

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on February 15, 1989, at 10:00 a.m.

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer, Senator Boylan, Senator Noble, Senator Williams, Senator Hager, Senator McLane, Senator Weeding, Senator Lynch

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 409

Presentation and Opening Statement by Sponsor: Senator Gage, Senate District 5, stated that this bill changed some of the public accounting board terms. Presently the board members serve three year terms and can serve two consecutive terms, but must sit out a year before they can sit on the board again. He said part of the bill put board members on five year staggered terms, and the new section 4 of the bill was the implementation of the system of staggering those terms. He said he had worked the thing out to see if it accomplished what it was designed to do, and he said it did.

Senator Gage said another part of the bill, defined public accounting. He said he would like them to be very aware, in their questioning of people, particularly in reference to the bankers and the legal profession. He said a portion of the bill indicated, on line 18, that it was dealing with services involving the use of accounting, and to auditing skills, on line 14 and 15. He asked them to look at line 18 and 19, where it said one or more types of management advisor or consulting service, and again to line 21, where it said furnishing

advise on tax matters. I know a lot of the bankers that I have talked with, do talk about tax matters with people, when they are talking about finances and such things. He said that was not the intent of this bill. He said there also were attorneys who were doing tax work, and attorneys became very involved in tax suggestions. He said it was also, not intended for this bill to cover those folks. He said they may want to discuss how they wanted to redistribute the language, in that part of the bill, to specify what was going to be covered, rather than include professions the bill was not intending to cover.

He said the bill did not change any education requirements, for acquiring a CPA certificate or public accounting license, until July 1, 1997. He said there were some significant changes involved, and the accounting profession thought the changes would be good for the state of Montana, and for the practice of accounting in our state.

List of Testifying Proponents and What Group They Represent:

Tom Harrison - Montana Society of Public Accountants
Mike Holland - Montana Society of Certified Public Accountants
Bob Bell - Intern, Montana Society of Certified Public Accountants

List of Testifying Opponents and What Group They Represent:

None

Testimony: Tom Harrison the bill, as outlined by Senator Gage, outlined by Senator Gage, lengthened the board terms, defined the of practice of public accounting, and set forth the 150 hour education requirements.

He said the lengthening of the board terms and the definition of practice of public accounting sections were both advised by the Board of Public Accountancy, and were introduced at their request, but were supported by the Society. As a practical matter most members of the board have served two - three year terms consecutively and then they were off the board. He said the proposed change actually reduced the terms from six, to five years, but was intended to capitalize on the relatively small number of people who could actually serve on the board, and attempted to retain the expertise they had gained.

He said the board had experienced a problem in the enforcement of the definition, as set forth in the bill, for the practice of public accountancy, but the definition presently had a general acceptance in the administrative rules. He said it was model language recommended by the professional association, and the national association of State Boards of Accountancy. He said the local Society, and the board, itself, favored the bill.

Mike Holland said the 150 hour education requirement had problems, because it required the spending of money. He gave each committee member three handouts. Exhibits #1, #2, and #3. The first was an outline of his testimony. The second was question and answer material on the 150 hour requirement, and the third was a graph. He said the bill was unique, and may be a little controversial. He stated that after July 1, 1997 accounting students would have to complete 150 semester hours of education, whereas a regular four year student was required to complete 128 hours of study.

Mr. Holland said the expansion of study was necessary in the accounting profession, because there was an explosion in the amount of knowledge required. He said page 2 of the graph demonstrated the bulk of data standards CPAs were required to follow. The dotted portion of the graph indicated data knowledge before 1970, and the darker bar graph indicated data required after 1970. He stated that in 1970 there were 110 official pronouncements involved in accounting, and currently there were 359. He said the 150 hour education requirement had been adopted as a membership requirement for the American Institute of CPAs, beginning in the year 2000. He said the group may sound like a club, but it was more, because employers required membership in the group. Contracts to do governmental work, audits, and similar jobs were contingent on participation in programs maintained by the Institute.

He stated the proposal had been advocated since 1959, and now that the profession had accepted it, they were asking the state legislature to accept it. He said several states had already enacted the legislation, and four states had already implemented the educational requirements. He said they had the support of accounting students and the faculties of all three universities with accounting programs.

Mr. Holland said the bill would allow students the time to take courses in English, computers, finance,

and other areas. He said they were their accounting education now, but the rest of their education was suffering. He stated students signed up for the accounting program and were under pressure to complete the program in four years, and he felt that was nearly impossible. He said the proposed program of study would allow them to get jobs and join the professional organizations.

He said the new requirement was going to have some cost. He said the Montana State University estimated \$170,000 would be needed from the state general fund, if every accounting student stayed for the fifth year. He stated students were not, in reality, staying for a full year, because the average student now stayed four and two-thirds years. He said the requirement was actually the equivalent of one more quarter. He said they did not require a Masters Degree, had not changed the requirements for a Bachelors Degree, and were not asking universities to add courses or change their curriculum by specifying any specific curriculum. He stated they were only asking students to stay in school one half year longer. He said the reciprocity agreement between the states made the change necessary, because Montana graduates, acquiring their CPA license, would not be able to transfer their CPA to another state. He said we presently had three outstanding accounting schools in Montana, which were nationally recognized. He said many non-resident students came to Montana to take the CPA test, when all they wanted was the certificate and not a license to practice.

Robert Bell stated he had been a business student and had changed his major study emphasis because of the dilemma this bill addressed. He said that as a business finance student, he found he was not taking many classes outside of his business schooling. He said he wasn't learning about the complicated world of politics, technology, or communications, all of which affect the business environment. He stated the problem was even more pronounced for accounting students, and the 150 hour requirement would allow accounting students to broaden their education. He said students were under so much pressure to complete their accounting program, they had little time for anything else, and this bill would require students be allowed the time to get a more rounded education.

Mr. Bell said the problem with the bill was the additional cost for a student to attend another quarter or semester. He said the bill put students on a competitive level in a highly educated work force. He

reiterated the fact that they could not get licensed in another state if they didn't have the 150 hours.

(Exhibit 4) He cited that as excellent, and said it kept Montana in pace with the rest of the nation and the accounting profession.

Questions From Committee Members: Senator Lynch asked Senator Gage's permission to strike subsections (a), (b), (c), and (d) on page 3, as this would answer the problems of the bankers and lawyers. He said CPAs were not necessarily needed to prepare tax returns anyway.

Senator Gage stated he didn't know what kind of guidelines the accounting board had in those situations, but he didn't have any objections to that suggestion.

Chairman Thayer said the section on page 3, lines 11 through 14, pointed out the limitations, and stated the practice of public accounting meant performing, or offering to perform, by persons certified under 35-50-302 or licensed under 37-50-303. He said it was quite specific. He asked Tom Harrison if he thought the additional language cut through the problems for other professions?

Mr. Harrison said he thought it was specific to the two groups, the public accountants and the certified public accountants.

Chairman Thayer asked Mary McCue to comment on the section. Mary McCue said she agreed, that it was limited to someone who was certified under those statutes.

Senator Weeding asked Senator Gage if the language in subsection (a), (b), (c), and (d) was something in a national statute? Senator Gage answered that the language was agreed upon by their National Organization of CPAs and National Association of State Boards of Accounting.

Chairman Thayer asked if most students went beyond the four year to graduate, and if it was unusual for students to go an extra semester? Mr. Bell said he didn't have any statistics, but this was his fourth year and second quarter, and he would graduate the end of this quarter. He said he thought most students probably were staying more than four years.

Senator Noble stated the current average age in college was twenty-eight.

Senator Hager asked if CPAs had an additional education requirement now? Mr. Holland said they had to have an additional 120 hours of education every three years, in order to publicly practice.

Senator Lynch asked if the effective date was important? Normally it into the Codes and became effective on October 1, 1989, and there was a July 1 date in the bill. Senator Gage said they had wanted the terms staggered, but didn't care when it was done.

Closing By Sponsor: Senator Gage said it indicated that on or July 1, 1989 the Governor appoints, and the new board term would begin July 1. He said they may have to change the language to, on or before. He said he had been concerned about the section which defined public accounting, because the board may use that section to define who must be licensed, but if they were not going to do that, it wouldn't be a problem. He said students could currently choose to complete the 150 hours if they wanted to. He said the mandates of the bill put us in step with other states, and was good for the people of Montana.

DISPOSITION OF SENATE BILL 409

Discussion: Senator Weeding asked if there was an amendment for the bill? Chairman Thayer said Senator Gage, in his closing, had said he felt the bill should be left as it was. Chairman Thayer said he felt the bill was clear, and the bill was only dealing with people in that business.

Amendments and Votes: None

Recommendation and Vote: Senator Lynch made a motion SB 409 DO PASS. Senator Williams seconded the motion. The motion Carried Unanimously.

HEARING ON SENATE BILL 359

Chairman Thayer asked Senator McLane to inform the committee of the status of the bill.

Senator McLane said the coroners had decided they wanted to table the bill, and study it before they came back in two years.

DISPOSITION OF SENATE BILL 359

Amendments and Votes: None

Recommendation and Vote: Senator McLane made a motion to TABLE SB 359. The motion Carried Unanimously.

Announcement: Chairman Thayer asked Senator Hager to take the chair so he could present SB 303.

