, vaccines have some limitations. No vaccine is 100% effective rather every vaccine has a different level of effectiveness. Take for example, the MMR vaccine (Measles, mumps and rubella), when the series is complete (2 doses) there is a ~97% effectiveness in protecting an individual from getting the disease. Compare that to the Typhoid vaccine used for individuals traveling to certain countries of risk where both types of typhoid vaccines are 60%-80% effective.

That said, the effectiveness of the vaccine, the health of the individual, whether the vaccine series is complete or not, and the contagiousness of the actual disease one might be exposed to, all factor into whether a person exposed to that disease will become ill with that disease.

Using Measles as an example again, this is a highly contagious virus where an individual can have infectious germs starting four days before they have symptoms and lasting until four days after they develop a rash. During this contagious period, they can spread the virus unknowingly to others. This is a very hardy virus that can stay in the air for up to two hours after the individual leaves an area. If this were in a daycare or a pediatric office where there might be infant under age 1 year of age (who can't get the MMR vaccine), children younger than 5 years of age (who don't have a complete 2 dose series), or any individual that has an immune system that doesn't work (i.e. cancers, HIV, autoimmune disorders or conditions that require immuno-suppressive medications to manage) - they would all be exposed to the measles virus if they came through that area within the 2 hours of the contagious individual. Because the measles virus is so contagious, 9 out of 10 of those unvaccinated people would likely develop measles disease. Those people would be the ones that likely would suffer the worse consequences of the disease. There could be a very small chance that a vaccinated person could develop the disease, but they likely would have a less severe illness and recover faster. Because the measles vaccine is highly effective, the vast majority of people exposed who have been fully vaccinated would likely be protected from developing or spreading the disease.

The more people that are protected from the disease the better 'herd immunity' or 'community immunity' we have, and this helps to protect those around us who cannot be vaccinated due to age or health conditions. Take for example a family unit that are all vaccinated against pertussis (whooping cough) and they welcome a newborn infant to their family. This infant cannot receive the first dose of vaccine until they are 2 months old and will not be fully vaccinated against pertussis until they are in kindergarten. The vaccinated family helps to protect that child until they can develop a full immune response from the pertussis vaccine. Take that a step further and place this infant in a daycare setting and you can see how we rely on the other children and daycare providers to be vaccinated to help protect the infant. Please see the image on the next page from the National Institute of Allergies and Infectious Diseases, that helps to visually demonstrate herd immunity and how it works in vaccinated and unvaccinated populations.

In short, yes, vaccines can help protect an individual from getting a disease, but it also helps from spreading the disease to those who can't be vaccinated. Herd immunity is essential in protecting those vulnerable populations - without it - as you see in the illustration - most everyone can get sick and again, those most vulnerable people will likely have the worst outcomes.



Credit: NIAID

¹ National Institute of Allergies and Infectious Diseases

To Chairman Doane and Members of the Judiciary Committee:

Thank you for providing a forum and unique opportunity to discuss the nuances of employer mandated immunization programs.

My name is Devon Zander. I am a constituent from Kalispell who gave written and oral testimony opposing Senate Bill No. 23 during its Senate Judiciary Committee hearing in January. I recently graduated from Stanford University with B.S. in Human Biology concentrating on infectious diseases and I will be attending medical school in the fall. As I am currently out of the state and unavailable to speak in person, I'm writing to you to help emphasize the importance of thorough vaccine coverage in our community facilities and discuss how this bill could challenge that coverage.

Right now, most employers that require immunization as part of employment are healthcare facilities, but SB 23, if passed, could also affect other facilities that interact with the public such as schools, daycares, correctional facilities, nursing homes, and assisted livings, among many others. These facilities support members of Montana's population who are the most at-risk for influenza and other vaccine preventable diseases - infants, young children, the underserved, the immunocompromised, those with certain chronic conditions, and the elderly.

