

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

February 12, 1979

The fourteenth meeting of the Senate Public Health, Welfare and Safety Committee met on February 12, 1979, in Room 410 of the State Capitol Building at 12:30 p.m.

ROLL CALL: All Committee members were present.

CONSIDERATION OF SENATE BILL 331: Senate Bill 331 is an act to amend the uniform marriage and divorce act to require premarital counseling for minors.

Senator Harold Dover, sponsor of Senate Bill 331, said that this bill gives more direction to what is already a bill. It adds a sentence requiring two separate counseling sessions. This is for minors applying for a marriage license. Senator Dover feels that it is important to have this counseling for minors; for those who have to get married it is even more important that they have marriage counseling.

Senator Regan, Senate District 31 and co-sponsor of Senate Bill 331, said that the suggestion requiring counseling to be mandatory grew out of concern from the Marriage and Divorce Act. That act banned marriage for anyone under 16. In this bill the judge would indicate either a school counselor, a physician, or a member of the clergy to do the counseling. Senator Regan stated that one of her hopes is that after making these initial contacts the couple will have an idea of where to go for help when they get into trouble. She also is concerned about the couples who feel they have to get married because of a baby. She feels this is a rotten reason to get married, and maybe these counseling sessions will show the couple the alternatives.

Chairman Rasmussen asked the Committee if they have any questions. Senator Norman asked for clarification on why these sessions are directed at only 16 and 17 year olds. Senator Regan said that the Marriage and Divorce Act will not allow anyone under 16 to marry in this state, and 16 and 17 year olds can marry with the consent of a judge and parents. Therefore, this is the only group that this bill will affect. Senator Norman asked if it is the intent to use clergy and doctors for counseling. Senator Regan said that is her intent. She would hope to stay away from professional counselors and go to these people. Senator Lensink stated that the bill reads that the counseling sessions have to be at least ten days apart. He asked if these sessions would have to be completed before the couple could get a marriage license and if this ten days conflicts with a present law. Senator Regan said they would have

to complete the sessions before they could get married, and the Legislature has the power to modify the divorce act anyway it wants. Senator Ryan questioned whether this bill is not leaving the decision of the marriage up to the counselor. Senator Dover stated that he is not hung up on the ten days; that the idea of this is not to stall the time but to give the couple the time to think about the marriage.

The hearing on Senate Bill 331 was closed at 12:40 p.m.

CONSIDERATION OF SENATE BILL 377: Senate Bill 377 is an act to require the identification of the actual manufacturer of all drug products in order to facilitate the implementation of the Montana Drug Product Selection Act.

Witnesses supporting Senate Bill 377:

Frank J. Davis, Montana State Pharmaceutical Association
Del Steiner, Pharmacist

Senator Palmer, sponsor of Senate Bill 377, said that this bill is to list on the description product the company that produced that product.

Frank J. Davis, executive director of Montana State Pharmaceutical Association, stated that he has talked with at least 50 pharmacists around the state and finds no one with any objection for this law. The association has some amendments to the bill; and, if these are considered, it will stand in favor of the bill. See Attachment "A." He explained the amendments. The second amendment is proposed because the association does think that if the distributor and manufacturer is one and the same then the one name should suffice. The association would like to have an effective date because it believes that the manufacturers need some time to become acquainted with this law.

Del Steiner, pharmacist at Gibson's Discount Store, stated that the biggest problem the pharmacist has is that he has to rely on the reputation of the manufacturer to determine the quality of the drug. He showed the Committee three prescription bottles showing the different ways they are labeled. He said that the same problem comes with other types of labeling, such as when we go to a Sears store and see a Sears label. The consumer has to rely on the Sear's name instead of knowing who the actual manufacturer was.

Senator Palmer closed the testimony by stating that last year there was the product selection act which met with a lot of opposition. This time everyone appears to be in support of Senate Bill 377; and he hopes that the Committee will recommend a do pass.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Olson referred to the label on one of the bottles which lists both manufacturer and distributor and asked Mr. Steiner if that labeling is satisfactory. He replied that it is because he knows the name of the company that is backing the product. Senator Himsl referred to the statement made that the manufacturer makes those drugs available for distribution but under the trade name of someone else. He asked if this bill would prevent this from happening. Mr. Steiner said that the name of the game is to let the pharmacist know who made that product so that he can decide whether to use it. Senator Himsl asked if the manufacturer has some concern when he sells a large amount to say Rexall and they sell this product at half the price. Mr. Steiner replied that there is a big controversy at the Federal level over this. There are some cases where another company can make a drug for more than one company but to the specification of each company. Mr. Steiner stated that he will not use a product unless the product is of good quality, and to do this he has to rely on the reputation of the manufacturer. Senator Himsl asked if there is the possibility that with this bill these companies will stop manufacturing for other companies and then the market price will go up. Mr. Steiner said that he seriously doubts that will happen. Senator Olson asked Mr. Davis if he thinks that this might pose a problem with drugs coming into Montana. Mr. Davis said this has been in effect in California for years, and it has created no problem there. Many of the other states already have this law, and nationally it might be law before the end of the year. Mr. Davis said that what they want to do here is facilitate the Drug Product Selection Act that was passed last session. They want to do this so that the pharmacist knows when the manufacturer is the same so that they will have no reluctance to use a less expensive drug. The druggist has been reluctant to use different drugs without knowing the reputation of the manufacturer. Senator Himsl asked if they all have to put out the same thing would they be likely to package it for a company at a lower price. Mr. Davis