HEARING ON SENATE BILL 303

Opening by Sponsor: Senator Thayer, Senate District 19, Great Falls, said he was introducing the bill because of a situation that happened in Great Falls a little over a year ago. He handed the committee copies of newspaper clippings. See exhibits #5, #6, and #7. He said the articles told about a multiple of thefts, of money being held in escrow accounts, by a Great Falls escrow agent. He said the amount had totalled more than \$1,000,000, and had been taken from hundreds of customer's escrow accounts. He said the aftermath of the tragedy revealed an apparent need for some type of oversight of the unregulated escrow business. He said the bill was drafted in response to a need for providing some type of assurance to the public, and would make it safe to transact escrow business in the future.

He said the legislation basically provided for regulation, partially included a requirement for periodic certified audits, and required licensing for the escrow industry, by the Department of Commerce. He said the bill followed principles of legislation enacted in New Mexico, Utah, Arizona and Nevada.

Senator Thayer said section 1 provided all escrow businesses, be they escrow business or small independent escrow agents, were subject to licensing regulations by the financial division within the Department of Commerce. He said this was the department that already handled the activity.

Section 2 set forth the definitions of the activity.

Section 3 set forth the entities exempt from the act. He said attorneys and public accountants did not actively administer escrow accounts, and were exempt from regulations. Those individuals who were

principally in the business of preparing abstracts and preparing title searches were not regulated, if the escrow transaction was formed on the basis of the abstract search, and did not exceed 90 days. Single transactions by real estate brokers, plus accounts of court ordered escrow work were exempt.

Section 4 placed the burden of proof of entitlement to an extension on the party claiming. He said those people who might be qualified under section 3, must provide proof of their business.

Section 5 set forth the powers and duties placed upon the director of the Department of Commerce for enforcing the act. He said the bill included rule making authority to adopt rules to regulate escrow agents, to conduct examinations, and to establish fees for licensing and examination for escrow agents.

Section 6 outlined the information contained in the application for the escrow license.

Section 7 prohibited the transfer or assignment of a license.

Section 8 required the licensee to maintain business records that were subject to examination. These records consisted of those used in general escrow businesses. Subsection 5 required the annual filing of a CPA certified audit, of the licensees' escrow business.

Section 9 required the licensee to provide a full statement of the escrow account in response to the request of the claimant. This section gave a consumer an opportunity for independent oversight of the account.

Section 10 delineated criteria for the establishment of an escrow account and the disbursement of funds from the account. Subsection 3 specifically provided that escrow accounts were not subject to execution for attachment because of any claims against the escrow agent. Subsection 3 stipulated that any interest earned on an account went to the customer, and not to the agent.

Section 11 set forth fees for the licensing and examination, and those fees were to be paid to the credit of the state special revenue fund, and used by the Department of Commerce for collecting fees for licensing and examinations.

Section 12 contained a list of unauthorized practices. Any one of these practices could subject the licensee to revocation or suspension of his escrow license.

Section 13 gave the director the authority to investigate escrow businesses, and issue cease and desist orders when it knew acts and practices were done in violation of the act.

Section 14 gave the director the necessary investigative tools to conduct examinations of escrow businesses.

Section 15 provided that contested cases for alleged violations of the act, be governed by procedures of the Montana Administrative Procedures Act. The legislation provided good consumer protection and accountability in an area that, as past experience had shown, needed an amount of regulation.

Senator Thayer said he requested input from around the state for this legislation. He said their response had been, if you're going to regulate this business, why not some other business? He said that in an effort to be fair to everyone, he had presently included banks in the legislation. He said, since their inclusion, the Department of Commerce had informed him that since banks were already examined by bank examiners they wouldn't need to be included, because they could have their escrow department examined when the bank examiner was there. He stated he didn't know why they weren't doing that at the current time.

Senator Thayer said he didn't want to create more bureaucracy or overburden anyone, he was simply trying to protect the consumer. He said the horror stories, of people who have lost huge sums of money, had prompted him to try preventing this from happening again.

List of Testifying Proponents and What Group They Represent:

George Bennett - Montana Bankers Association
Chip Erdman - Montana League of Savings Institutions
Montana Savings and Loans
David Calahan - First Interstate Bank of Missoula
Gene Phillips - Montana Land and Title Association
First Interstate Bank of Kalispell
Self/Attorney
Jim Hanson - First Security Bank of Malta
Bob Pfifer - Montana Credit Unions

Tom Hopgood - Montana Association of Realtors
Al Leppink - Montana Escrow Association
Allen Kronestor - Montana Bar Association
Tim Conner - National Mortgage Company
National Escrow Company
Bill Gowan - Helena Abstract and Title Company
Bill Dawe - Manager, Morris Escrow, Helena, Montana

List of Testifying Opponents and What Group They Represent:

None

Testimony: George Bennett said his association was strongly in favor of this bill. He said the situation was bad whenever a totally unregulated, unsupervised private escrow company could handle thousands of dollars worth of the customers' public funds, and act in a fiduciary capacity. He said they were of the understanding, that there were customers of the escrow company who realized something was wrong, but had no one to turn to, other than the county attorney. He said this was an area where there should be supervision and regulation. He said the were proposing financial institutions be exempt from section 3 of the bill. He stated the Utah legislation had exempted "any person chartered or licensed by this state as a depository institution". He said they would suggest that kind of an amendment, because a discussion, at a public relations meeting of the Bankers Association, had revealed they weren't aware of any cases where the banks hadn't made good any shortage of funds in escrows. He said both state and national banks were very heavily regulated. He said he assumed the exemptions in this act, for lawyers, accountants, and brokers, was based on the fact that they were already regulated for customer protection.

Mr. Bennett said they had a dual banking system, which meant that national banks were nationally controlled and regulated, and state banks were chartered in Montana and regulated by the financial division of the Department of Commerce. He said FDIC and other such regulations, also resulted in heavy federal regulation of state banks, or at least examination of state banks. He said banks had very heavy capital requirements, had internal and external audits, and were examined for a multitude of purposes. He said they had bankers blanket bonding coverage, fidelity bonds, general liability insurance, and their operations, as to profits and dividends, were very heavily regulated. He stated every phase of banking was controlled, even their hours of operation, their accounting methods, and practically every other aspect.

He said there was already a regulation to prevent any loss to an escrow customer of a bank. He stated there was no reason why the state banking auditor couldn't look at escrows in their regular audits. He said they highly recommend passage of the bill, but with an amendment that would exclude financial institutions under section 3.

Chip Erdman said they supported the bill, and certainly supported the concept, however, they agreed with Mr. Bennett that federal or state chartered savings and loans and banks need not be included. Mr. Erdman said savings and loan people had told him these funds were placed in regular accounts, savings accounts, deposit accounts or mortgage accounts, and were covered by federal insurance. He said they were subject to federal regulators, and both internal and external audits. He questioned whether or not the state could regulate federal and state chartered institutions, and stated it was not typically done. He said the federal law superseded in most cases, and he thought that was recognized by the state of Utah, when one of their first exemptions, to a similar act, excluded state and federally chartered banks. He asked for support of the bill with an amendment excluding federally regulated institutions.

David Calahan said he was President of a bank which was owned by a holding company located in Billings. He said the holding company probably had the largest escrow department in the state of Montana at a volume of \$130,000,000 plus. He said he was speaking in favor of SB 303, but he was asking them to consider an amendment to exclude banks from that particular regulation. He said their regulation was intended to prevent unsound and unsafe banking practices. He stated the escrow department was an off balance sheet asset, and was not on the assets of the bank, and it got less attention from their examiners. He stated they had internal auditors that counted cash, examined it frequently, and evaluated the profitability of that particular department of the bank. He said the key was that they were regulated to maintain minimum capital requirements, and those regulations forced them to have profitability, whether they liked it or not. He said had to have the ability to repay.

Gene Phillips said they supported the bill. He said they would like to make a suggestion for an amendment on page 4, line 8, following the word "companies", strike the language "if the escrow transaction does not exceed 90 days", and insert "and regulated by the

Commissioner of Insurance, who is not actively engaged in the escrow business". He said the 90 day time frame provided in the bill was not sufficient. He said that quite often the title company received funds that were to be used in the closing of a real estate transaction, which could take as long as eighteen to twenty-four months.

Mr. PHillips said national banks should not be covered under this bill, and he wasn't certain the state of Montana had the authority to regulate a national bank.

He said section 10, page 10, provided the interest on the account was to be paid to the depositing party, or they could agree to have it paid by "subsequent" agreement. He suggested striking the word "subsequent". He said section 12 required all escrow instructions to be signed by both parties to the escrow, and he didn't think that really conformed to reality of the working world today. He said, when an ordinary contract went into an escrow contract for deed, the contract for deed would provide, upon default by the buyer, the seller could deliver notice of that default to the escrow agent, and receive all the documents back. He stated that was a change in the escrow agreement that was only signed by the seller, and not by both parties, so that language needed to be changed.

Gene Phillips stated, on page 19 the bill said that upon investigation under a subpoena, a person who was subpoenaed was required to give evidence "touching" the matter under investigation. He said they routinely objected to evidence which may be irreverent, and the word "touching" would create one more area of debate. He said that with those suggestions, they supported the bill and hoped for a do pass as amended.

