

MINUTES

MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By VICE CHAIRMAN STEVE BENEDICT, on March 24,  
1995, at 3:02 PM

ROLL CALL

**Members Present:**

Sen. Steve Benedict, Vice Chairman (R)  
Sen. Larry L. Baer (R)  
Sen. Sharon Estrada (R)  
Sen. Mike Sprague (R)  
Sen. Dorothy Eck (D)  
Sen. Eve Franklin (D)  
Sen. Terry Klampe (D)

**Members Excused:** Sen. Arnie A. Mohl (R)  
Sen. James H. "Jim" Burnett, Chairman (R)

**Members Absent:** None

**Staff Present:** Susan Fox, Legislative Council  
Karolyn Simpson, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 484  
Executive Action: HB 484, HB 509, HB 407, HB 121

*{Tape: 1; Side: 1}*

HEARING ON HB 484

Opening Statement by Sponsor:

REP. ROGER DeBRUYCKER, HD 89, Choteau and Liberty Counties, said  
HB 484 requires SRS to make a study of the working poor so they  
can get health insurance through Medicaid.

Proponents' Testimony:

Susan Good, representing HEAL Montana, said HB 484 is part of a  
proposal put together to authorize a study to find out if it  
would be wise to implement the use of Medical Savings Account  
(MSA) in leu of first dollar Medicaid coverage for certain  
portions of the Medicaid population. Not all Medicaid recipients  
would be served by Medical Savings Account, but some would

greatly benefit. Studies have shown that when individuals spend their own money for health care, health care costs go down but the individual's health does not. MSA pays insurance premiums and other health care costs from an account with funds that accumulate tax free. For certain portions of the Medicaid population, the state would be responsible for purchasing a major medical policy for individuals, putting the money for premiums in a MSA, plus an amount for the deductible, plus the amount of any out-of-pocket expenses. As the savings account is used during the year, then an individual could keep money not spent on health care, the amount kept would be determined by the study.

Referring to the Fiscal note and the requested \$250,000 expenditure, she said a company, Milliman and Robertson who had done this kind of study before, put together a model for this study for Indiana. The expensive part of the model would be determining what would happen to the Medicaid population. Using the same information, they offered the study model to the State of Nevada for \$5-10,000, but that was to be for just a small segment of people. The same study conducted in Montana by Milliman and Robertson would cost \$10-30,000 to obtain the information requested. The \$250,000 has been replaced by a \$25,000 amount.

The other part of the study would be the working poor section. The Montana Health Care Authority found the reason people don't have health insurance is because they can't afford it. The question asked is, how can the working poor be assisted in obtaining health insurance. This part of the study would be very inexpensive to complete because the information for this can be obtained from figures readily available at the Department of Revenue.

But this is not just a study because there is a trigger in the bill. Once the information comes back to SRS, the Legislative Finance Committee would evaluate the data, and if it is determined that MSA's for certain portions of the Medicaid population are cost effective, the Department of SRS will try to get a waiver (it takes over a year to get a waiver) from the Federal Government. Then the 1997 Legislature would make the decision whether the MSA plan be implemented for certain portions of the Medicaid population.

There is a narrow segment of the Medicaid population for which the state is purchasing private health insurance. In FY94, there was a savings of \$1.5 million.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR ECK asked if Indiana has been able to get a waiver for their program.

Susan Good said Indiana has not, due to a political squabble.

SENATOR ECK asked what the probability is for a child to be insured for less than \$128.00 per year.

Susan Good said she didn't know.

SENATOR FRANKLIN asked how the Department of SRS is going to implement this plan.

Susan Good said she had talked with Peter Blouke, and he has reservations about the working poor section of the study and the Medicaid section, and concerned about applying for a waiver. She thinks SRS is not really interested in change.

SENATOR FRANKLIN asked if the funding for this study is included in the Governor's budget.

Susan Good said it is not because the last meeting was on December 28, 1994. She said there could be an appropriation put on the bill.

SENATOR SPRAGUE asked how the working poor can possibly develop a savings account.

