

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on March 11, 1991,
at 8:00 a.m.

ROLL CALL

Members Present:

Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

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

Announcements/Discussion: Bills to be heard: HB 46, SB 53, SB
206, SB 131. Executive Action taken on SB 131, SB 206, HB
740 (Tabled).

HEARING ON HOUSE BILL 46

Presentation and Opening Statement by Sponsor:

REP. GALVIN, House District 40, Great Falls, MT informed the
Committee that HB 46 which is designed to streamline and simplify
the manner in which business licenses are purchased from the
state. A one-stop shopping bill. This is not the same bill that
was presented during the last session.

Proponents' Testimony:

Doug Mitchell, Chief Deputy in the office of Secretary of State, stated the Secretary of State's office had been asked to look at this bill, which, in its current form would have a licensing system administered by the Department of Commerce (DOC). The Department of Commerce reviewed the bill and said they did not wish at this time to get involved in this program. We were asked to see how we could make it work for the office of the Secretary of State to administer the program. We have done that and we have developed some amendments. They are fairly brief. Exhibit 1. Fourteen of the 18 amendments change the words "Department of Commerce" or "Department" to "Secretary of State" or "agency".

It was also important to make two other significant changes to the bill. As it was written it would mandate the system go far beyond a central compilation of licensing information and would mandate the development of a computer system that would allow a search of all business licenses from one place. This could be a \$1-\$2 million project so this requirement has been eliminated and replaced with a requirement the Office of the Secretary of State bring to the 1991 Legislature a plan for implementation of the system so it could be reviewed for its workability and cost and what benefits it would bring to the agency.

The second substantive change is in the Board of Review which would include all department directors and in its current form the Board would have considerable interaction with, and would be under the control of the Governor's office. It seemed appropriate to place this program in the Secretary of State's Office, and therefore, the Secretary of State should be a member of the Board and also serve as Chairman so the agency responsible for the system can assist in the meetings of the Board of Review. It would be a valuable service to have a central source of information.

In the fiscal note, as well as the one presented by the Departments of Commerce and Agriculture on the original bill, EXHIBIT 2, even with limited goals, it will cost for some FTEs and some additional operational expenses to be able to put together this information for the public. If the Legislature will fund this project, they can do a good job with it in their office. They would put together in one place a system that could provide businesses with all the information they would need regarding applications for licensing and present the Legislature in 1991 with a progress report on how this working, recommendations on how they might limit licensing, and a recommendation on how they could implement a computer plant. They would implement a Board of Review, including all department directors, and work with those agencies in future bienniums to make working with state government easier.

Wayne Budt, Administrator, Transportation Division of the Public Service Division, asked HB 46 be amended on page 7 to include in

the Board of Review the Chairman of the Commission or his designee. The Public Service Commission is mentioned in here as an agency, but they are not included on the Board of Review that is set up in the bill.

Opponents' Testimony:

Pam Langley, Executive Director of the Montana Agricultural Business Association, also represents the Montana Grain Elevator Association, the Pacific Northwest Grain and Feed Association, and the Montana Seed Trades Association. All four associations stand opposed to House Bill 46 as introduced. Exhibit 3. She will have to talk to her members about the proposed change from the Department of Commerce to the Secretary of State's office. They are very well satisfied with the way the Department of Agriculture handles their requests.

Rebecca Bauman, Business Licensing Specialist at the Department of Commerce, said in no way would enactment of HB 46 affect her job. She supplies businesses with all of the pertinent licenses and applications and information to help them get into business, answers any questions about state government, federal government and local authority. She mails them all of their applications she has in her office; makes phone calls for them to the different divisions, and mails those to them or has the different departments mail them. She acts as an advocate and answers problems and concerns regarding red tape and is a local authority on state or federal requirements for getting into business. Many times business have problems understanding what the applications are about.

They help them by explaining what is pertinent and talk with them on a one to one level. They try to become part of the solution, not the bureaucracy. She processes over 3,000 calls and 20,000 applications per year through her office alone. Some of the problems seen, if the retail and wholesale license is taken away, what is going to replace it? Most of the individuals going into business are a retail or a wholesale business. It is much easier for them on a state level to obtain a retail or a wholesale license so that they can purchase their supplies and goods at a discount rate rather than having to apply for a federal tax ID number which takes anywhere from 4 to 8 weeks to get. It postpones them getting into business that much longer.

The bill states there is a consumer service license and a manufacturer and distributor license. We have never dealt with these. Currently the state has a state retail license and a state wholesale license. Manufacturer, distributor, they all fall into the same category, there is not a separate license as is stated in the bill. We have not received complaints about over-regulation. Most of the complaints received have to deal with over-taxation or a problem with a business or there isn't enough licensing authority in some areas, such as a general contractor's license. Probably ten or fifteen calls a month are received about

this. People do not believe we do not have a general contractor's license. Other states do have them.