Jim Hanson stated escrows were generally drawn up and delivered to them by an attorney, and they checked off the documents to see that everything was in the file. He said they sent a confirmation letter to the buyer and seller, which stated they had the escrow in their bank. He said they charged a small fee for accepting the documents. He said they felt their largest liability was when payments were received, they had to figure the interest and make certain the interest and the principal payments went to the right parties. He said they sent a document to the buyer and seller, stating the payment had been received, and how much was left owing on the escrow. He said that anytime there

was a modification in the escrow, they sent notification to the buyer and seller, and kept everybody abreast with what was going on. He said they also sent out a letter when the escrow was being completed, and that negated their liability. He said they supported the bill, but any additional fees incurred by their bank would be passed on, to the consumer. (See Exhibit #8)

Bob Pfifer said they also supported the legislation, and suggested an exemption for financial institutions. He said they did not have a lot of credit union in Montana who provided an escrow service. He said that those who did, required the funds go into a regular share account that paid dividends. He said credit unions were regulated by federal regulators, and required to have federal insurance for both federal and state charters. He said they felt this legislation was a duplication of the examination process for financial institutions. He said the language, on page 9, line 21 and then again on page 10, line 4, should include "credit unions", because they would not be able to deposit escrow funds within our own credit union, if financial institutions were not exempt.

Tom Hopgood said they supported SB 303, but the realtors had a small amendment to offer. On page 4, section 3, it said real estate brokers were exempt from the act when they had an escrow "in the course of and incidental to a single real estate transaction: and for which a real estate license is required;". Then line 18, subsection 2, of section 3 says, "An act by a broker that constitutes an escrow transaction may not exceed a period of 90 days;. He said they suggested striking that from act, because there were situations where a broker was required to hold an escrow longer than 90 days. He said he believed, when read in connection with the next sentence, "A trust account of a broker licensed by the Montana board of realty regulation is not an escrow account in the meaning of [this act].", it would exempt realtors when they were holding earnest money. He said they were asking to strike the language on lines 18 and 19.

Al Leppink said they supported the bill, and concurred that banks should be exempt. He said they supported the amendments offered by Mr. Phillips. He said the bill was an effort to regulate collection escrows. He asked to amend section 8, paragraph 5, to make them "subject to an audit". (See Exhibit #10)

Allen Kronestor said he rose in support of SB 303 and was not seeking an exemption, because the sponsor was foresighted enough to have include lawyers. He said, on page 15, line 5, if they deleted "touching" and inserted "relevant to", that would be exactly what was intended.

He suggested they consider administrative procedures, as outlined on page 1, lines 24 and 25, and page 15, section 15. He said he was concerned whether those sections, together, created an argument, or an issue as to whether or not rule making under this act would be outside the APA. For example, on page 1, lines 24 and 25, under APA it was not always necessary to have a hearing. He said it should be clarified whether the intent was to overcome that requirement, or add to the requirement of the APA.

Tim Connor said their primary business was buying and selling discounted real estate contracts. He said they bought the sellers interest of 300 to 400 escrows in Montana every year. He said the escrow portion of their company was very small, but it would fall under this bill. He said they supported SB 303 with the proposed amendments for section 8. He said he objected to the annual audit requirement, if banks were excluded. He said the cost of annual audits would be prohibitive, and those costs would have to be passed on to the customer. He said this would escalate escrow fees to such an extent that only banks would be left in the escrow business, if they were exempt. He suggested audits, at the request of the director, as a workable plan.

He said page 12, section 12, line 8 required both parties in an escrow to sign and initial any changes in the escrow. He said that when you had an escrow and contract for deed, the seller owned that contract, and under that restriction he would not be able to assign or direct his payments to pay off a loan or to resell that contract without the permission of the buyer. He said the buyer should not have that control. He suggested, on line 8, deleting "persons" and inserting "affected party".

Bill Gowan said he supported the amendments proposed by the Montana Escrow Association and by the Montana Land Title Association. He said the audit requirement would cost his company \$3,000 to \$5,000 for an annual audit, and he maintained less than 200 escrow accounts. He expressed support for the amendments Mr. Phillips presented.

Bill Dawe stated they were a collection agency, and supported SB 303 with the amendment to the audit provision. He said an annual audit would cost \$8,000 for his operation. He said consumers needed protection, and this was a good bill. He asked the committee to please consider the suggested amendments.

Questions From The Committee: Senator Lynch asked Gene Phillips to repeat his amendment. Mr. Phillips said, "Page 4, line 8, after the word 'companies', strike the remaining portion of line 8, and all of line 9, and insert the following, 'and regulated by the Commissioner of Insurance who is not actively engaged in the escrow business'." Mary McCue stated, "You need to switch those around."

Senator Thayer told Senator Williams the act was exempt from the sunrise bill.

Senator Noble asked if there were any federally regulated financial institutions that were or could be questionable? Mr. Bennett said there was always some possibility a federally regulated bank could be closed by the regulators, or for it to fail. He said the fear of bank failure had brought a lot of preventive machinery in place. He said he didn't know of any customer who had ever lost anything from an escrow account in a bank.

Closing By Sponsor: Senator Thayer said there were several technical amendments that needed worked on. He said there was one major amendment he would offer, and that was to exempt financial institutions. He said he hoped, if they deleted that section, there would be language added to require them to have their escrow accounts examined during their routine examinations. He thanked them for a good hearing.

DISPOSITION OF SENATE BILL 303

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

Announcement: Senator Hager handed the gavel to Vice Chairman Meyer to chair the next hearing.

HEARING ON SENATE BILL 429

Presentation and Opening Statement By Sponsor: Senator Thayer, Senate District 19, said SB 429 was a committee bill. He said they had a situation where they found that even if someone had committed a felony, by stealing from their employer, the law required that the employer did not withhold their final wages, or any wages pending. He said this bill, as written, allowed the court to make that decision, so you can withhold payment until that person had either been convicted or cleared. He said it was just an amendment missing from the law.

List of Testifying Proponents: None

List of Testifying Opponents: None

Questions From the Committee: None

Closing by Sponsor: Senator Thayer closed the hearing.

DISPOSITION OF SENATE BILL 429

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Williams made a motion SB 429 DO PASS. The motion was seconded by Senator Noble. The motion Carried Unanimously.

HEARING ON SENATE JOINT RESOLUTION 13

Presentation and Opening Statement by Sponsor: Senator Meyer, Senate District 17, stated SJR 13 was a committee bill which supported, commended, and approved projects that promoted recycling and litter abatement. He said, "Basically that is what this bill does."

List of Testifying Proponents and What Group They Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony: None

Questions From Committee Members: None

Closing By Sponsor: Senator Meyer closed.

DISPOSITION OF SENATE JOINT RESOLUTION 13

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch made a motion SJR 13 DO PASS. Senator Noble seconded the motion. The motion Carried Unanimously.

DISPOSITION OF SENATE BILL 279

Amendments and Votes: Senator Lynch made a motion to AMEND SB 279 as outlined in Senator Jacobson,s exhibit #11.

Discussion: Senator Jacobson said they had worked trying to clarify SB 279. She said one item that still needed changing was in amendments #2, #9, and #16, where it said \$150 from 12 months to 24 months, she stated it should say \$100. Senator Jacobson said they were taking out the "registered professional nurse", because she believed that would be covered under "health care professionals supervised by a physician". She said they were providing for a definition of developmental assessment, were removing the co-payment, and leaving the deductible.

Senator Hager asked what that meant? Senator Jacobson said it meant that, if your policy was 80-20, you would still pick-up 20% of the \$250.

Senator Lynch said it would reduce the costs and would restrain people from overusing. He said they would, at least have to pay something.

Senator Jacobson said these cap benefits were not necessarily, particularly in the 2nd year, indicative of total costs. She sid there would probably still be some cost.

Senator Weeding asked if there was any deductible? Senator Jacobson said no, if you put the deductible in, and cap the benefits, there won't be anything coming out of it.

Senator Williams asked if the patient had to be seen by a doctor? Senator Jacobson said, not necessarily, the bill allowed for these services to be provided by a physician, or a health care professional, supervised by a physician. She said that would allow for the nurse to see the child. She stated there had been some concern, expressed by Blue Cross Blue Shield, that we might be allowing 3rd party payments to an R.N., and we didn't want to do that.

Chairman Thayer asked if Mr. Hopgood had any comments on the amendments? Mr. Hopgood said it was a step in the right direction, but didn't quite get the job done. He reiterated the cost increase figures he had given them at the hearing, and reaffirmed them as accurate. He said the actuary had told him, if you eliminate the co-payments, and the deductibles, you would decrease the cost increase by approximately 50%. He said that if you eliminated just the co-payments, costs would only be reduce somewhat.

Chairman Thayer asked if these amendments would bring down costs about 25%? Tom Hopgood said that was probably accurate.

Senator Lynch asked if, with the amendments, it would cost him \$105 more for his insurance, for \$50 worth of coverage? Tom Hopgood acknowledged there was a problem in the amendments, but it would still increase your coverage whether you needed it or not.