Susan Good said there are 2 segments, the Medicaid segment and the working poor segment. The working poor segment of the HEAL Montana proposal estimates that a family of 4, making \$20,000 per year could save 2.5% of their adjusted gross income to put aside for health insurance premiums. Based on that, possibly, the State of Montana would subsidize the balance, so every family would have health insurance that they chose, and they would have the freedom of choice about their health care. This would not be government-run health care, but government assisted health care, if the 1997 Session decides to make that policy choice. The HEAL Montana proposal does not advocate any government-run health care.

SENATOR SPRAGUE asked if this bill does not pass, would the HEAL Montana group do the study, then come to the 1997 Legislature with the information and present a bill for consideration.

Susan Good said no, because the Governor's office would not be satisfied with anything that does not have the government's fingerprints on it and would be highly suspect of anything from the private sector. HEAL Montana is willing to pay the \$25,000 to do the study.

SENATOR SPRAGUE asked if the study isn't done this way, then the HEAL organization wouldn't get matching government funds.

Susan Good said no, HEAL Montana has \$25,000 they are willing to use to fund the study without government monies.

SENATOR FRANKLIN asked about contracted services and if HEAL Montana had sought out private funds such as grants.

Susan Good said she doesn't care where the money comes from to pay for this study, but when the study comes back, she does want

people to pay attention to the results and the Legislature to have confidence and faith in it, and then act on it. The people in the HEAL organization believe in the private sector, but wonder if the Legislature would take seriously the results of a non-government funded study.

**SENATOR ECK** believes SRS considers the possibility of getting a waiver is nil. There has been a group with private funding and presented data, and is Arizona pursuing this program?.

**Susan Good** said she didn't know about Arizona, but this type of legislation passed in Florida.

**SENATOR ECK** said she thought it would be hard to get SRS to fund such a study, but maybe we could wait and see what the results are from other states.

**SENATOR KLAMPE** asked for more information on the State's purchasing health insurance from some people.

**Susan Good** said she doesn't have the details, but knows there are certain people for which this is done.

**SENATOR ECK** said there are cases of families with a child who has severe medical problems and they are in danger of losing their health insurance. Rather than letting the family lose that health insurance, it is more cost effective for the State to pay the insurance premiums for the child rather than using Medicaid.

**Susan Good** said she would get the information from the Department of SRS, but it was a SRS document that gave the \$1.5 million savings in 1994 for this extremely narrow segment.

**SENATOR BENEDICT** said, knowing that **REP. DEBRUYCKER** treats the State checkbook as carefully as his own, if he had ever signed a fiscal note with this kind of money in it.

**REP. DeBRUYCKER** said no.

Closing by Sponsor:

**REP. DeBRUYCKER** said the Fiscal Note can be thrown away because the \$25,000 was put in the back. He passed out information on the working poor and asked the Committee to give the bill serious consideration because the Legislature needs to find a way to provide cost effective health care coverage.

EXECUTIVE ACTION ON HB 484

Motion: **SENATOR BAER** moved HB 484 BE CONCURRED IN.

**Discussion:** SENATOR ECK referred to another bill for the working poor, and doesn't know if this bill addresses that. She wanted to amend the bill to take out the appropriation.

**Motion:** SENATOR ECK moved to strike section 4 of HB 484.

SENATOR ESTRADA asked REP. DeBRUYCKER how he feels about this proposed amendment.

REP. DeBRUYCKER said it's OK, the study can be done, but will the Legislature have any faith in it if it's not done by the State.

SENATOR FRANKLIN said she thinks SRS could direct the study if it was funded by someone else, and asked if HB 484 could be a useful in planning tool for SRS.

Peter Blouke, Director of SRS, said it could be useful tool if it were adequately funded. He said there are 3 sections to the bill. The first section deals with cost and numbers. The second section is much larger and more comprehensive evaluation of data from the first study, looking at the feasibility of this concept relating to Medicaid. The third section would require SRS to design a study, and they don't have the staff, expertise, or the money to do that. In the fiscal note they submitted, they assumed they would be matching it with Medicaid funds, consequently, would only be addressing the Medicaid recipients, because they have no funds for looking at the working poor. SRS issues RFP's (Request for Proposal) for competitive sealed bids, but within the State purchasing process the competitive sealed bid is the absolute low bidder and qualifications are not considered, and they want to change this. He said he doesn't want to risk a multi-billion dollar program on a \$25,000 study. He said it cost SRS \$174,000 to design the Mental Health Managed Care Plan, \$126,000 to study out-patient hospital reimbursement, \$108,000 to design a health formulary, and \$250,000 to re-design the in-patient hospitalization. He said they have made money on all of these because they implemented the recommendations, but this is an expensive process. When Dr. Gorsuch addressed the Health Care Authority, he said it would take at least \$100,000 to do this kind of study.