HB 46 is confusing, it lacks clarification in many areas and if this is something you wish to go through with, she wished that it would be postpone for further research. The state of Washington would be happy to help us.

Bob Heffner, Department of Commerce, realized the bill has been substantially amended. Focus on the bill should be on developing the system, investigating the problems and developing solutions. The bill speaks of a single consolidated application. This is something that should not be rushed into implementation. It sounds like a good idea, but if you think about what falls under the scope of this bill, as diverse as taxidermy licenses, licenses for weighing and measuring machines, doing business as registration, automobile dealerships, unemployment registration, outfitting and guiding. You begin to imagine a form that encompassed all of those. You might be burdening business more than they already are. The bill speaks of a master license. I think that is something that needs some work. HB 46 is very unclear.

Questions from the Committee:

REP. ELLIS, we have to be able to read the bill and understand it. If it is to be so changed by amendments at the time the hearing starts, it puts everyone who participates at a disadvantage.

REP. BACHINI, that is why we are postponing Executive Action until tomorrow.

REP. ELLIS, just exactly what is the thrust of this legislation? Doug Mitchell, the thrust of the legislation that we seek to amend is to be able to provide a system that will do 3 things: (1) It will create a bureau in our office and we will be able to compile and distribute information to the public about business licenses from a central place; (2) They will develop reports for the Legislature to review if we have a problem. Do the licenses have enough information on them to be sent to other agencies for information? (3) They would have a Board of Review who would get together to discuss business licenses to determine whether we do have problems, how they should be tackled, red tape, etc. We are not looking to change the world, only determine in a very organized fashion if we need to change the role of business licensing. How do we do it in the most organized efficient manner? REP. ELLIS, in other words, you are going to set up 3-1/2 FTEs to change the system and provide a board to justify the change? Doug Mitchell, we have recommended in our amendments how we would administer the program if the Legislature implements this program. There are some really good reasons why this program should be looked at seriously.

REP. WALLIN hadn't seen any of your people taking a position on this bill, but you are very much involved in the cost of the bill, would you comment on this? Ralph Peck, Deputy Director of the Montana Department of Agriculture, said they were coordinating with the Department of Commerce. We were not aware of the amendments when we came in today. They have tried providing a one-stop shop for agricultural organizations. At this point in time, the director's office has not received any complaints on the service provided. They were not in favor of the bill originally and the new one does seem a little confusing to us at this point. It seems to be a duplication of what the DOC already does, but we would have to study it further. The initial bill seemed to be creating quite a lot of costs that would be a burden on their industries. REP. WALLIN, it is quite a problem, no-one seems to know what the problems are, but there is a hunt to generate problems. Ralph Peck, it is always a worthy goal to improve the system that we have, but sometimes the improvements are more expensive than the accomplishments.

REP. BACHINI, 24 hours should be enough for the opponents to look over the bill.

Closing by Sponsor:

REP. GALVIN closed saying, Thank you for the hearing. The point in this bill is cost. In the long run, it is the reduction of cost. Anything new that is tried will initially cost more, but over a period of time there will be a reduction. HB 46 is meant to modernize and speed the process of licensing.

HEARING ON SENATE BILL 53

Presentation and Opening Statement by Sponsor:

SEN. GERRY DEVLIN, SD 1, Terry MT, presented today a dicey little bill with a long history! It is an Act legalizing the shaking or choosing of one or more dice for a drink or for the playing of a jukebox. As you can see by the number, it was introduced early this session. In the last few years, word came out that if a certain game was not specifically listed as legal, then it was illegal, so all of the dice boxes that we used to use have since been amended out of this bill by the Senate. This shake-a-day game has absolutely no monetary advantage for the house outside of being a business enhancer where people come in and shake the dice once a day. That was what the Senate took out of the bill. What is left in it is that you can shake for the jukebox, limited to \$2.00, and you can shake for drinks and coffee. The Department of Justice wanted to reestablish that it would fall under the Gaming Act. It had originally been drafted as not falling under the Gaming Act. I agreed to that and the bill sat in the Committee for a month and a half, then the Committee brought it out. The bill has now been amended. He hoped it could be salvaged. it.

Proponents' Testimony:

Mark Staples, representing the Montana Tavern Association, said as they testified in the Senate Judiciary Committee, they see this as a bill that really has no barnacles on it. There really should be no controversy. It is a practice that is time honored in Montana in taverns, saloons and bars. The House takes nothing from it, neither in the shaking for the drink where the house can lose the price of the drink, or the jukebox where the house can lose the price of the jukebox. Shake-a-day is when someone puts up \$1.00 and rolls in competition with anyone else who has put up \$1.00 and the money sits in a jar on the bar. It seems to me that if this is considered an expansion of gambling, it is rather silly. It has been going on forever. There is no restriction to what they can have on the Reservations. They support HB 46.