Senator Noble stated that in his company's health insurance plan, they had seventeen families, and six would be affected by this because they had children under five years of age. He said the other eleven families would have to pay anyway, and they wouldn't be receiving any benefits because there were no small children. He said he had a newspaper ad showing the health department charging \$4, and the bill said we have to take them to the doctor to be immunized for considerably more. He asked why? He did not receive an answer.

Senator Hager asked about Senator Lynch's question to Mr. Hopgood. He asked, if we passed this bill with amendments, and a person paid for his family on an individual policy, was he going to pay for this

coverage when the child was two years old? Mr. Hopgood said yes.

Senator Lynch said, these clinics, look good, but so many are not going to use it. Senator Jacobson said that was part of the reason for the bill. She said a family practitioner in Missoula, Dr. Arvin Marks, had mentioned that out of thirteen children he delivered, eight did not receive follow-up care because they did not have this type of coverage. She said that was a high percentage and those were the kids they were trying to pick-up with this bill.

Senator Weeding said the caps added up to \$500 over 5 years, so that was an average of \$100 per year. He asked if there had been any thought given to offsetting benefits, because of the well care and immunizations? Tom Hopgood said no one present was saying it wasn't beneficial to have well child coverage.

Senator Williams said if he was married with children, it would cost him \$12 per month, or \$144 per year under his policy. He asked if you could select to take the coverage, individually, under a group policy, or would the whole group have to take it. in order to have that rate? Mr. Hopgood said he wasn't certain of the answer to that question, but he thought the whole group had to have that coverage.

The QUESTION was called for on the amendments. The motion Carried Unanimously.

Recommendation and Vote: Senator Lynch made a motion SB 279 DO PASS AS AMENDED.

Discussion: Chairman Thayer said this was an important policy decision. He stated they had already mandated some insurance costs, and just because the mistake had been made in the past, the process didn't need to be continued. He said he was against mandating coverage, to require people to pay for something they don't need. He said the product was available to those who did need it. He thought the clinics were doing a good job for those who needed them, and felt it wasn't accurate to say they weren't. He said he knew, in Cascade County, well child clinics were held in all the little communities as well as Great Falls.

Senator Lynch said he had been paying health insurance for 18 years, and now it was \$315 per month, even though he hadn't use it twice in the first 14 years. He said the idea of insurance, was to spread the cost of coverage,

so people who needed it were covered. He said it would have been nice to collect all those wages the first 14 years, but we were covering people who should be covered. He said this was a working people's bill, and the very poor, and needy were receiving the coverage. He stated the very wealthy didn't care, but the people paying insurance were the ones this bill addressed.

Senator Williams asked where the 55 cent per monthly figure came from? Senator Jacobson said that was a figure taken from what had happened in other states who had initiated this program. She stated Blue Cross Blue Shield were in agreement with this bill, with the amendments.

Senator Williams asked what cost increase he could expect on his Blue Shield? Chuck Butler stated the state of Montana was not affected by this bill.

Chairman Thayer asked, if we keep passing more bills mandating insurance, isn't it likely that more and more groups will go to self-insurance to avoid mandatory coverage? How will that impact your company?

Mr. Butler said, the more mandates the legislature added, which required people to purchase health insurance coverage, did add to the costs and did drive people away from health insurance. He stated that over the last 6 months, the greatest loss of business to Blue Cross Blue Shield had been to no insurance at all. He said the losses had been to no insurance first, then self-insurance second. He said they had dropped several thousand members over the last year, and the last 6 months the greatest loss had been small Montana business people, going bare on insurance because they couldn't afford it. He said this was an unfortunate situation.

Senator Lynch asked if this would increase everyone's payment? Chuck Butler said the original draft of the bill would have increased his company's costs by \$2,400,000, and actuarial figures showed, with the amendments, a reduction in that figure of 20%.

Chuck Butler said he just didn't have the type of figures with him, to tell Senator Lynch the specific cost. He would be happy to have their actuary prepare the figures if Senator Lynch wanted to see them.

Senator Hager asked Mr. Butler to explain those costs a little further. Mr. Butler told him their underwriters estimated the benefits would cost their company a total

of 2.4 million dollars per year, in the first year. He said, with the amendments their estimates were \$1,900,000.

Senator Noble asked if 55 cents per month was the figure used, when the program was spread over 21 years? Senator Jacobson said yes, and we are only talking five and under.

Senator Noble said he had been very involved in health care for the last twenty years. He said, through his own company he had paid much more than his share, to provide for his people, and was also on the Columbus Hospital advisory council. He said private employers were the only ones included by this bill. He said, that each time we mandate health care, and the private companies have added costs, we lose companies providing health care. He said this could push some more companies into dropping coverage, and leave more people without coverage. He said rising health care costs had force him to stop paying 100% of his employees coverage, and the employees had voted to pay the increases, so they could continue with the type of coverage he had been providing.

He said, to say this was a working man's bill wasn't right, because everyone had to pay whether they had children under five years of age or not. He said there were other programs providing access to immunizations at a reduced cost, and he felt adding more cost would reverse the trend of helping people.

Senator Lynch said they were talking about many employers, not just private employers, and they were talking about protecting some children who needed protecting. He said the bill was only going to five years, so the cost would be less.

Senator Noble said, they would be paying the average payout for over the twenty-one years. He said they took that dollar amount and spread it over 21 years.

Chairman Thayer asked if he was saying the figures given by Tom Hopgood were out of range? Senator Lynch replied, "Absurd, they have to be."

Chairman Thayer asked Mr. Hopgood if he would like to respond? Tom Hopgood said he understood how the caps would affect this, but he didn't have those figures with him. He said he could tell them it was going to go up. He said the figures he had, stated that if there was use of a deductible and co-payments, the

figures would be about one half of the original figures he had testified to. Mr. Hopgood said they were talking about more than 55 cents.

Senator Lynch said individuals on an individual policy would not be spreading costs, but a group of 500 members would be spreading costs.

Senator Williams said he would vote to get it to the floor, but could not say he would vote favorably, on the floor, until they had some more figures.

The QUESTION was called for, and Chairman Thayer asked for a roll call vote on the motion SB 279 DO PASS AS AMENDED. The motion failed, with three Senator favoring the motion, and six Senators opposing. Those Senators opposing passage of SB 279 were Senator Meyer, Senator Boylan, Senator Noble, Senator Hager, Senator McLane, and Senator Thayer. Senator Lynch said he respectfully requested a minority report, and he would be happy to sign it.

Chairman Thayer asked for a motion to REVERSE THE VOTE on SB 279. Senator Noble moved to reverse the motion. Senator Hager seconded the motion. The motion Carried. Those opposed were Senator Williams, Senator Weeding, and Senator Lynch.

Senator Lynch said the majority report would be read first, and the minority report was a substitute motion to move the minority report, so they would have this on the floor.

Announcements: Chairman Thayer announced that he would like to poll the committee on which direction they wanted lean, in an effort toward amending the three bills they had heard on trust indentures. (SB 275, SB 313, and SB 349)

Chairman Thayer asked Senator Meyer if he had any comments on the amendments that were being prepared for his bill. Senator Meyer said he hadn't been able to reach his people yet, and he would probably lean toward Senator Mazurek's bill. He said it was more in the middle of the road.

Mary McCue stated she had heard from them, and the amendments, Senator Meyer and she had discussed, were what he had originally intended.

Chairman Thayer asked if any of that material was included in Senator Mazurek's bill? Mary McCue said the Senator Mazurek's bill went about it in a very different way.

Senator Lynch said he was leaning toward Senator Mazurek's bill, or Senator Meyer's bill if it could be cleaned up.

Senator Williams said he had asked, earlier, if the three bills could be merged together? Mary McCue said that wasn't possible.

Senator Williams said he understood Senator Mazurek to say, that part of Senator Halligan's bill would fit what they were trying to do. Mary McCue said the waste provision was already in Senator Mazurek's bill. She said that if they went with Senator Halligan's bill, they should probably put the waste provision in.

Chairman Thayer said, Mary McCue was stating that they couldn't meld the three bills together, but you could take any one of the bills and make certain amendments. He said he was not looking for a vote on the bills, just some direction, as to how they wanted Mary McCue to prepare the amendments they needed for the executive action session.

Senator Noble said he preferred Senator Halligan's SB 349, and he wanted to merge the best parts of SB 313, section 3, into SB 349. He thought that was possible, and thought nine out of ten of the people testifying had preferred SB 349.

Chairman Thayer reminded the committee that Senator Halligan had the majority of the witnesses present, and the other Senators had less witnesses, because of the schedule change. He said it wouldn't be fair to make the judgement on the number of witnesses testifying.

Senator Hager thought they should go with the middle ground.

Senator Weeding thought the middle ground was a better route.

Senator Noble said one thing he liked about Senator Halligan's bill, was that they were getting back to where we were before.

Mary McCue stated that it wasn't clear where we were before. Some people were taking deficiency judgments because they thought the law allowed them to, and others were not. She said to say they were going back to the way

it was before, depended on which lender you were, and how you were interpreting the law. The court came along and made distinction between residential and commercial property, and looking at the plain language of the statutes, she didn't see that there at all. She said, in any case, that was the decision, and that was the present status of the law. She reminded them that both parties had made the argument that their position was taking us back to where we were before.