SENATOR SPRAGUE said it's his understanding that Florida is doing this, and asked, why not wait to see what Florida is doing. He said, by next Session there would be some data available, and asked if SRS would take the data seriously and comment on it at that time.

Peter Blouke said that's one approach. He said, they are continuing the Health Care Authority process, is concerned about the way the bill is written, and the resources are not available.

SENATOR ECK withdrew her motion to amend.

SENATOR BENEDICT asked if it's was the Committee's wishes to add an appropriation to the bill.

Motion/Vote: SENATOR FRANKLIN moved to add another \$100,000 to the Fiscal Note and strike the \$25,000. The motion FAILED with SENATORS FRANKLIN and KLAMPE voting YES.

Motion/Vote: SENATOR ECK made a substitute motion to TABLE HB 484. The motion FAILED with SENATOR ECK voting YES.

Discussion: SENATOR FRANKLIN said she thinks this is an important issue and will vote for any bill that will obtain this kind information, but doesn't want to saddle SRS with the project without additional money.

SENATOR ESTRADA said REP. DeBRUYCKER was happy with the bill with the \$25,000 Fiscal Note, and asked if he wanted to pass the bill with the \$25,000.

REP. DeBRUYCKER said yes. If the private group was hired to do the study, a lot could be gained for less than \$25,000.

SENATOR ECK said, if Peter Blouke said they can do the part of the study in section 1, but not address Medicaid at all.

SENATOR BENEDICT said that just applied to the original \$250,000, which contained \$125,000 Medicaid matching funds and \$125,000 is from State. Because there are Federal matching funds, it could only be used for Medicaid. As the bill is now, it could be used for the working poor because it's an appropriation from the State.

SENATOR ECK referred to section 2, saying the Department contract for study of converting Montana Medicaid, and it's her understanding that the contracting group was not going to be doing that part of the study.

Susan Good referred to the Trigger section, and said it talks about certain types of the Medicaid population would be studied because not all parts of the Medicaid population would not be affected. Certain portions, such as thee blind and elderly, would not be eligible for the study. She said it would mainly concentrate on young families.

SENATOR ECK asked if the firm would do that part of the study for \$25,000. She said she thought Peter Blouke said Section 1 is the only part of the study that would be done, and SRS would be required to everything in section 2, and design the system. She said the \$250,000 figure is just for the Medicaid portion of the study, and probably \$250,000 wouldn't be adequate.

Vote: The BE CONCURRED IN motion CARRIED with SENATORS SPRAGUE and ECK voting NO, by Roll Call Vote.

EXECUTIVE ACTION ON HB 407

Discussion: SENATOR BENEDICT read a letter from the State Board of Nurses. EXHIBIT 1.

Motion: SENATOR BAER moved HB 407 BE TAKEN OFF THE TABLE for discussion.

Discussion: SENATOR FRANKLIN said there is common ground, but she still has some concerns, and doesn't think the language is needed because the work in question is being done anyway. She is afraid of setting them up for future problems, and she would support leaving HB 407 on the table as long as the dialog continues.

SENATOR SPRAGUE said he is getting mixed signals because he thought there was agreement now, but now things seem to have changed.

SENATOR BENEDICT said no, that SENATOR FRANKLIN was saying she still has some concerns.

SENATOR ECK said her opinion has not changed. As long as the Board of Nursing is doing their job, the Legislature should not get involved and doesn't think this group should bring their internal problems to the Legislature for a solution.

SENATOR FRANKLIN referred to the letter from Nancy Heyer, State Board of Nursing, saying Nancy is comfortable with the language of the amendments, but the professional association is not.

Vote: The motion to Take HB 407 OFF THE TABLE FAILED with SENATORS BAER, BENEDICT, and BURNETT voting YES.

EXECUTIVE ACTION ON HB 509

Motion: SENATOR KLAMPE moved HB 509 BE CONCURRED IN.