Joe Roberts, Don't Gamble with the Future, thinks this bill is something they can live with.

Opponents's Testimony: None

Questions from the Committee:

REP. BENEDICT said in his town, a coffee group meets at a local cafe and does a little shake-a-day. It is a 25 cent shake-a-day. Why don't you want to see shake-a-day back in there? Joe Roberts has no problem with what you are talking about at all. You ought to direct your question to the enforcement people as to what problems it represents. The only concern here with the pot thing was what we may be opening something up in terms of the Indian Regulatory Gaming Act.

REP. PAVLOVICH said the Department is afraid this will boomerang. They have a 20 machine limit. How many machines are there? Mr. Roberts mentioned if it is Indian owned or tribal owned, there would be no limit on the number of poker machines an Indian or tribe could own. If gambling is legal within the state for any purpose, it is legal on the Reservation without limitations. Unless they voluntarily compact with the us those limits won't apply. Mr. Roberts said minors could gamble and they weren't limited to general gambling laws. They should be brought into compliance with the general State gambling laws. REP. PAVLOVICH suggested amending this. Mr. Roberts said that is a policy decision up to the Legislature. They did say and recommended to Finance and Claims if they could strictly define gambling, and if there ever was a problem, an action could be brought against the house.

Closing by Sponsor:

REP. GERRY DEVLIN said there was no opposition in the Senate. I will leave it up to the committee on Shake-a-day. If you want to consider putting this back in the bill. It is dice shaking for drinks or the jukebox, it has been in our country for years.

There are some jukeboxes around. If they check them, they can probably be taken to task by the law. He can't understand why the establishment doesn't make any money on this. He has no problems with the Indians playing Shake-A-Day as long as the establishment didn't keep any of the change.

HEARING ON SENATE BILL 206

Presentation and Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 29, Missoula, MT., informed the Committee that SB 206 is a piece of legislation that should have done quite a few years ago. It is an Act revising the laws relating to the administration of beer and wine licenses, special licenses, and all-beverages licenses; limiting concurrent applications for the same premises; prohibiting for 5 years an application for a license in the vicinity of one that was denied for certain reasons; allowing the DOR to place special restrictions on licenses; requiring a determination of public convenience and necessity before transfer of location of a license; etc. It is not a bill by the Department of Revenue, but it does include a combination of some clean up language that the DOR does want. His concern was a particular bar in Missoula which several murders have taken place and neighbors have attempted to try to deal with the application and location of that bar for several years.

If you will look in the first section, they are changing the application process to allow one application to occur until the court has finally decided that issue. What is happening in Missoula could have happened anywhere in the State. Neighbors come to protest during the protest or after the protest, so an applicant simply goes in and files a new application. That is set up in hearing. They have to come over again. In our case it took four applications over several years to try to have the neighbors deal with this. A lot of expense to attorneys and a lot of time for people to have to deal with such issues, so in the Senate we worked with the tavern owners to try to make sure this was a balanced bill. The first section does not allow repetitive applications so it is clean for everybody.

The second section says that if it is denied you can't apply within five years unless there is substantial modification and that is on the bottom of Page 3. In the past there has been concern as to whether a person applying for a liquor license could put on the face of that application particular conditions about the certain kinds and numbers of people, entertainment, etc. Page 5 makes sure that they do have the authority to say here is the kind of liquor license that you have. They can actually put conditions in there.

Proponents' Testimony:

Cairo Newcomer, Attorney, represented the people living next to

the OK Corral Bar in Missoula. Experience there has taught me several things. Sections 1 and 2 of SB 206 need to be added to the existing law. The idea is that one application is to be considered at a time. That has been a problem over a six-year time span concerning the various applications at the OK Corral Bar. The second problem this legislation attempts to address is to give the DOR discretion to rely on its previous decisions. As the process is working now, the DOR considers each application for an individual location without any contests. If you have a determination from the DOR after hearing that a location is unsuitable for licensing, there is nothing that stops someone with the application fee from applying again. In our case again and again and again.

Section 2 places a 5-year moratorium on any application on a location determined to be unsuitable so the DOR can refuse similar applications for five years. However, in Section 2, if an application is not similar, then it may be considered within that 5-year period. Sections 3, 5, 6, 7, 8 and 9 are basically tuneup language that clarifies what review power the licensing bureau has. They need to be able to enforce promises that licensees make when applying. It is unclear at this time whether the DOR has that power. Exhibit 4.