said that most of the companies that produce unbranded drugs do not package drugs under their own name. They are just suppliers of generic drugs. He feels that the competition of the market place is going to keep these people trying to manufacture as much as they can and sell it to whomever they can. Senator Palmer asked if this has been a problem in the other states. Mr. Davis said he called the California association, and they had some problem because they couldn't come up with an accurate description of manufacturer, but they have had no other problem since 1974. This bill used their definition of manufacturer, so that problem should be taken care of here.

The hearing on Senate Bill 377 closed at 1:00 p.m.

CONSIDERATION OF SENATE BILL 315: Senate Bill 315 is an act to transfer the functions of the Human Resources Division of the Department of Community Affairs to the Department of Social and Rehabilitation Services.

Witnesses opposing Senate Bill 315:

John Allen, Human Resources Division

Joe Roberts, Governor's Office

Gail Stoetz, Montana Human Resources Development Council
Directors' Association

Harold Fryslie, Department of Community Affairs

Senator Story, sponsor of Senate Bill 315, distributed a booklet to Committee members showing the community programs and who does them. He also distributed copies of minutes of a Human Resources Development Council meeting showing what they are doing. He stated that he put this bill in because six years ago he was on a committee that dealt with all of the reorganization of all the departments of the state government, and he is on the finance committee. At the time this state was reorganized it was done along functional lines to save the taxpayers' money. These functional lines do not always break clearly, and there are duplications in departments. In past sessions the Legislature has heard more than once that this is the way it is, and maybe they are doing something that someone else should be doing, but it is not the business of the appropriations committee. This bill represents the only way that the Legislature can take a good hard look at what someone's shop is doing and decide if it should be somewhere else. Senator Story said that he used a number of criteria to decide to submit this change: (1) What was that department organized to do; (2) Is the same thing being done by another department; and (3) Is this department actually either by contractual or referral services sending its clients

over to another department. If one department is referring to another department or transferring funds to another department, maybe the other department should have had the responsibility in the first place. Senator Story asked the Committee to take a long look at the bill.

John Allen, administrator of Human Resources Division, spoke in opposition to Senate Bill 315 for the reason that Human Resources is the only anti-poverty effort at the state level. In 1964 when the poverty act was passed it created an act to fund the states to work with local anti-poverty programs, and all 50 states do have this type of office. Originally, in Montana it was part of the Governor's Office; and under executive reorganization it was placed in the Department of Community Affairs. The reason that it is in this department is that its efforts are based on assisting the local boards. Any programs they operate they decide to do at the local level. Any staffing that is done is on the local level. These are local choices, and Human Resources Division facilitates them. They provide technical assistance in helping them meet federal regulations, in providing management training, and act as an advocate for them in the state level if they have a problem. Human Resources arranges meetings with the other departments. They lobby on their behalf so that the local people do have a voice that they can turn to at state level. Mr. Allen stated that he hopes they are not placed in another department because they may be in a role to argue with the very department they are placed in. In their present department, they have more of the freedom necessary to work with these other state agencies. He said that the booklet passed around to the Committee shows who they are and where their money goes.

Joe Roberts, Governor's Office, stated that the administration is against Senate Bill 315. He said it is difficult to argue with anything that Senator Story had to say, and that the state does try to divide up functional lines. However, some agencies do not fit neatly into any one department. From the standpoint of working with communities, Human Resources fits into the Department of Community Affairs. He said that the Human Resources Division has been working efficiently and effectively in the Department of Community Affairs, and the Governor's Office feels that it should stay there.

Gail Stoetz, Montana Human Resources Development Council Directors' Association, stated that they are one of the primary agencies that Human Resources contracts with. These contracts are obtained to a great degree with the help of Human Resources. The association opposes this bill because Human Resources helps with their problems with other agencies in the state and the federal government. She said that she thinks there is a feeling among the directors that they have good access in the department where Human Resources is now; but, if it is moved to a bigger organization like SRS, it will get lost to them.