To me, this bill is not about labor relations, nor about equal opportunity. This bill is about these vulnerable populations and the vaccines that protect them. By passing this bill, the state of Montana would be undermining healthcare facilities' and other employers' abilities to run effective mandatory immunization programs and protect the people they serve. In essence, this bill would eliminate any mandatory immunization program by allowing *any* employee to abstain from immunization, including those who work with these vulnerable populations. Having employees use an alternative accommodation in lieu of immunization does not lead to durable protection from communicable diseases.

My concerns for Senate Bill No. 23 are that:

1. Vaccine alternatives are not as effective as vaccines themselves. Vaccines, by engaging the body's immune system, have the ability to both protect an individual if exposed to contagion *and* limit the spread of a disease in a population. Vaccine alternatives are unable to do this as they simply provide a barrier that attempts to limit the spread of a contagion. They do not keep someone from getting sick, if exposed. For example, one such barrier that is regularly proposed as an alternative to influenza vaccination is wearing a surgical mask. Yet, these masks only function as a disease barrier when worn properly, are regularly replaced, and kept on at all pertinent times. Ensuring that employees comply with mask wearing is difficult, as it places an undue burden on employers to monitor their employees as many people find masks uncomfortable and stop wearing them, meaning that masks do not serve as a true vaccine alternative.

2. Fewer people being vaccinated leads to decreased herd immunity. Herd immunity occurs when enough people in a community are immune from a disease, so the disease cannot spread in that community. When fewer people are vaccinated, fewer people are immune to the disease and there are more individuals that are susceptible to it, meaning more disease can occur. This bill would allow more

employees to choose not to be vaccinated. Meaning, more employees would be susceptible to infection and disease could spread more easily in our facilities.

3. Employees choosing not to be vaccinated sets a bad example for others in the community.

Being vaccinated, in addition to providing an individual benefit, is a public responsibility, as it helps limit the spread of disease to others. Those who work with the public, especially those in healthcare and education settings, stand as role models for others. When members of the public see these role models choosing not to be vaccinated (a choice that will be apparent when partnered with a visible alternative accommodation), the public could lose confidence in the safety and efficacy of immunizations. In an era already fraught with unsubstantiated concerns about vaccines, passing this bill would seem to validate these concerns and could lead to lower vaccination rates throughout our communities.

4. Senate Bill No. 23, as written, is broad reaching and ill-defined. This bill is brief and, in its brevity, leaves many phrases up to interpretation. Critical phrases such as "reasonable accommodation" or "alternative accommodation" are used without acknowledging what these accommodations could include or allude to. This bill also does not acknowledge the differences inherent to immunizations, as each immunization is unique in its own right. For example, the influenza vaccine has a different side effect and effectiveness profile than other vaccines commonly administered and required, like the measles, mumps, and rubella vaccine. Particularly concerning is the implication that *any* mandatory vaccine could be affected. By addressing all vaccines with this bill and not focusing on specific diseases, vaccines, and alternatives, it would eliminate the nuance required for employers to create effective and dynamic infection control practices that respond to new innovations and research.

5. By making alternate vaccine accommodations more accessible, facilities that care for vulnerable individuals could become dangerous for these individuals. Healthcare facilities have a duty to not just treat and care for patients, but protect them from further harm. We are failing at this latter point if healthcare workers are not immunized appropriately. To care for others while possibly exposing them to vaccine-preventable diseases lowers the standard of medical care in our healthcare facilities statewide and undermines the trust that patients put in their healthcare workers to do what is best for them.

Recognizing that immunizations are part of a multi-prong infection control strategy in our workplaces and are essential in supplementing other good hygienic practices, we should be supporting efforts to protect the lives of our most immunologically vulnerable Montanans. This support should encourage employers who have Equal Employment Opportunity Commission compliant mandatory immunization programs *and* it should help them respond to concerns about immunization from employees through comprehensive and data-driven vaccine education opportunities.

The intention of this bill, to enhance labor relations, falls short when compared against its real world impacts. By allowing *any* employee to opt out of an immunization and into an alternative accommodation, vulnerable individuals in Montana could be exposed to diseases that could hospitalize and, possibly, kill them in locations where they have a right to be safe and protected from harm.