Chairman Thayer said Senator Mazurek's position was that they were going back to where they were before, clearing up the areas that were in doubt.

Senator Meyer said he had the Chunkapura Case and the decision on it and he would make copies if they wanted them. He said that if they looked at the present law, and with Chunkapura Decision it said commercial property was the same as residential property.

Chairman Thayer said the consensus seemed to be that Senator Mazurek's bill was the middle ground, which set a direction for them to go, if part of Senator Halligan's bill could be amended in.

Senator Williams suggested Mary McCue come up with a short summary as to how the blending of the bills could be accomplished, and what affects they would have on one another.

Senator Meyer said he thought that was a good idea, because this was an important bill. He said there was a lot of money hanging out there, and the hearing was nothing but bankers yesterday, and he didn't think they should take a position which was 100% in their favor. He said that if they could foreclose on a trust indenture with a deficiency judgment, that was very powerful.

Senator Williams said, during closing, Senator Mazurek had said what he would like them to do if they chose Senator Halligan' bill.

Senator Noble agreed, Senator Mazurek had suggested to take the best parts of 313, section 3, and merge them into SB 349, and also merge the waste provision.

Mary McCue suggested they decide what they objected to in Senator Mazurek's bill, and take that out.

Mary McCue said Senator Halligan bill allowed that a trust indenture, if judicially foreclosed, was always going to be able to get a deficiency judgment.

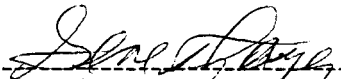
Mary McCue said, with Senator Mazurek's bill there was not going to be a deficiency, on residential property, under either foreclosure method, except when there was other property specifically pledged. She said that for commercial property there was a deficiency only with a judicial foreclosure. She said she saw the major problem as a question of how they wanted residential property treated?"

Chairman Thayer said he thought they needed to take the middle ground approach, and include a the waste provision.

Senator Meyer said the situation developed, when someone decided they were going to foreclose on trust indentures and get a deficiency judgment, and once that was allowed, the situation for the Chunkapura Case developed.

ADJOURNMENT

Adjournment at: 12:17 p.m.



SENATOR GENE THAYER, Chairman

GT/ct

ROLL CALL
BUSINESS & INDUSTRY COMMITTEE

DATE 2/15/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
<u>SENATOR DARRYL MEYER</u>	✓		
<u>SENATOR PAUL BOYLAN</u>	✓		
<u>SENATOR JERRY NOBLE</u>	✓		
<u>SENATOR BOB WILLIAMS</u>	✓		
<u>SENATOR TOM HAGER</u>	✓		
<u>SENATOR HARRY MC LANE</u>	✓		
<u>SENATOR CECIL WEEDING</u>	✓		
<u>SENATOR JOHN "J.D." LYNCH</u>	✓		
<u>SENATOR GENE THAYER</u>	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 15, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 409 (first reading copy -- white), respectfully report that SB 409 do pass.

DO PASS

Signed: 
Gene Thayer Chairman

4.0-189
5/15/89
5:22 p.m.
SCRSB409.215

SENATE STANDING COMMITTEE REPORT


February 15, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 429 (first reading copy -- white), respectfully report that SB 429 do pass.

DO PASS

Signed:


Gene Thayer, Chairman

4/0
2/15/89
5:30 p.m.
SCRSB429.215

SENATE STANDING COMMITTEE REPORT

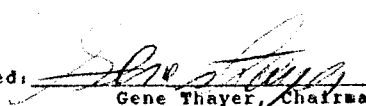
February 15, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SJR 13 (first reading copy -- white), respectfully report that SJR 13 do pass.

DO PASS

Signed:


Gene Thayer, Chairman

4/C
2/15/89
5: 29
5: 11
SCRSJ013.215

SENATE STANDING COMMITTEE REPORT

page 1 of 3
February 16, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 279 (first reading copy -- white), respectfully report that SB 279 be amended and as so amended do not pass:

1. Page 1, line 20.

Strike: "or copayment provisions"

Insert: "provision"

2. Page 1, lines 22 through 25.

Following: "(2)" on line 22

Strike: remainder of line 22 through "5 years." on line 25

Insert: "Benefits may be limited to no less than \$250 for a child from birth to 12 months; \$100 for a child over 12 months but less than 24 months; and \$50 for each year from ages 2 years through 5 years."

3. Page 2, line 11.

Following: "(5)"

Insert: "(a)"

4. Page 2, lines 13 and 14.

Strike: "at the intervals required in that subsection"

5. Page 2, line 14.

Strike: ", "

Insert: "or"

6. Page 2, lines 15 and 16.

Strike: ", or a registered professional nurse"

7. Page 2, following line 16.

Insert: "(b) For the purposes of this section, "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics."

continued

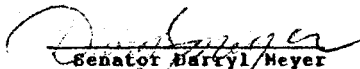
scrsb279.216

8. Page 3, line 6.
Strike: "or copayment provisions"
Insert: "provision"
9. Page 3, lines 8 through 11
Following: "(2)" on line 8
Strike: remainder of line 8 through "5 years." on line 11
Insert: "Benefits may be limited to no less than \$250 for a child from birth to 12 months; \$100 for a child over 12 months but less than 24 months; and \$50 for each year from ages 2 years through 5 years."
10. Page 3, line 22.
Following: "(5)"
Insert: "(a)"
11. Page 3, lines 24 and 25.
Strike: "at the intervals required in that subsection"
12. Page 3, line 25
Strike: ","
Insert: "or"
13. Page 4, lines 1 and 2.
Strike: ", or a registered professional nurse"
14. Page 4, following line 2.
Insert: "(b) For the purposes of this section, "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics."
15. Page 4, lines 17 and 18.
Strike: "or copayment provisions"
Insert: "provision"
16. Page 4, lines 19 through 22.
Following: "(2)" on line 19
Strike: remainder of line 19 through "5 years." on line 22
Insert: "Benefits may be limited to no less than \$250 for a child from birth to 12 months; \$100 for a child over 12 months but less than 24 months; and \$50 for each year from ages 2 years through 5 years."
17. Page 5, line 8.
Following: "(5)"
Insert: "(a)"

18. Page 5, line 11.
Strike: ", "
Insert: "or"

19. Page 5, lines 12 and 13.
Strike: ", or a registered professional nurse"

20. Page 5, following line 13.
Insert: "(b) For the purposes of this section, "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics."


Senator Barryl Meyer


Senator Paul Boylan

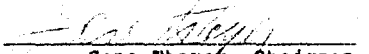

Senator Jerry Noble


Senator Tom Hager


Senator "Doc" McLane


Senator Gene Thayer

MAJORITY REPORT
AND AS AMENDED DO NOT PASS

Signed: 
Gene Thayer, Chairman

SENATE STANDING COMMITTEE MINORITY REPORT

page 1 of 3
February 16, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 279 (first reading copy -- white), respectfully report that SB 279 be amended and as so amended do pass:

1. Page 1, line 20.

Strike: "or copayment provisions"

Insert: "provision"

2. Page 1, lines 22 through 25.

Following: "(2)" on line 22

Strike: remainder of line 22 through "5 years." on line 25

Insert: "Benefits may be limited to no less than \$250 for a child from birth to 12 months; \$100 for a child over 12 months but less than 24 months; and \$50 for each year from ages 2 years through 5 years."

3. Page 2, line 11.

Following: "(5)"

Insert: "(a)"

4. Page 2, lines 13 and 14.

Strike: "at the intervals required in that subsection"

5. Page 2, line 14.

Strike: ","

Insert: "or"

6. Page 2, lines 15 and 16.

Strike: ", or a registered professional nurse"

7. Page 2, following line 16.

Insert: "(b) For the purposes of this section, "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics."

continued

8. Page 3, line 6.
Strike: "or copayment provisions"
Insert: "provision"
9. Page 3, lines 8 through 11
Following: "(2)" on line 8
Strike: remainder of line 8 through "5 years." on line 11
Insert: "Benefits may be limited to no less than \$250 for a child from birth to 12 months; \$100 for a child over 12 months but less than 24 months; and \$50 for each year from ages 2 years through 5 years."
10. Page 3, line 22.
Following: "(5)"
Insert: "(a)"
11. Page 3, lines 24 and 25.
Strike: "at the intervals required in that subsection"
12. Page 3, line 25
Strike: ","
Insert: "or"
13. Page 4, lines 1 and 2.
Strike: ", or a registered professional nurse"
14. Page 4, following line 2.
Insert: "(b) For the purposes of this section, "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics."
15. Page 4, lines 17 and 18.
Strike: "or copayment provisions"
Insert: "provision"
16. Page 4, lines 19 through 22.
Following: "(2)" on line 19
Strike: remainder of line 19 through "5 years." on line 22
Insert: "Benefits may be limited to no less than \$250 for a child from birth to 12 months; \$100 for a child over 12 months but less than 24 months; and \$50 for each year from ages 2 years through 5 years."


continued

17. Page 5, line 8.
Following: "(5)"
Insert: "(a)"

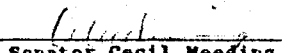
18. Page 5, line 11.
Strike: ",
Insert: "or"

19. Page 5, lines 12 and 13.
Strike: ", or a registered professional nurse"

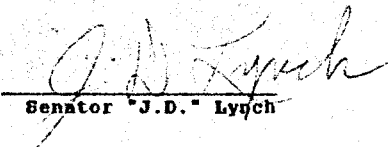
20. Page 5, following line 13.
Insert: "(b) For the purposes of this section, "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics."