Mark Staples, Montana Tavern Association, stated this bill could have benefits. If there is no opposition to the transfer of licenses, a hearing would not have to be held. If there is an application going through the process of application hearing appeal, someone should be able to back off that application and come in under another application process. There should be only one application pending at a time. We have sympathy if a bar has been found unsuitable for certain neighborhoods, but we found the bar could be revamped and changed to adapt to the criteria of the neighborhood.

Opponents' Testimony: None

Questions from the Committee:

REP. ELLIS asked what the cost is for the State to hold these hearings? Cairo Newcomer said it cost my client about \$30-\$40,000. Most people would not pay that. The State's cost was probably similar. This would streamline things and would not cost the Legislature any money.

REP. WALLIN asked what is a suitable location? Cairo Newcomer said the bar talked about was on a deadend street surrounded by the city. Emergency responders are quite away away, and there was only one way in and one way out. To be suitable, the fire department must be able to get in. The parking must be adequate. It must be on regular police beats. The character of the operation must be compatible with the neighborhood.

REP. SCOTT thought there are public nuisance laws concerning

bars? Cairo Newcomer said they are not effective in controlling this kind of case or location. It wasn't an effective remedy for his client. The thing to do was to protest the license which was initially denied and then things went awry.

Closing by Sponsor:

SEN. HALLIGAN said you can't take away that first license. The people want the bar not to be there. The State has jurisdiction over liquor laws. The problem with the nuisance law is that the County Attorney is going to negotiate and the license is not ever going to be taken away. They try to work with the tavern owners to balance out their needs. SB 206 would reduce the cost to applicants, not only new applicants, but for transfers and would clean up the process at the same time.

HEARING ON SENATE BILL 131

Presentation and Opening Statement by Sponsor:

SEN. HARRY FRITZ, SD 28, Missoula, MT., explained SB 131 makes it easier for an insurance company to relocate into the State of Montana. Also it makes it easy for it to leave the State of Montana. It is an Act providing a means for a foreign insurer to become a domestic insurer; providing a means for a domestic insurer to transfer its domicile to another state; providing for the continuation of a certificate of authority and other approvals pertaining to an insurer transferring its domicile; and providing an immediate effective date and a retroactive applicability date.

We are talking mainly about small insurance companies, so-called boutique or designer specialty insurance companies. They would have to conform to the current laws of Montana. I do have a proponent who will explain the necessity for the bill.

Proponents' Testimony:

Robert A. Nineto, Jr., Attorney, and Chief Executive Officer for ALPS, a small insurance company that insures lawyers against legal malpractice. It is relatively high risk. We started working on the project a number of years ago and originally domesticated that company to the State of Nevada due to the fact that Montana required us to go through a common law procedure. This bill very simply is designed as an economic development issue. Small insurance companies are cropping up all over the country. Small mutuals are designed to deal with a particular liability of property issues. There is a particularly good environment here in Montana in the insurance department because you can have one on one kind of contact. If you have a question about what is going on, you can talk to the person who is going to be making the decisions. We have the opportunity to attract some already existing companies and this will make that easy. January 1, 1991,

would be the retroactive effective date. As an industry they would like to be able to set an example and attract other similar companies to Montana.

Susan Witte, Chief Counsel for the State Auditor, Insurance Department, said The State Auditor supports SB 131. It is based on a national association of insurance commissioners' model. She believes it may help bring new insurance into the State of Montana.

Jacqueline Terrell, American Insurance Association, supports SB 131. It is a good business bill and should attract the insurance industry to Montana, which should bring a better economic climate to Montana. She hoped it would be passed.

Opponents' Testimony: None

Questions from the Committee:

Closing by Sponsor:

SEN. FRITZ remarked the only risk I see is that the place will be overrun by insurance agents. We can put up with that. Thank you very much.

EXECUTIVE ACTION ON SENATE BILL 131

Motion: REP. PAVLOVICH moved SB 131 BE CONCURRED IN.

Discussion: REP. HANSON assumed the only reason we are making this retroactive to January 1, 1991 is because they want a full fiscal year. Susan Witte said the retroactive date was submitted by Bob Nineto; the reason for this is ALPS became redomesticated in Montana on January 1, 1991, through the Secretary of State's retroactive date. It is O.K. in the insurance code.

Vote: Motion SB 131 BE CONCURRED IN passed unanimously. SB 131 will be put on the Consent Calendar. REP. HOWARD TOOLE will carry the motion in the House.

EXECUTIVE ACTION ON HOUSE BILL 861

Motion: REP. JOHN SCOTT moved HB 861 DO PASS.

Discussion:

REP. WALLIN said there is a serious problem with the bill - there is no means of funding. HB 861 only provides for the construction and hopes the local communities will take over the operation.