Discussion: SENATOR ESTRADA said she has received many telephone messages from those opposing HB 509, and most of these are from Great Falls. She said she has talked to a lot of people and this is a Great Falls problem, and doesn't think they should legislate for a whole state something that needs to be worked out in Great Falls. She said she is against this bill.

SENATOR BENEDICT said both he and SENATOR BURNETT have had a similar number of calls from Great Falls residents opposing this bill. He quoted SENATOR BURNETT as saying, these people don't understand that this is not a bill to merge anything, but instead a bill to establish the state's primacy to determine those mergers, taking that role away from the Federal Trade Commission,

except in cases where the Commission needs to be involved, in case anyone wants to merge but doesn't force mergers. It allows for decisions to be made at the state level, using our own public forums and justice department, rather than being involved with the Federal Government with decisions being made 2,000 miles away. This is not a bill about merging 2 hospitals in Great Falls, but is a bill that allows the state to determine how mergers will occur.

**SENATOR ESTRADA** said she had asked **Charles Brooks** a question concerning the Chamber of Commerce in Billings, and wondered if he had replied.

**SENATOR BENEDICT** said **Charles Brooks** showed his authorization from the Billings Chamber of Commerce Legislative Committee, and because the Board does not meet frequently, neither the Board of Directors or 1,000 members had been polled, but he was doing what he had been asked to do.

**SENATOR SPRAGUE** said there is a need to stay focused. Great Falls has the most current problem, but this bill is a business-government process of making decisions. Hospitals are like any other business and must run like a business and make a profit to pay salaries, wage increases, nurses, doctors, etc. He said these hospitals have Boards of Directors and they have a responsibility to their shareholders and employees. He thinks this is a practical, prudent, building in dexterity if there is a need to consolidate. He said all employees of these facilities can't know all of the facts and details going into making the best executive decision for the hospital. He said this bill says we want to bring these decisions to a local level for discussions and approval.

**SENATOR FRANKLIN** said there are 2 legal issues and she has gotten many calls about his bill. She said **Beth Baker** had said the State would not be involved in the litigation, and if there was any litigation it would be the Federal Government and the institution, without any involvement from the state. She referred to the Attorney General letter brought up by Dr. Gorsuch, that it was a different issue, that being Federal anti-trust law, not a state-level issue. She is comfortable with it.

**SENATOR SPRAGUE** said **SENATOR ESTRADA** has a valid concern.

**SENATOR BENEDICT** said the merging hospitals pay all the costs of merging.

**Vote:** The BE CONCURRED IN motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 121

**Motion:** SENATOR ECK moved the Amendments to HB 121 DO PASS.



**Discussion:** SENATOR ECK said these amendments clarify and makes sure the Board of Medical Examiners really looks at the certification of Podiatrists. She said the new section lists the certification requirements for ankle surgery and the Board will certify those who are qualified by education, training, and experience, or certified by the Board of Podiatric Surgery. She said the amendments address her concerns. Without this bill and the amendments, the Board could not decide who to certify because they were restricted as to what they could do.

SENATOR SPRAGUE said it was a question whether the consumer would know who is qualified and who is not. He said, with the amendments, they can be assured of who has been certified for ankle surgery.

SENATOR KLAMPE said the amendments have addressed all of this concerns.

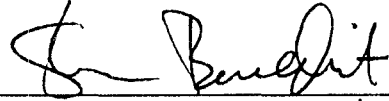
**Vote:** The Do Pass Motion for the Amendments to HB 121 CARRIED UNANIMOUSLY.

**Motion/Vote:** SENATOR ECK moved HB 121 BE CONCURRED IN AS AMENDED. The motion CARRIED with SENATORS BAER, ESTRADA, MOHL, and FRANKLIN voting NO, by Roll Call Vote.

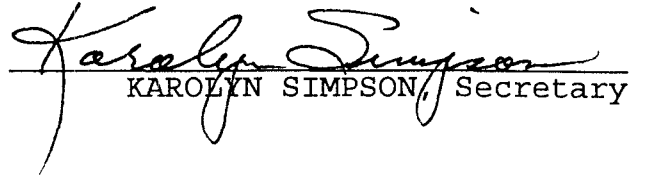
SENATOR SPRAGUE will carry the bill.