Senator Bob Williams



Senator Cecil Weeding



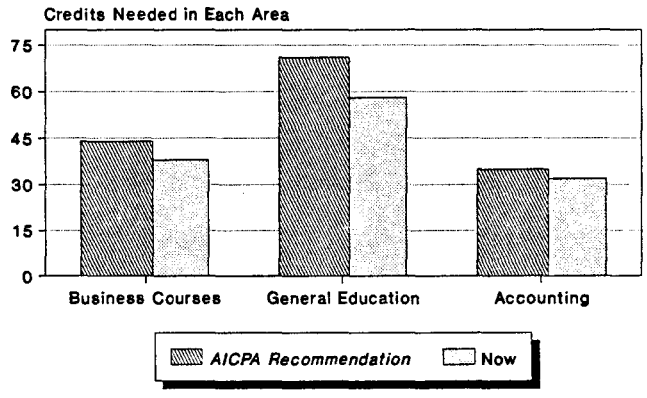
Senator "J.D." Lynch

MINORITY REPORT
AND AS AMENDED DO PASS

4/10
2/16/11
2: p.m.

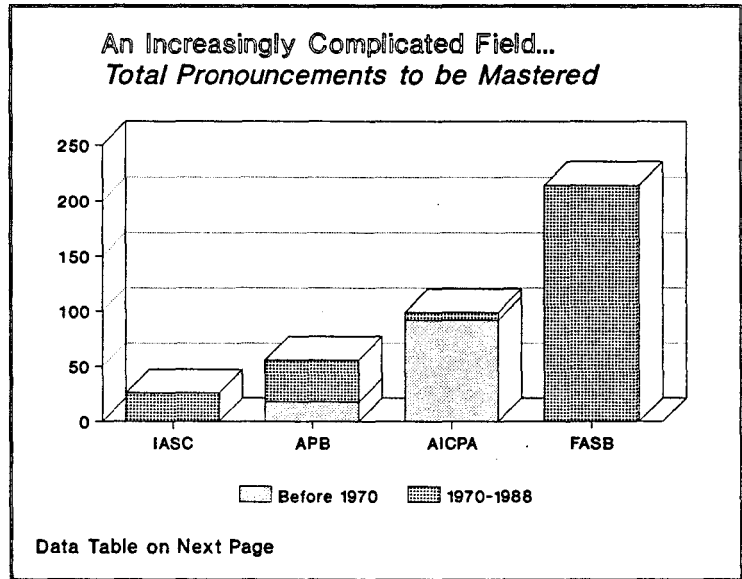
Holland

Why a 150 Hour Requirement? 150 Hour Education Proposal...



Now: 128 Semester Hours Total
AICPA Recommendation: 150 Hours Total

Ex. #1
2/15/89
SB 409



Ex. #1
2/15/89

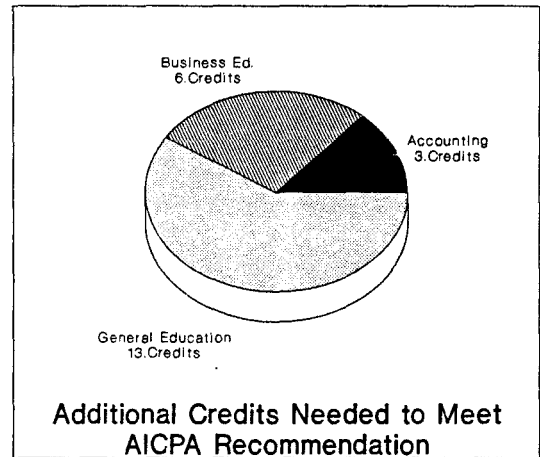
Authoritative Pronouncements Issued
in Accounting and Auditing

<u>Accounting</u>		<u>Before 1970</u>	<u>1970-88</u>
AICPA	Accounting Research Bulletins	51	0
	Standards of Accounting & Review	0	4
	Standards for Management and Advising Services	0	3
APB	Opinions	15	16
	Interpretations of Opinions	0	21
	Statements	3	1
FASB	Statements of Standards	0	99
	Interpretive Opinions	0	38
	Statements of Concepts	0	6
	Technical Bulletins	0	45
IASC	International Accounting Standards	0	26
 <u>Auditing</u>			
AICPA	Statements on Auditing Standards	0	61
	Statements on Auditing Procedures	41	13
IFAC	International Acct. Guidelines	0	26
TOTAL		110	359

AICPA	American Institute of CPAs
APB	Accounting Principles Board
FASB	Financial Accounting Standards
ASC	International Acct. Standards Comm.

Ex. 1
2/15/89

**A Breakdown by Category...
Where is More Education Needed?**



Ex #1
2/15/87

Educated Professionals...
Minimal Cost

	Total by School		#Students		
MSU	\$27,670,172	/	9,248	=	\$2,992
UM	23,162,841	/	8,008	=	2,893
EMC	8,464,391	/	3,198	=	2,647
	<u>\$59,297,404</u>	/	<u>20,454</u>	=	<u>2,899</u>
					X 60 FYFTE
	General Fund Expenditure				\$ 173,940

Preliminary data suggests that accounting students would not have to attend for an additional full year. Most students are already attending for 14 quarters (4 2/3 years) before graduation.

MONTANA SOCIETY OF CPA'S
TESTIMONY ON THE 150 HOUR REQUIREMENT *Holland*

What it will do:

- Allow Montana accounting students to broaden their education
 - in English, Computers, Economics, Finance, and general education
- Reduce pressure for students who now try to finish college in 4 years
- Allow Montana accounting graduates to compete for jobs
- Allow Montana accounting graduates to join their professional organizations
- Cost approximately \$170,000 per year if every accounting student completes the 150 hours

What it won't do:

- Require a Masters degree
- Change the requirements for a Bachelor's degree
- Require the universities to add courses or change curriculum
- Require the universities to add faculty
- Specify any specific curriculum
- Require students to remain in college more than one additional semester

What if we don't:

- Montana accounting graduates will be unable to obtain licenses as CPA's in other states
- Our outstanding accounting schools will lose their excellence and will be reduced to graduating second class accountants
- Montana students will be motivated to attend out of state schools with professional accounting programs
- Montana CPA examinations will be overrun with nonresidents wishing to obtain a certificate as a professional designation, but who won't need to be licensed by another state

Help us plan ahead, help us prepare our professional accounting schools and future accountants. Thank you for your support of Senate bill 409.

MONTANA SOCIETY OF CPA'S
TESTIMONY - SENATE BILL 409
ACCOUNTANCY REGULATION

- I. Lengthening Board terms
 - A. It takes Board members two years to become familiar with the issues, rules, and the nature of their jobs, leaving them one year to be an effective member.
 - B. There is a small bank of accountants who are both qualified and willing to serve as Board members.
 - C. For that reason, many, if not most, serve 2, 3-year terms, or 6 years.
 - D. Arguably, therefore, the bill reduces the Board members' terms from 6 years to 5.
- II. Definition of the "practice of public accounting"
 - A. The Board has encountered difficulties enforcing the accountancy statutes and its rules, because the law fails to define the practice of public accounting.
 - B. The proposed definition has general acceptance:
 1. It is currently in the administrative rules.
 2. It is the model language recommended by both
 - a. the professional organizations and
 - b. the National Association of State Boards of Accountancy.
- III. 150-hour education requirement
 - A. What
 1. The proposal would require a candidate for the CPA examination after July 1, 1997 to have 150 semester hours, compared to the "normal" 128 hours required for a Bachelor's degree.
 - B. Why
 1. The expansion of the body of knowledge required of CPA's has been referred to as an explosion; that's an understatement.
 2. The 150-hour requirement was adopted by the American Institute of CPA's, an organization of 250,000 CPA's, by an 82% vote.
 - a. Membership in the AICPA is a requirement for employees of most CPA firms, and increasingly required by clients and governmental agencies who hire or contract for the services of CPA's.
 - C. When
 1. The proposal has been advocated by CPA's since 1959.
 2. Seven states have already enacted the requirement.
 - a. Florida, Hawaii, Tennessee and Utah have already implemented the requirement.
 3. By the year 2000, 150-hours will be required for

ex#3
2/15/89

- 4. AICPA membership.
- 4. Our proposal would be effective for students graduating after July 1, 1997.
- D. The proposal is supported by
 - 1. The Montana Board of Public Accountants
 - 2. The Montana Society of Certified Public Accountants
 - 3. Accounting students
 - 4. Accounting faculty
 - 5. Just about everyone who has become familiar with the problem
- E. Are there obstacles?
 - 1. The proposal is advanced now so that the CPA's, the university administrations and the legislature will have adequate time to prepare for the expense and effort required to implement the proposal.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 2/15/89
BILL NO. SB409

NOTES FOR HEARING

Mr. Chairman, Members of the Committee:

- 1) Introduce self
Intern for MSCPA & Student at the University of Montana
Both capacities speaking today.
- 2) Once a business major at UM
Changed my major because of exactly the dilemma this bill addresses.