REP. SWYSGOOD stated the bill is not intended to take care of the cost of operation. It is intended to retire the bonds necessary for construction. Those are things that have to be worked out in

the next two years before anything can happen.

REP. LARSON spoke against the bill. He checked with some people this weekend and identified over 20 visitor information centers in Western Montana. These are developed by local Chambers of Commerce and local tourist oriented groups. To develop a \$6 million dollar program for some visitor centers and then not adequately fund the operation, seems absolutely ludicrous. I will not be in favor of this bill. A substitute motion, do not pass.

Motion: REP. LARSON moved a substitute motion of DO NOT PASS.

Discussion:

REP. PAVLOVICH thinks the bill is necessary but those people are already there. Giving a piece of that money to some other project will take it away from tourism. Once you cut the pie, the whole pie will be gone. REP. SWYSGOOD stated the cost of these is somewhat extreme. They can be built cheaper. He offered an amendment. That we take it up to 10%. They would not be stuck with a flat 10% rate. Page 2, line 16, subsection (C) says 10% to the department; that would change it up to 10%.

Motion: REP. MCCULLOCH moved the above amendment.

REP RICE spoke in favor of the bill. The amendment makes a difference in terms of being able to have a lower bonding capability.

Vote: Motion to amend was unanimously adopted.

Motion: REP. LARSON moved HB 861 DO NOT PASS AS AMENDED.

Discussion:

REP. SCOTT spoke against the motion. He is not in favor of building extravagantly. Tourist promotion in Montana has done a great job. He would like to see it extended and expanded toward Eastern Montana history. These VICs will not only enlighten tourists but Montanans also.

REP. KNOX supports the DO PASS motion. It is a very good project and I would like to see it in Montana. In other states they are very effective. I do not think that at this point in time Montana has the money for it.

REP. KILPATRICK said the Commerce Department has written some very fine alternatives to this situation. I support this motion.

REP. RICE has taken a lot of trips and is convinced of the value of visitor centers. They get people to stop and find out about attractions in Montana.

REP. ELLIS said the area he represents is not opposed to visitor

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centers. A tourist must be here before you can stop him. The community is going to have to get involved. He thinks the bed tax is doing what it is supposed to do. The state is going to have to fund these and does not have the money.

REP. LARSON said statewide we do have information centers and we do have potential visitor centers at every rest stop on the highway. Those rest stops are poorly used, it would take nothing to develop a brochure rack in each of those.

REP. BARNETT spoke in favor of REP. LARSON's motion.

Vote: Motion HB 861 DO NOT PASS AS AMENDED passed with REPS. TUNBY, BACHINI, STELLA JEAN HANSEN, STEPPLER, SCOTT, RICE, AND McCULLOCH voting NO. HB 861 will advance with an adverse committee report.

EXECUTIVE ACTION ON SENATE BILL 206

Motion: REP. LARSON moved SB 206 BE CONCURRED IN.

REP. WALLIN said there is nothing they can do about overstepping restriction of their operation. Just a problem for fire fighting. SEN. HALLIGAN said Yes, that is correct. The Department of Revenue thinks they need this bill.

REP. LARSON really thinks the DOR did not do its job. They promoted expansion of business. There were two killings in there. They didn't revoke that license the first time. He gives the tavern industry a bad name. He will be glad to see the license gone. The change in the neighborhood sets a line along the river. The bridge was closed and it became a cul-de-sac. The bar would be grandfathered in.

Vote: Motion SB 206 BE CONCURRED IN was adopted with REPS. BENEDICT and STEPPLER voting NO.

REP. RICE, Delay Executive Action on SB 53 until Wednesday. HB 46 will wait until tomorrow. We are also holding HB 901 for tomorrow. Will someone propose a motion to table HB 740.

EXECUTIVE ACTION ON HOUSE BILL 740

Motion: REP. SCOTT moved HB 740 be Tabled. Motion carried unanimously. REP. BACHINI was absent. The sponsor had asked HB 740 be Tabled.


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ADJOURNMENT

Adjournment: 11:00 a.m.



REP. BOB BACHINI, CHAIRMAN



JO LAHTI, SECRETARY

BB/jl

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE March 11, 1991

[illegible]

HOUSE STANDING COMMITTEE REPORT

March 11, 1991

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Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 131 (third reading copy - blue) be concurred in and be placed on consent calendar .

Signed: _____
Bob Bachini, Chairman

HOUSE STANDING COMMITTEE REPORT

March 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 861 (first reading copy -- white) do not pass as amended.

Signed: _____
Bob Bacinski, Chairman

And, that such amendments read:

1. Title, line 4,

Following: "THAT"

Insert: "UP TO"

2. Page 2, line 16.

Following: "(c)"

Insert: "up to"

HOUSE STANDING COMMITTEE REPORT

March 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic
Development report that Senate Bill 206 (third reading copy -
- blue) be concurred in .