Sincerely,
Devon Zander

ADDITIONAL DOCUMENTS

Beth Deam
5065 River Lakes Parkway
Whitefish, MT 59937

March 15, 2019

Dear Abigail Konen,

As your constituent, I'm urging you to oppose SB 300, a misguided and bad bill for Montana homeowners residing in community associations (homeowners associations, condominiums, housing cooperatives). The legislation is very broad - to a fault. As written, the legislation would fundamentally change the way rules apply to residents. The only rules that would apply are the rules that exist when a resident purchases their home. This may sound logical; however, it will have many unintended consequences. The bill is akin to telling citizens they don't have to comply with new laws that are created because when they were born, the laws didn't exist.

1. Individual homeowners could have different sets of covenants, codes and restrictions based on the date they purchased their home and when rules were adopted.
2. Community associations would need to hire professionals to accurately manage and track homeowners' ownership dates and individual rules. These fees will be borne by each resident in the community which will undoubtedly increase the regular assessments paid by homeowners.
3. The democratic system in the community association will cease to exist. Community associations will no longer be able to create rules to help preserve the character, safety, and value of the community.

SB 300 is the state telling local communities they do not have the right to choose rules for what they believe is best for their community.

Homeowners associations and condominiums are deed-restricted communities with the community association board, elected by neighbors, to manage the operations of the community association, to preserve property values and maintain covenant, codes, and restrictions. The governing documents are structured to require the homeowners to vote on changes to the covenants, codes, and restrictions and the process uses a democratic system whereby the majority vote prevails.

The language in SB 300 is not part of the Uniform Common Interest Ownership Act (UCIOA). The uniform act language clearly outlines the authority and duty of the boards of directors; which clearly requires votes and engagement of homeowners on new rules.

SB 300 will create confusion for residents, impossible application of rules and covenants by association board members, and with compromise the integrity of the community association housing model in Montana. Further and most disturbing, SB 300 will create confusion and possible lawsuits between residents and their associations

Please oppose SB 300 and urge your colleagues to do the same.

P.S. - I've also listed below specific examples of how the language in SB 300 is broad sweeping, and could impact any new rule or covenant. Here are a few examples of how SB 300 could negatively impact a rule change in the community:

Fire Safety: Communities are within the Montana Department of Natural Resources and Conservation (DNRC). Local fire departments often sponsor education for NW Montana community associations on the importance of creating Firewise communities, especially in the Urban Interface Zones. We are very concerned that if an HOA wants to add architectural guidelines that prohibit homes from reroofing with non-flammable roof materials, it could not. Nor could it pose a new rule requiring paved driveways or Firewise landscape development.

Parking: Another example whereby a community may need to adopt a new rule is related to parking. Let's say the community is fully occupied and one-unit owner has ten cars from their company parked in all the guest parking lots. The current rule of the association doesn't address guest parking. But, this has become a problem and to balance the enjoyment for all community association residents and owners, a parking rule may need to be adopted. If SB 300 passed, the community would not be able to adopt a rule to address resident concerns and trending problems.

Community Financial Condition: For HOAs where the dues amount is in the CC&Rs, passage of SB 300 could prevent a community from being able to collect sufficient dues needed to operate or make improvements or force the HOA to make new owners pay more, creating an inequity. For HOAs that need to deal with a trend toward late- or non-paying members by creating or updating a collections policy, passage of SB 300 would make any effort in that direction moot - current owners who are not paying would be exempt from the new policy.

Property safety and care: In writing CC&Rs, developers may overlook certain important factors, such as the importance of requiring that condominium or townhome owners carry property insurance on their units, or a that townhome or condominium owner remove snow from their decks to prevent rotting, water infiltration during spring thaw, etc., that can lead to expensive maintenance and repair costs for an HOA. Any new requirements adopted by the HOA to address these matters would not be enforceable on current owners.

Housing Finance: When Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA) consider loans in community associations, they consider rules related to meetings, elections, budgeting and building reserves for capital improvements, and maintenance. If these rules are unenforceable, mortgage finance may be at risk.