As a business finance student, found that I was not taking many classes outside the business school. Not learning about the complicated world which surrounds every company.

Sub As you well know, ^{politics} politics, and many other fields-- technology, communications, ethics-- all affect the business environment. Yet, my education as a Finance major only touched on what I consider to be cornerstones for any public or private sector enterprise. This problem is even more pronounced for accounting students. Their tight graduation requirements and ^{very} challenging course load allow them time for only minimal class experience outside the school of accounting.

to have The 150 hour requirement would alleviate the strong pressures to graduate in four years, and would thus free acct students ^{by taking} up to take classes outside the limits of their profession's focus.

there are also other ~~But that is not the only benefit~~ of this bill. Last Saturday in Missoula, I had the chance to speak with a friend of mine-- Doug Nicholson-- about the 150 Hour requirement. As an accounting student, Doug strongly supported the idea of increasing the credit hours required to graduate. He said "I

Ex. #4
2/15/89

am under so much stress" I just wish I had time to do all my accounting." Like many acct students, ^{pressure to Doug} was under ^{was under} ^{meant} ^{that} he was not able to ^{learn} ^{get} ⁱⁿ ^{his} ^{classes}. ^{take} ^{the} ^{time} ^{to} ^{really} ^{learn} ⁱⁿ ^{his} ^{classes}. This bill would allow ^{with} ~~Doug~~ and other acct majors to spread their difficult course work over additional semesters. By reducing the pressures put on them by an extremely challenging accounting curriculum, students could learn better in the classes they are taking.

In fact, the only reason a student might not support this bill, would be the additional cost of extra time spent at school. However, compare this with the "price" of not being able to compete in a highly educated, professional work force, or worse yet, compare it to the cost of not being able to get licensed in states other than Montana. Suddenly the "cost" of one extra semester seems pretty small.

This is an excellent bill. It keeps Montana's graduates in pace with the rest of the nation and the accounting profession. All the students I have spoken with have agreed with this ^{promise of the 15 hr. requirement} bill. In fact, we expect to receive letters of support from both MSU and UM's accounting students within the next few days.

I strongly urge you to give this bill a do-pass. It will be a step forward for both students and the accounting profession.

Millionaires flocking to Gold Coast of Florida/4B



Great Falls Tribune
Sunday, November 13, 1988

Business

Regulation suggested for escrow business

By JAMES E. LARCOMBE
Tribune Staff Writer

It's been eight months since a Great Falls escrow agent was charged with stealing more than \$1 million from customer accounts, leaving behind a tangle of tragedy and questions about state regulation.

E. Bob Brown and his Guaranty Escrow Co. have filed for bankruptcy. Many of his customers face uncertain financial futures. And the \$3 felony theft charges against Brown have blackened the eye of the escrow business in Montana.

"It's terrible for the industry to have something like that to happen," said Betty Griffith, who manages the escrow department of a Billings title insurance firm and is the president of the Montana Escrow Association.

"You can't have something like that happen and not affect the image of our industry," added Ted Lovoc, another Billings title insurance and escrow agent.

People in the escrow business, along with a Great Falls attorney involved in the Brown bankruptcy proceedings, say change is needed to prevent further problems in what is essentially an unregulated business in Montana.

They hope to convince the Montana Legislature to establish guidelines for escrow business, particularly for independent agents operating outside the regulatory structure of a bank or title insurance company.

"It's the potential for abuse in a business where hundreds of thousands of dollars — that's hundreds of thousands of dollars of other people's money — can pass through that business in the course of the year. If there isn't some protection for the public, people can have their life savings destroyed, what they had planned on for retirement income gone.

— John Paul, Great Falls attorney

In a "closing" function, the escrow agent acts as an intermediary between the buyer and seller. The agent handles only the paperwork and possibly a down payment. Payments on the property are usually handled by a bank or other lending institution. A fee, typically \$25 to \$50 in Montana, is charged to open the escrow account.

The possibility of abuse exists mostly with those who collect principal and interest payments from property buyers and pass them along to sellers or lenders. Those agencies also hold the title or deed to the property in question, are to record all payments, and pass along the title when property is fully paid for. Guaranty Escrow was involved in the collection of escrow accounts.

With this collection arrangement, the agent also charges an opening fee, often one half of one percent of the opening balance. The agent also collects a fee for each payment made. It is typically between \$5 and \$7 and is paid by either the buyer or seller.

Paul says his firm has "been exposed to the abuse that can result from the mismanagement of escrow files" since being named to the bankruptcy case.

"It's the potential for abuse in a business where hundreds of thousands of dollars of other people's money — can pass through that business in the course of the year," Paul explained. "If there isn't some protection for the public, people can have their life savings destroyed, what they had planned on for retirement income gone."

"My intent basically is to generate on the part of our legislators an interest in drafting and passing legislation for the regulation and particularly the bonding of private escrow companies."

There are no bonding requirements for independent escrow agents doing business in Montana. Guaranty Escrow had a \$10,000 bond, but court records point to a legal debate now under way over whether the bond amount applies to each escrow customer or is the total Brown's bonding com-

pany is accountable for.

Either way, some of the customers who have filed claims against Brown may be forced to swallow sizable losses.

The Great Falls man last week admitted the theft of money from escrow accounts. He told a judge the money went towards the medical bills of his wife, Virginia Brown, who died earlier this year. Prosecutors believe more than \$900,000 is missing from 230 escrow accounts. A sentencing date is pending for Brown.

For Paul, there is one obvious certainty in the tangle created by the case.

"The potential for abuse is great and the Guaranty Escrow experience simply cannot be allowed to recur," he said.

Few argue with that contention.

Lovoc, the Billings agent, says legislation setting up rules for the escrow game is "obviously to everyone's best interest."

Paul says his campaign for escrow legislation has the general support of the State Bar of Montana, the Montana Board of Realtors and the Montana Association of Title Insurance Companies.

Griffith says the 85-member Montana Escrow Association would probably support legislation of some type, but needs to study specific proposals before taking a formal stand.

"The purpose of our organization is for education and to help standardize the in-

See ESCROW, 3B



Warmer
Mostly cloudy.
Windy. High
55-60. Page 4A

December 31, 1988

Great Falls, Montana

No. 213 304th Year

SENATE BUSINESS & INDUSTRY

Great Falls

TRIBUNE

Legislators plan bills for escrow loopholes

By **GWINN DYRLAND**
Tribune Staff Writer

Spurred by the cries of escrow victims who lost more than \$300,000 recently, three Great Falls legislators say they hope to plug a loophole that has left independent escrow companies unregulated in Montana.

The proposed reforms come a month after former Great Falls escrow agent E. Bob Brown pleaded guilty to stealing from his customers.

Sen. Gene Thayer, R-Great Falls and Sen. Dick Manning, D-Great Falls, have separately requested draft bills from the Legislative Council in Helena. Rep.-elect Susan Good has agreed to introduce Thayer's bill in the House of Representatives.

Thayer said he favors a bill that would license and periodically require auditing of escrow companies, and Manning said he will pursue a bill requiring bonding.

Both said in interviews Friday it is possible they could join on a bipartisan plan if their ideas correlate.

"This all stems from (the prosecution of) Brown... He kind of went south with quite a few people's money," Manning said. "What I am trying to do is put something together to protect the public in the future."

Brown, 64, a Great Falls lawyer who has worked many years in the industry and most recently as the owner of Guaranty Escrow, pleaded

guilty last month to 30 felony theft charges involving thefts from hundreds of escrow accounts. In charges going back several years, he was convicted of pocketing such things as escrow clients' house, tax and insurance payments, and some final payoffs on contracts.

Brown will be sentenced Jan. 4 in state district court.

Manning said that his interest in requiring escrow agents to carry bonds for customers' losses was stirred by the comments of nine residents who lost money to Brown and may not recoup.

Brown had carried a \$10,000 bond on Guaranty Escrow. However, TransAmerica Premier, the insurance company that wrote the bond, has gone to court over whether the bond applies at all and, if so, whether \$10,000 is the total bond or a maximum repayment possible for each victim.

"It appears to me that people of our neighborhood, and indeed all of Great Falls, need to be protected," Good said. She said she has nothing against the escrow industry, but the Legislature should address the "glaring omission" that Brown's prosecution highlighted.

"I look at this as a consumer protection bill," Thayer chimed in, though "At the same time, we don't want one bad apple to spoil an industry" by prompting over-regulation.

Thayer said he has worked on the idea of an escrow bill since last

See ESCROW, 2A

ESCROW

2A Great Falls Tribune

Monday, December 12, 1988

From 1A

summer, when he requested research on what other states are doing. His bill may borrow principles from escrow-regulation laws in New Mexico, Utah, Arizona and Nevada.

Outlining concepts in his rough draft, Thayer said his measure:

- Favors licensing and the periodic auditing of escrow companies "because that gets into the real essence of how they are operating their business," he said.

Requiring an annual license fee and a CPA-certified audit — "just being sure that what their records indicate are in fact true" — would be acceptable with many firms and fairly easy for them to adapt to, Thayer said.

• Will not focus on bonding. "I just don't see bonding as a good method of protection. I see it as partial protection, but certainly not the ultimate answer," Thayer said. He specifically wants to avoid requiring companies to carry bonds at a level that could be a financial burden to smaller escrow companies.