Signed: _____
Bob Sachini, Chairman

Carried by: Rep. Larson

EXHIBIT 1
DATE 3/11/91
HB 46

Proposed Amendments to House Bill 46

Purpose of Amendments: To change authority for program from the department of commerce to the secretary of state.

Scope of Amendments: Of the 18 amendments, 14 constitute grammatical changes from "department" to agency. Only four are substantive. The major changes are two:

- 1) The mandate for the development of an on-line computer system is amended to mandate the delivery to the legislature of a plan for implementation of a computer system.

REASON FOR CHANGE: An on-line solution is going to take substantially more resources than provided here, and will cost hundreds of thousands of dollars. A timely study, delivered to the legislature for their review is a much more prudent and efficient means of allocating state resources.

- 2) Inclusion of the secretary of state in the Board of Review. The bill is amended to include the secretary of state as a member, and as chairman of the board of review.

REASON FOR CHANGE: As the agency responsible for the implementation of the system, it is reasonable for the secretary of state to play a key role on the Board of Review.

Text of Amendments

Amendment Number One

Page 1, Line 13, following "delegates to the", strike:

department of commerce

and replace with:

secretary of state

Amendment Number Two

Page 1, Line 18, following "and with the", strike:

department's

and replace with:

agency's

Amendment Number Three

Page 3, Line 25, following "by the", strike:

department

and replace with:

secretary of state

Amendment Number Four

Page 4, Line 2, following "(2)", strike:

"Department" means the department of commerce established in 2-15-1801.

and replace with:

"Agency" means the secretary of state established in Article VI, Section 1 of the Constitution of the State of Montana.

Amendment Number Five

Page 5, Line 1, following "of the", strike:

department

and replace with:

agency

Amendment Number Six

Page 5, Line 4, following "1992,", strike:

department

and replace with:

agency

Amendment Number Seven

Page 6, Line 1, following "Beginning", strike:

January

and replace with:

July

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Amendment Number Eight

Page 6, Line 2, following "within the", strike:

department

and replace with:

agency

Amendment Number Nine

Page 6, Line 6, following "The", strike:

department

and replace with:

agency

Amendment Number Ten

Page 6, Line 7, following "(a)", strike:

before January 1, 1993, develop

and replace with:

on January 4, 1993, submit to the legislature a written plan
for the development of

Amendment Number Eleven

Page 6, Line 18, following "The", strike:

department

and replace with:

agency

Amendment Number Twelve

Page 6, Line 18, following "deputy", strike:

director

Amendment Number Thirteen

Page 6, Line 21, following "The", strike:

department

and replace with:

agency

Amendment Number Fourteen

Page 6, Line 25, following "to the", strike:

department

and replace with:

agency

Amendment Number Fifteen

Page 7, Line 2, following "includes", insert:

the secretary of state,

Amendment Number Sixteen

Page 7, Line 9, following "(2)", strike:

The governor shall appoint a chairman from among the members of the board.

and replace with:

The secretary of state shall serve as chairman of the board.

Amendment Number Seventeen

Page 8, Line 7, following "to the", strike:

department

and replace with:

agency

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Amendment Number Eighteen

Page 9, Line 23, following "(1)", strike:

[Section 3] and this section are effective on passage and approval.

(2) [Sections 1, 2, and 4 through 12] are effective January 1, 1992.

and replace with

[Sections 1 through 12] and this section are effective July 1, 1991.

Ex. 1
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HB 46

Fiscal Impact, Office of the Secretary of State:

After review of the fiscal note submitted by the departments of Commerce and Agriculture, we have developed an estimate of the increase in general fund appropriation that would be necessary for the successful implementation of the system.

A couple of assumptions are important:

- 1) Pursuant to approval of the amendments above, we will not be implementing a computer system.
- 2) Due to the smaller size of our agency, our ability to use current staff to implement the system is significantly less than that represented in the current fiscal note.

FTE: 2.5 FTE:

1 Grade 16, Step 2.....\$28,418*
1.5 Grad 8, Step 2.....\$24,711*
*Amounts taken from 1991 Pay Matrix as
per 2-18-313 MCA.

Total Personal Services Per Year: \$53,129

OPERATING COSTS:

Publications, Rent, Office Supplies,
Travel, etc.....\$20,000 in FY 92
.....\$25,000 in FY 93

EQUIPMENT:

Computer terminals (2), printer,
typewriter.....\$ 4,000 in FY 92
only

Total General Fund Appropriation Necessary:

FY 92 = \$ 77,129 FY 93 = \$ 78,129

EXHIBIT

DATE 3/11/91

HB 46

STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for HB0046, as introduced.


DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the Montana Small Business Licensing Coordination Act; establishing a business registration and licensing system; establishing a board of review; amending sections 30-16-102, 30-16-103, 30-16-202 and 60-16-203, MCA; repealing section 30-16-201, MCA; and providing an effective date.

ASSUMPTIONS:

1. The proposed board of review in the Department of Commerce will meet for one day, four times per year. Per diem will be \$150 per meeting or \$600 per year.
2. Development of the business registration and licensing system will occur in FY92 with implementation in FY93.
3. The business registration and licensing system will consist of the main computer at the Department of Commerce with eight terminals distributed among the departments responsible for licensing.
4. The Department of Commerce will need an additional 0.50 FTE system analyst (grade 15) and 1.00 FTE data entry clerk (grade 8) and related operating and equipment to implement the proposed program.
5. The Department of Agriculture will need an additional 1.00 FTE information system specialist (grade 12) and 1.00 FTE assistant (grade 10), plus operating costs, to implement its portion of the program.
6. Development of the licensing system at the Department of Commerce will be funded with general fund.
7. There will be a 5% increase in all license fees administered by the Department of Agriculture effective in FY92 to pay for its responsibilities under the act. All such fees are deposited to the general fund except feed and fertilizer fees which are state special revenue.
8. The review and recommendations concerning design and implementation of the new system will require administrative time in the other affected state departments. Because this is consistent with current administrative duties, there is no fiscal impact.
9. Current law is represented by the executive budget recommendation for the Business Development Division of the Department of Commerce and the Plant Industry Division and the Environmental Management Division of the Department of Agriculture.

 1-8-91
ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

 1/10/91
BERVYL C. "BERV" KIMBERLEY, PRIMARY SPONSOR
DATE

Fiscal Note for HB0046, as introduced.

HB46

FISCAL IMPACT:

Department of Commerce:

Expenditures:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	15.00	16.50	1.50	15.00	16.50	1.50
Personal Services	506,075	536,934	30,859	506,250	540,007	33,757
Operating Costs	456,491	471,271	14,780	457,195	503,385	46,190
Equipment	1,250	1,250	0	1,250	1,250	0
Local Assistance/Grants	1,955,650	1,955,650	0	1,955,650	1,955,650	0
Capital Outlay	0	44,770	44,770	0	11,000	11,000
Total	2,919,466	3,009,875	90,409	2,920,345	3,011,292	90,947
<u>Funding:</u>						
General Fund	609,643	700,052	90,409	610,522	701,469	90,947
State Special	39,317	39,317	0	39,317	39,317	0
Federal Special	2,270,506	2,270,506	0	2,270,506	2,270,506	0
Total	2,919,466	3,009,875	90,409	2,920,345	3,011,292	90,947

Dept of Agriculture:

Expenditures:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	34.83	36.83	2.00	34.83	36.83	2.00
Personal Services	1,105,972	1,152,114	46,142	1,104,866	1,151,008	46,142
Operating Costs	281,140	287,359	6,219	289,341	291,841	2,500
Total	1,387,112	1,439,473	52,361	1,394,207	1,442,849	48,642
<u>Funding:</u>						
General Fund	1,093,075	1,131,381	38,306	1,102,117	1,136,704	34,587
State Special Feed & Fertilizer	265,037	279,092	14,055	263,090	277,145	14,055
Federal Special	29,000	29,000	0	29,000	29,000	0
Total	1,387,112	1,439,473	52,361	1,394,207	1,442,849	48,642

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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. The long-term expenses in the Departments of Commerce and Agriculture would be operation and maintenance of the proposed business registration and licensing system, some or all of which may be offset by cost reductions for renewal of licenses in all affected departments.
2. Multiple licensing statutes would be modified in the 1993 Legislative Session and there could be significant costs for the affected departments during the 1995 biennium to convert existing systems to the new system.
3. After FY93, if certain licenses and their associated fees are eliminated because they are determined to be "unnecessary for the protection of the public interest", substantial expenditure and/or revenue impact could occur. (For example, of Office of the Secretary of State is fully funded by license, registration and filing fees on a cost-recovery basis.)

TECHNICAL NOTES:

1. Confidentiality statutes preclude the sharing of taxpayer registrant information thereby creating a potential problem in this area concerning "need-to-know" criteria.
2. Page 9, line 1, "April 20, 1981": Is the intent to make this amendment retroactive?

HB 46

HOUSE BILL 46

Hearing in House Business and Economic Development Committee
March 11, 1991

Mr. Chairman, members of the committee, for the record my name is Pam Langley and I represent the Montana Agricultural Business Association, the Montana Grain Elevator Association, the Pacific Northwest Grain and Feed Association, and the Montana Seed Trades Association. All four association stand opposed to House Bill 46 as introduced.