For example, for a condominium to qualify for project certification by HUD - which is required for a new homebuyer to receive an FHA loan, the condominium may not have transient housing - short-term rentals less than 30-days. While that may not matter to some condominium buildings, it may be very meaningful for affordable housing options for others. The association needs to have the ability to create a rule and enforce the rule fair and equitably to all residents. Residents have an opportunity to vote on these new rules.

Sincerely,
Beth Deam

ADDITIONAL DOCUMENTS

Marvin Deam
5065 River Lakes Parkway
Whitefish, MT 59937

March 16, 2019

Dear Abigail Konen,

As your constituent, I'm urging you to oppose SB 300, a misguided and bad bill for Montana homeowners residing in community associations (homeowners associations, condominiums, housing cooperatives). The legislation is very broad - to a fault. As written, the legislation would fundamentally change the way rules apply to residents. The only rules that would apply are the rules that exist when a resident purchases their home. This may sound logical; however, it will have many unintended consequences. The bill is akin to telling citizens they don't have to comply with new laws that are created because when they were born, the laws didn't exist.

1. Individual homeowners could have different sets of covenants, codes and restrictions based on the date they purchased their home and when rules were adopted.
2. Community associations would need to hire professionals to accurately manage and track homeowners' ownership dates and individual rules. These fees will be borne by each resident in the community which will undoubtedly increase the regular assessments paid by homeowners.
3. The democratic system in the community association will cease to exist. Community associations will no longer be able to create rules to help preserve the character, safety, and value of the community.

SB 300 is the state telling local communities they do not have the right to choose rules for what they believe is best for their community.

Homeowners associations and condominiums are deed-restricted communities with the community association board, elected by neighbors, to manage the operations of the community association, to preserve property values and maintain covenant, codes, and restrictions. The governing documents are structured to require the homeowners to vote on changes to the covenants, codes, and restrictions and the process uses a democratic system whereby the majority vote prevails.

The language in SB 300 is not part of the Uniform Common Interest Ownership Act (UCIOA). The uniform act language clearly outlines the authority and duty of the boards of directors; which clearly requires votes and engagement of homeowners on new rules.

SB 300 will create confusion for residents, impossible application of rules and covenants by association board members, and with compromise the integrity of the community association housing model in Montana. Further and most disturbing, SB 300 will create confusion and possible lawsuits between residents and their associations

Please oppose SB 300 and urge your colleagues to do the same.

P.S. - I've also listed below specific examples of how the language in SB 300 is broad sweeping, and could impact any new rule or covenant. Here are a few examples of how SB 300 could negatively impact a rule change in the community:

Fire Safety: Communities are within the Montana Department of Natural Resources and Conservation (DNRC). Local fire departments often sponsor education for NW Montana community associations on the importance of creating Firewise communities, especially in the Urban Interface Zones. We are very concerned that if an HOA wants to add architectural guidelines that prohibit homes from reroofing with non-flammable roof materials, it could not. Nor could it pose a new rule requiring paved driveways or Firewise landscape development.

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Sincerely,
Marvin Deam

March 14, 2019

Dear Chairman Doane and Members of the House Judiciary Committee,

We are writing to respectfully request you oppose SB 300, a misguided and bad bill for Montana homeowners residing in community associations (homeowners associations, condominiums, housing cooperatives). The legislation is very broad – to a fault. As written, the legislation would fundamentally change the way rules apply to residents. The only rules that would apply are the rules that exist when a resident purchases their home. This may sound logical; however, it will have many unintended consequences. The bill is akin to telling citizens they only must comply with laws that were on the books when they were born.

1. Individual homeowners could have different sets of covenants, codes, and restrictions based on the date they purchased their home and when rules were adopted.
2. Community associations would need to hire professionals to accurately manage and track homeowners' ownership dates and individual rules. These fees will be borne by each resident in the community which will undoubtedly increase the regular assessments paid by homeowners.
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SB 300 is the state telling local communities they do not have the right to choose rules for what they believe is best for their community.