• Would exempt escrow services already regulated as part of financial institutions, court-ordered escrows and those set up by lawyers but have occasional cases requiring temporary escrows, and real estate brokers who likewise set up some escrows until a sale closes, Thayer said.

Thayer said that so far he has no idea of the costs of a licensing program, what the licensing fees would be or the number of escrow companies that would come under the new regulations.

"The only way you could fully protect every customer (with a bond) would be to match the bonding dollar for dollar," he said. "That would be prohibitive."

"They would probably welcome the right type of regulation to assure the general public we have done something that is going to make it safe for them to transact business."

Thayer emphasized that he wants ideas from the escrow industry in drafting a workable regulation.

"Any industry doesn't want a black eye because of the actions of one company or one person," he said.

EXHIBIT NO. 6
DATE 2/15/89
58-303

The Montana Standard, Butte, Monday, November 21, 1988—5

Montana

Victims rip 'trusted' swindler over scam

GREAT FALLS (AP) — Victims who lost more than \$800,000 in thefts by E. Robert Brown of Guaranty Escrow Services say they blame the confessed swindler most of all for betraying their trust.

They described Brown as a likeable man whose place to stop by for a friendly visit. That, along with their sympathies for his wife's struggle with cancer, solidified the trust.

Virginia Peters, a Great Falls customer whose discovery of theft by Brown led to his arrest, felony charges against him and the Feb. 10 closure of Guaranty Escrow, said

Brown traded on that trust.

"And all the time I was feeling sorry for him," Peters said. "He was down there finding out all these ingenious methods of ripping off people. To believe in him so long and then to be fooled so badly, it really hurts."

Brown pleaded guilty earlier this month to 30 counts of felony theft and will be sentenced Dec. 9.

Peters said Brown lied to her for a year, blaming his monthly payments on his wife's illness. During that time, he kept the final \$25-50 payment her buyer had made, she said.

"This is the thing that snagged me. He was so smart to fool all those people," Peters said. "He thought it out very carefully. That makes it worse, in my book."

Brown was an established lawyer and businessman in Great Falls, and was active in civic activities and politics, previously serving as Cascade County Republican Party chairman.

Authorities said the thefts involved transactions over a five-year period. But people tend to ask fewer questions of professionals, said Deputy County Attorney Steve Hagerman.

When Rita and Richard Liggett

needed to open a second escrow account, Rita Liggett said they stayed with Guaranty Escrow partly because Brown's rates were less expensive than those of some competitors and because Brown and his wife, Virginia, gave the impression they were working hard for their customers.

"I liked Bob Brown. I trusted him," she said. "Everyone liked Virginia."

But Ray Walters, another Great Falls customer, said everyone caught in the scam deserves a bit of the blame.

"I heard rumors — and that's

what they were, rumors — for two years that there were problems (at Guaranty Escrow)," Walters said. "In my particular case ... I should have done something about it."

Walters, a home buyer with a tax account at Guaranty Escrow, estimated he lost three half-year property tax payments because of Brown's thefts.

"It is easy enough to affix blame to someone else. But this could not have gone on for so long if so many people had not acted. I think the blame has got to be shared across the board, whether it is real estate people or the people that had the property," Walters said.

Hagerman has said he will recommend a prison sentence of 75 years with 15 suspended for Brown. Prison officials have said such a sentence means Brown would serve from 7½ years to 10 years before becoming eligible for parole.

Hagerman said the sentence should ensure that Brown would remain on parole or probation throughout his life, once out of prison.

Julie Macek, a Great Falls lawyer who has represented Brown with colleague Ralph Randone, said Brown will not respond to the victims' comments until sentencing.

WITNESS STATEMENT

SENATE BUSINESS & INDUSTRY

NAME: J, M HANSON

EXHIBIT NO. 8

DATE: 2/5/89

BILL NO. SB 303

ADDRESS: MALTA, MT

PHONE: 406-654-2221

REPRESENTING WHOM? First Security Bank

APPEARING ON WHICH PROPOSAL: SB 303

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

EXHIBIT NO. 9

DATE 2/15/89

BILL NO. SB303
DATE: 2/15

NAME: David Calaha

ADDRESS: Missoula

PHONE: 721-4200

REPRESENTING WHOM? 1st Interstate Bank

APPEARING ON WHICH PROPOSAL: 303

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

SENATE BUSINESS & INDUSTRY

NAME: Allen R Leppink

EXHIBIT NO. 10
DATE: Feb 15 2/15/88

ADDRESS: 204 North 29th

BILL NO. SB303
ST Billings

PHONE: 248-3000

REPRESENTING WHOM? MONTANA Escrow Assoc

APPEARING ON WHICH PROPOSAL: SB 303

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Amendments to Senate Bill No. 279
First Reading Copy

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 11

DATE

2/15/89

Requested by Sen. Jacobson
For the Committee on Business and Industry

FILE NO.

SB279

Prepared by Mary McCue
February 14, 1989

1. Page 1, line 20.

Strike: "or copayment provisions"

Insert: "provision"

2. Page 1, lines 22 through 25.

Following: "(2)" on line 22

Strike: remainder of line 22 through "5 years." on line 25

Insert: "Benefits may be limited to no less than \$250 for birth to 12 months; ~~\$150~~ from 12 months to 24 months; and \$50 for each year from 2 years through 5 years."

3. Page 2, line 11.

Following: "(5)"

Insert: "(a)"

4. Page 2, lines 13 and 14.

Strike: "at the intervals required in that subsection"

5. Page 2, line 14.

Strike: ", "

Insert: "or"

6. Page 2, lines 15 and 16.

Strike: ", or a registered professional nurse"

7. Page 2, following line 16.

Insert: "(b) For the purposes of this section, "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics."

8. Page 3, line 6.

Strike: "or copayment provisions"

Insert: "provision"

9. Page 3, lines 8 through 11

Following: "(2)" on line

Strike: remainder of line 8 through "5 years." on line

Insert: "Benefits may be limited to no less than \$250 for birth to 12 months; ~~\$150~~ from 12 months to 24 months; and \$50 for each year from 2 years through 5 years."

7/00

10. Page 3, line 22.

Following: "(5)"

Insert: "(a)"

11. Page 3, lines 24 and 25.

Strike: "at the intervals required in that subsection"

12. Page 3, line 25

Strike: ", "

Insert: "or"

13. Page 4, lines 1 and 2.

Strike: ", or a registered professional nurse"

14. Page 4, following line 2.

Insert: "(b) For the purposes of this section, "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics."

15. Page 4, lines 17 and 18.

Strike: "or copayment provisions"

Insert: "provision"

16. Page 4, lines 19 through 22.

Following: "(2)" on line 19

Strike: remainder of line 19 through "5 years." on line 22

Insert: "Benefits may be limited to no less than \$250 for birth to 12 months; ~~\$150~~ from 12 months to 24 months; and \$50 for each year from 2 years through 5 years."

17. Page 5, line 8.

Following: "(5)"

Insert: "(a)"

18. Page 5, line 11.

Strike: ", "

Insert: "or"

19. Page 5, lines 12 and 13.

Strike: ", or a registered professional nurse"

20. Page 5, following line 13.

Insert: "(b) For the purposes of this section, "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics."

DATE

2/15/89

COMMITTEE ON

Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
EENE PHILLIPS	MONTANA LAND TITLE ASSOC	SB303	Amend	
Tom Hopgood	Mont. Assoc. Realtors	SB303	✓	
BRAD STRATTON	American Land Title Co/ Mont Land Title Assoc		Amend	
Rick Zanto	Mont Land Title Assoc	SB 303	Amend	
Bob Bell	Montana Society of CPAs	SB 409	✓	
Allen R Leppink	MONT ESCROW ASSOC	SB303	Amend	
TIM Connor	National Escrow	SB303	Amend	
BILL GOWEN	HELENA ABSTRACT & TITLE CO	SB 303	Amend	
BILL DAWE	Morris Escrow	SB 303	Amend	
GEORGE T. BENNETT	MONT. BKRS ASSN	SB303	Amend	
David Calahan	1st Interstate BK of Missoula	SB 303	Amend	
CHIP ERDMANN	Mt League of Savings & Lnt	SB 303	Amend	
MIKE HOLLAND	MT SOCIETY OF CPA'S	SB409	✓	
Bob Pyfer	MT Credit Unions League	SB303	Support/ Amend	

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date 2/15/89 Bill No. SB 279 Time 12:01

NAME	SEAT NO.	YES	NO
SENATOR DARRYL MEYER	35		✓
SENATOR PAUL BOYLAN	50		✓
SENATOR JERRY NOBLE	34		✓
SENATOR BOB WILLIAMS	39	✓	
SENATOR TOM HAGER	42		✓
SENATOR HARRY "DOC" MC LANE	33		✓
SENATOR CECIL WEEDING	28	✓	
SENATOR JOHN "J.D." LYNCH	5	✓	
SENATOR GENE THAYER	23		✓

Carla Turk
Secretary, CARLA TURK

Gene Thayer
Chairman, GENE THAYER

Motion: Senator Lynch made a motion
SB 279 Do Pass As Amended.