Harold Fryslie, director of the Department of Community Affairs, stated that he opposes the bill for reasons stated by the other opponents. He said that during the past 1-1/2 years a Legislative committee gave extensive review to the question of organizational structure. They rejected the idea of moving Human Resources away from the Department of Community Affairs.

Senator Story closed the testimony on Senate Bill 315 by stating that if this Committee takes a long look at this and decides that these people are right and Human Resources should stay in the Department of Community Affairs, it is fine with him. He said that he was not aware that a Legislative Committee had looked at the problem. He stated that if he had been aware and if the committee did defer action, he would have deferred to their decision. He stated that there are many instances where there is referral from this agency to SRS, and this is an alert because sometimes if you put it in the agency where the referrals are being sent the cost of administration is reduced.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Himsl asked for clarification on the budget level. Mr. Allen stated that 8-1/2 million dollars is what Human Resources handled last year. Approximately \$400,000 was for the division, and the rest was contracted out. Mr. Allen stated that starting July 1, 1979, all of their funds will be federal money. Senator Himsl asked how many FTE are involved. Mr. Allen replied that effective July 1 there will be 15. Senator Himsl asked if the thrust of this is dealing with community problems and not personal problems. Mr. Allen said they are dealing with the lifes of individuals at the local level and also community projects at the local level. Senator Himsl said that his question is whether Human Resources is primarily concerned with community services or services to the individuals. Mr. Allen said that his agency is primarily involved with the local services programs and the locals are involved in providing the direct individual services. Senator Norman asked Mr. Fryslie if he ever discussed this transfer with SRS; and, if so, what were their comments. Mr. Fryslie said that he had talked to them, but it was to the old administration. He stated that Mr. Colbo has not been there that long, and he is reluctant to speak for him. He said that nobody in the executive branch was of a notion to encourage the move. He has had indirect reports that Mr. Colbo is not particularly interested in having the Human Resources Division. Senator Rasmussen asked Senator Story about the elimination of state money.

Senator Story said there was state general funds and coal tax money that went into this division. There will be no state money in the next fiscal year. He stated that an awful lot of the 8 million dollars is pass-through money for weatherization. A lot of CETA funding is involved. A lot of funding is at the discretion of Human Resources Development Council, and more money could be milked out to replace general fund money with federal money. He stated that he is looking for every way possible to replace general tax money and coal tax money with federal monies. Senator Ryan asked how much of the federal funds channeled through Human Resources is kept for administrative costs. Mr. Allen replied that they have an indirect cost rate of 5.01 percent now. Senator Ryan asked if the department inspects the programs and if they have authority to do so. Mr. Allen said they do have authority and they do inspect. Senator Ryan asked if any of the programs are Indian programs. Mr. Allen said they have no funds that go directly to Indian programs.

The hearing on Senate Bill 315 was closed at 1:30 p.m.

ACTION ON SENATE BILL 331: Senator Norman moved that the Committee DO PASS Senate Bill 331. Senator Ryan stated that he has a faint doubt about the counseling requirement. Senator Himsl said the way he reads the bill that this is the present process, and this bill makes it mandatory. It also adds a ten-day waiting period. Senator Lensink said that he is not absolutely convinced that the bill is necessary. Senator Norman stated that people rush into a marriage and have no understanding of what they are getting into. He said that on a church level they are following a tendency to require premarital counseling and send couples who want non-traditional marriages elsewhere. Senator Olson said there is nothing in this bill that will stop them from getting married. All they have to do is bring a certificate to the judge that they have had counseling sessions. Senator Lensink feels that there is certainly a dual purpose to this bill. The counseling is one, and the second is a cooling-off period. Roll call vote was taken. Motion passed unanimously. Senator Ryan moved that we reconsider the action because he feels that there may be a cost factor involved where the court would have to pay for the counseling. After some discussion, Senator Ryan withdrew his motion.

ACTION ON SENATE BILL 377: Senator Palmer moved that Senate Bill 377 DO PASS. He withdrew his motion and proposed that the proposed amendments be adopted. The motion passed unanimously. Senator Palmer then moved that Senate Bill 377, as amended, DO PASS. Senator Himsl stated that he is concerned about the long-term effect if some of the manufacturers quit making drugs for the discount places. Senator Olson mentioned that this happened on labeling insecticides because the manufacturers quit selling in Montana. Senator Palmer stated that this has been in effect in other states and this fear has not materialized in those states. He feels that this is a straightforward bill, and it was requested by the pharmacists. If there is any major problem in terms of what Senator Himsl is talking about, the Legislature can address it in two years. Roll call vote was taken. Motion passed unanimously.