ADJOURNMENT

Adjournment: 4:05 PM



SENATOR STEVE BENEDICT, Vice Chairman



KAROLYN SIMPSON, Secretary

SB/ks

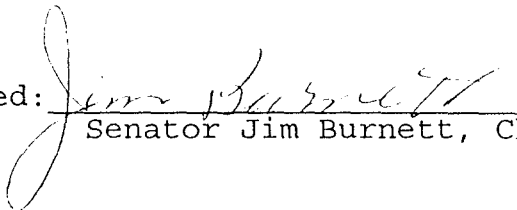


SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 24, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 121 (third reading copy -- blue), respectfully report that HB 121 be amended as follows and as so amended be concurred in.

Signed:   
Senator Jim Burnett, Chair

That such amendments read:

1. Title, line 5.

Following: "ANKLE;"

Insert: "REQUIRING CERTIFICATION BY THE BOARD OF MEDICAL EXAMINERS FOR ANKLE SURGERY; LIMITING THE SITES AT WHICH ANKLE SURGERY MAY BE PERFORMED;"

2. Page 1, line 26.

Insert: "

NEW SECTION. Section 3. Certification required for ankle surgery. Notwithstanding any other provisions in this title, a podiatrist may not perform surgical treatments of the ankle unless certified to do so by the board. The board shall certify a podiatrist whom it considers qualified by education, training, and experience or who is certified by the American board of podiatric surgery.

NEW SECTION. Section 4. Site of performance of ankle surgery. A surgical treatment of the ankle performed in accordance with [section 3] must be performed in a hospital or ambulatory surgical center licensed under Title 50.

NEW SECTION. Section 5. Codification instruction. [Sections 3 and 4] are intended to be codified as an integral part of Title 37, chapter 6, part 1, and the provisions of Title 37, chapter 6, part 1, apply to [sections 3 and 4]."

-END-



Amd. Coord.  
Sec. of Senate

SEN. SPRAGUE  
Senator Carrying Bill

681637SC.SRF


SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 24, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 509 (third reading copy -- blue), respectfully report that HB 509 be concurred in.

Signed: Jim Burnett  
Senator Jim Burnett, Chair

  
Amd. Coord.  
SA Sec. of Senate

SEN. BURNETT  
Senator Carrying Bill

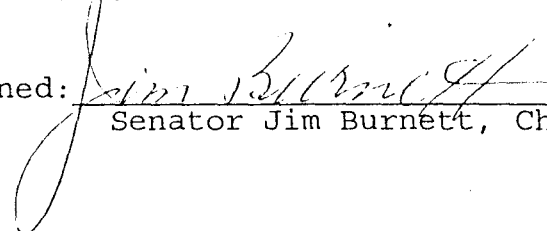
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 24, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 484 (third reading copy -- blue), respectfully report that HB 484 be concurred in.

Signed:   
Senator Jim Burnett, Chair

  
Amd. Coord.  
518 Sec. of Senate

SEN BURNETT  
Senator Carrying Bill

681643SC.SRF











SENATE HEALTH &amp; WELFARE

EXHIBIT NO. 1DATE 3/24/95BILL NO. HB 407

MONTANA STATE BOARD OF NURSING  
STATEMENT OF SUPPORT  
HB 407

Senate Public Health Committee  
Senators Burnett and Benedict:

Since I will be unable to attend the 3 p.m. committee meeting on Friday, I want to confirm statements I made in the rush to clear the room on Wednesday.

In a three-hour conference call, with a quorum present, the Board of Nursing was able to negotiate numerous points included in HB 407, which makes the new statute actually better than the existing statute regarding nursing delegation. There was universal agreement on almost every concept, especially the setting of training requirements for the non-licensed individuals. We believe that this makes our job more clear in making the rules.

We eliminated three of the whereas statements, eliminated the word "requires" and replaced it with "authorizes". This is because the numerous "shalls" were replaced with "may". After considerable discussion, and working with words which make the statute much more clear in its intent, we voted to support HB 407.

We feel that the spirit of negotiation led to a successful road to resolution of many real and perceived differences between the Board of Nursing and interested groups. We have worked hard to make this bill workable for everyone.

There is a definite work plan in place, and we look forward to a lively debate in the rulemaking process. We will work hard to include all interested providers and as well the consumers.

Thank you for your hard work.

*Nancy Heyer RN*

Nancy Heyer, RN

President

Montana State Board of Nursing