Homeowners associations and condominiums are deed-restricted communities with the community association board, elected by neighbors, managing the operations of the community association, to preserve property values and maintain covenant, codes, and restrictions. The governing documents are structured to require the homeowners to vote on changes to the covenants, codes, and restrictions and the process uses a democratic system whereby the majority vote prevails. This community-oriented self-governance is the key to creating communities by the residents for the residents.

The language in SB 300 is not part of the Uniform Common Interest Ownership Act (UCIOA) or the Uniform Condominium Act (UCA). The uniform act language clearly outlines the authority and duty of the boards of directors; which clearly requires votes and engagement of homeowners on new covenants.

SB 300 will create confusion for residents, impossible application of rules and covenants by association board members and will compromise the integrity of the community association housing model in Montana. Further and most disturbing, SB 300 will chaos, confusion, and lawsuits between residents and their associations

Please oppose SB 300.

Below you will find specific examples of how the language in SB 300 is broad sweeping and could impact any new rule or covenant. Here are a few examples of how SB 300 could negatively impact a rule change in the community:

Fire Safety: Communities are within the Montana Department of Natural Resources and Conservation (DNRC). Local fire departments often sponsor education for NW Montana community associations on the importance of creating Fire wise communities, especially in the Urban Interface Zones. We are very concerned that if an HOA wants to add architectural guidelines that prohibit homes from reroofing with non-flammable roof materials, it could not. Nor could it pose a new rule requiring paved driveways or Firewise landscape development.

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For these reasons, we respectfully request you oppose SB 300.

Respectfully submitted,

See Page 3 for authorized signers opposing SB 300

Montana Community Associations – representing thousands of residents.

1. Arbor Grove Homeowners Association
2. Ashley Hills Home Owners Association – Kalispell, MT
3. Buffalo Commons Medical/Professional Property Owners Association
4. Buffalo Commons Retail/Commercial/Office Property Owners Association
5. Buffalo Commons Multi-Family Homeowners Association
6. Cherry Hill Yacht Club, Inc.
7. Crestview Terrace HOA - Bigfork, MT
8. Eagle Bend North HOA – Kalispell, MT
9. Eagle Bend West Community Association, Inc.
10. Eagle Bend Yacht Harbor Boat Slip Owners Association, Inc
11. Elk Highlands HOA - Whitefish, MT
12. Fairway Boulevard Homeowners Association
13. Fox Hollow Condominium Owners Association – Kalispell, MT
14. Great Northern HOA
15. Iron Horse Cabin Condominium Owners Association, Mindy Gutierrez, Community Manager, CMCA, AMS
16. Iron Horse Homeowners Association, Whitefish, MT, Mindy Gutierrez, Community Manager, CMCA, AMS
17. Lakeview Park Villas Homeowners Association
18. Many Lakes HOA – Kalispell, MT
19. Many Lakes East HOA
20. The Lakes Master HOA - Whitefish, MT
21. Meadow Lake Country Club Estates Homeowner's Association – Columbia Falls, MT
22. The Meadows I & II Homeowners Associations
23. The Monterra HOA - Whitefish, MT
24. Park Knoll HOA – Whitefish, MT
25. Park Manor Condo Owners Association
26. Ptarmigan Village – Whitefish, MT
27. Quail Ridge HOA- Kalispell, MT
28. Riverwalk Condominium Association, Inc.
29. Riverwood Park Community Association, Inc.
30. Rocky Cliff Estates Homeowners Association
31. The Shores Homeowners Association
32. Silverbrook Property Owners Association
33. Sunset Point Homeowners Association
34. Waterside Condominium Owners Association
35. Whitefish Hills Forest HOA- Whitefish, MT
36. Whitefish Hills Village HOA- Whitefish, MT

Community Management Companies

Montana Community Management Corporation - Bigfork, MT
Tailwind Management, LLC
Western Mountains Property Management - Kalispell, MT

Community Association Law Firms

Griffith & Cummings, PLLC
J.W. Anderson & Associates

Allied Organizations

Community Associations Institute
Montana Land Title Association

ADDITIONAL DOCUMENTS

Good morning, Chairman Doane and Members of the House Judiciary Committee.

My name is Dawn Bauman. Thank you for the opportunity to speak before this committee today.