ACTION ON SENATE BILL 175 STATEMENT OF INTENT: Mr. Taylor explained that any bill that delegates rule-making authority to a department requires a statement of intent. The rules adopted in Chapter 11 of this year's rule book states the rule for statement of intent. He distributed copies of a statement of intent (see Attachment "B") to the Committee which he said is intended to clarify the rule-making authority authorized by Senate Bill 175. Senator Olson asked what is meant by schedules and agents. Senator Norman said he believes the schedule refers to the time frame for the immunizations and the agent refers to substance. Senator Norman questioned the last sentence of the statement. Mr. Taylor referred the Committee to Section 6 of the bill. Senator Norman stated that he doesn't understand why the Department of Health will set up any standards to control students who have already been exempted from the act. Senator Lensink moved that "and to set standards for control of students who have claimed exempt status in case of actual outbreak of disease" be deleted and in the prior line take out "to" and add "and." Motion was passed unanimously. Chairman Rasmussen moved that the statement of intent be approved as amended. Motion passed unanimously.

ACTION ON SENATE BILL 315: Senator Palmer moved that Senate Bill 315 DO NOT PASS. Senator Lensink feels that the Human Resources Division would get lost in the Department of SRS. Senator Palmer said he feels that Human Resources should become more dynamic, and maybe this bill has done that. He feels that the Department of SRS should be smaller instead of larger. Roll call vote was taken. Motion passed by a vote of four to three.

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ANNOUNCEMENTS: Chairman Rasmussen announced that the Committee would probably have to go into executive session on Friday, February 16, after adjournment of the Senate.

ADJOURNMENT: There being no further business discussed, the meeting was adjourned at 2:10 p.m.


A. T. RASMUSSEN, CHAIRMAN

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3-10-77 Bill No. SB 331 Time 1:40 P

NAME	YES	NO
Senator Matt V. Himsl	✓	
Senator Everett R. Lensink	✓	
Senator Bill Norman	✓	
Senator Bob Palmer	absent	
Senator Patrick Ryan	✓	
Senator S. A. Olson, Vice-Chairman	✓	
Senator A. T. Rasmussen, Chairman	✓	

[Signature]
Secretary

X [Signature]
Chairman

Motion: SB 331 - Dr. Price

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 8/13/77 Bill No. SB 377 Time 5:00

NAME	YES	NO
Senator Matt V. Himsl	✓	
Senator Everett R. Lensink	✓	
Senator Bill Norman	✓	
Senator Bob Palmer	✓	
Senator Patrick Ryan	✓	
Senator S. A. Olson, Vice-Chairman	✓	
Senator A. T. Rasmussen, Chairman	✓	

S. A. Olson
Secretary

X
Chairman

Motion: D. Pass, as Amended SB 377

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 12-12-14 Bill No. SP 315 Time 2:05P

NAME	YES	NO
Senator Matt V. Himsl		✓
Senator Everett R. Lensink	✓	
Senator Bill Norman	✓	
Senator Bob Palmer	✓	
Senator Patrick Ryan		✓
Senator S. A. Olson, Vice-Chairman		✓
Senator A. T. Rasmussen, Chairman	✓	

Sandra Olson
Secretary

Tom Rasmussen
Chairman

Motion: Do Not Pass - SP 315

(include enough information on motion—put with yellow copy of committee report.)

ATTACHMENT "A"

SB 377-- (Senator Bob Palmer)

1. Page 2, line 14.

Following: " who "

Strike: " fixed "

Insert: " mixed "

2. Page 2, line 24.

Following: "distributor"

Insert: "if different than that of the manufacturer"

3. Page 9, line 6.

Following: line 5

Insert: "section 3. Effective date. This act is effective
January 1, 1980."

ATTACHMENT "B"

STATEMENT OF INTENT REGARDING SB 175

A statement of intent is required for this bill because it provides the Department of Health and Environmental Sciences rule-making authority regarding implementation of this act.

Section 6 authorizes rule-making authority to implement SB 175 and is intended to authorize the Department of Health and Environmental Sciences to adopt, amend, or repeal rules, in accordance with the Montana Administrative Procedures Act, to require uniformity in reporting and recording the immunization status of each child enrolled in school, to determine appropriate schedules and agents for immunization, and to set standards for control of students who have claimed exempt status in case of actual outbreak of disease. Such recording, reporting, and immunization must be compatible with current, recognized medical and public health practices.

First adopted by the SEANTE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND SAFETY on February 12, 1979.