I am with Community Associations Institute a non-profit organization created more than 45 years ago by the U.S. Department of Housing and Urban Development, The National Association of Homebuilders, and the Urban Land Institute to create best practices and standards to guide the growth of the community association housing model.

Community Associations Institute represents the people living and working in community associations; also known as condominiums and homeowners associations. I have a letter here OPPOSING SB 300 with signatures from 36 community associations throughout Montana representing thousands of owners across the state, three community management companies, two community association law firms, and three trade associations. May I ask staff to distribute the letter to the members of the committee?

According to the Foundation for Community Association Research, community associations make up approximately 25% of the housing stock in the US. Based on data from the American Community Survey conducted by the U.S. Census, it is estimated nearly 250,000 Montana residents have chosen one of Montana community association to call home.

Most states in the U.S. have statutes that address the development and governance of condominiums and/or homeowners associations. In a previous hearing on this bill, SB300, testimony was provided that stated that Alaska, California, Idaho, and Tennessee have laws that are very similar to the language in SB300 and that the language in SB300 is similar language to the Uniform Condominium Act. That information is inaccurate. I've printed a copy of the amendment section of the Uniform Condominium Act and the Uniform Common Interest Ownership Act and would ask the clerk to kindly distribute the uniform language to the Members of the Committee. The Uniform Condominium Act and Uniform Common Interest Ownership Acts are comprehensive, bipartisan acts created by the Real Property Section of the Uniform Law Commission. These Acts are well drafted by some of the most experienced real property attorneys

covering the entire continuum of real property law. Further, these Acts have been vetted for years by stakeholders sharing a wide range of perspective on the issue of condominium and community association law. The comprehensive nature of these acts make them voluminous. However, they are organized in a manner so that a state legislature may take pieces of the uniform act to address specific issues.

Property rights and contract rights are important to all property owners; including the residents who choose to purchase a home in an HOA or condominium. When a resident purchases a home in a condominium or HOA, they agree, by private contract, to comply with the covenants, codes, and restrictions of the community. They also agree, by contract, to comply with future covenants, codes, and restrictions that are passed by a majority vote (usually 2/3rds) of owners in the community. All the owners have property rights and are bound by contract. SB 300, purports to protect the property rights. Unfortunately, SB 300 doesn't protect the property rights of the majority because it doesn't allow the community to self-govern and create rules for the community.

Dr. Hogan tells a compelling story about her troubles with her condominium association. I don't know the details of Dr. Hogan's situation; however, I put my trust in the judicial system that her case will receive a fair outcome.

Unfortunately, SB 300 will create an even greater litigious environment that exists today in community associations. Neighbors and buyers will not know which homeowner is required to comply with which covenant in the community. Real property rights; include right of control and right to enjoyment. Right of control and enjoyment will be the cause of much litigation over what is encompassed by the terms. Courts and judges may differ in their opinions.

SB 300 will create chaos. Chaos for a community association to track which rules may be enforced on which property and which residents.

A concerning example is relate to mortgage financing in the community. Fannie Mae and Freddie Mac require HOAs to have no less than 50% owner occupancy to underwrite a mortgage in an association. Nearly 2/3 of home loans are backed by Fannie Mae and Freddie Mac. HUD's Federal Housing Administration (FHA) will

not underwrite loans in a condominium that allow transient housing (rentals less than 30 days). Condominiums are at times affordable housing options for first time homebuyers who may qualify for FHA loans. If a condominium community finds it need to address transient housing in the community covenants to qualify for FHA approved loans, it won't be able to apply the covenant to everyone and therefore the condominium building would not qualify for FHA-insured loans. That's a shame for millennials looking to buy their first home.

SB 300 is patchwork legislation. As the community association housing model continues to grow, it would be good public policy to contemplate a more comprehensive approach to legislation that addresses key issues and engages all stakeholders in the process.

On behalf of the private property rights of the thousands of residents living in Montana condos and HOA represented on this letter, please vote no on SB 300.

Again, thank you for the opportunity to speak before the Committee and thank you for your consideration.