Our associations represent every area of business in agricultural and are more impacted by this proposed legislation than the growers of Montana. We must be licensed for seed, fertilizer, commodity handling, crop protection chemicals, commodity warehousing, and in some cases, scales. All licenses and fees, except for the scales, are currently handled by the Department of Agriculture.

Our contact with state government, however, does not end with paying fees. We order manuals for pesticide licensing and work with the Department of Agriculture in obtaining points for continuing to qualify for the pesticide dealer and applicator licenses. We also have bonding requirements which are handled by the Department of Agriculture.

As one of my members from Richey said, "I can call in to the Department of Agriculture and get some one on the other end who knows me, knows if I paid my license, knows what points I need and I can order manuals when I want--all at the same time." He also expressed real frustration in trying to deal with the Department of Commerce in obtaining building permits and suggested that instead of this legislation, building permits for agriculture should perhaps be transferred to the Department of Agriculture.

As we understand it, this legislation proposes that all fees be paid to the Department of Commerce which would in turn credit the fees to the proper Department of Agriculture account. For us, this adds another layer of bureaucracy to deal with--paying the fees in one department and doing the rest of our business with another.

This legislation intends to create a "one-stop shop" and make life easier for business--streamlining the process. On page 2, beginning on line 15, it states that a purpose is "providing a convenient, accessible, and timely system for the business community to acquire and maintain the necessary state registrations and licenses to conduct business. The system must be operated in a cost-efficient manner for the business community..."

Members of the committee, in the agricultural business community, we already have a convenient, accessible and timely system. This proposal would accomplish the opposite for us--it would create more hassle, cost us more and mean more bureaucracy.

The cost I refer to is in the fiscal note. While the additional staff required by this legislation for the Department of Commerce would be paid out of general fund, the fiscal note proposed a five per cent fee increase for all fees paid to the

Department of Agriculture to handle the added bureaucracy in that department. This hardly seems fair. And, we question if this would be the end--next session, you'll probably be asked for new computers, etc.

The old adage "If it ain't broke, don't fix it" applies here. A few years back, a similar effort to change our licensing was made. Keith Kelly, director of the Department of Agriculture under Gov. Ted Schwinden, opposed the effort and it died. It wasn't broke then and it isn't broke now.

We have no quarrel with House Bill 46 as it pertain to other small business in Montana. With all due respect to Rep. Galvin whose intent seems to be to create a more efficient system and to this committee, we request the House Bill 46 be amended to continue to exclude agriculture and have drafted a proposed amendment for your consideration. A new fiscal note may be needed along with the amendment to assure our fees are not increased.

Thank you for your time and attention.

Senate Bill 206
Introduced by Sen. Halligan

Proponent's Summary by: Kerry N. Newcomer
265 West Front
Missoula, MT 59802
728-4950

Problems addressed by SB 206:

1. Existing application procedures for issuing alcoholic beverage licenses allow consideration of a second application for the same location while the first application is under administrative appeal or judicial review.
 - Section 1 of SB 206 requires completion of administrative and judicial review before a subsequent application may be considered.
2. Present law requires the Department of Revenue to consider a subsequent application for licensing a premises even when a previous substantially similar application was denied because the premises proposed for licensing was determined to be unsuitable.
 - Section 2 of SB 206 creates a five year moratorium for consideration of similar applications. Applications that are substantially different may be considered sooner.
3. Under existing procedures the Department of Revenue must publish a notice of an application and hold a public hearing if any protests to the application are received.
 - Section 4, amending § 16-4-203, MCA, puts the initial burden on the Department to determine that issuance or transfer of the license is justified by public convenience and necessity. If there is a basis for denial, such as a determination that the location adversely affects the residents in the vicinity, the Department has discretion to deny the application without conducting a public hearing. The applicant retains the right to administrative review. If the Department does not deny the application, then notice is published and if the application is opposed, a public hearing is held. If there is no opposition, no public hearing is necessary.
 - Section 5, amending § 16-4-207, MCA, modifies the investigation provisions of the code to be consistent with the Department's discretion to deny an application before publication and hearing.

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SB 206

4. Once an application is granted the Department has no apparent authority to place restrictions on a license or enforce promises made by the licensee.
- Section 3, amending § 16-1-302, MCA, gives the Department authority to restrict a license after a hearing or by agreement.
 - Section 6, amending § 16-4-402, MCA, provides the Department an enforcement mechanism where false information is given on application or renewal.
 - Section 7, amending § 16-4-404, MCA, clarifies when notice of transfer must be published for existing licenses.
 - Section 8, amending § 16-4-405, MCA, clarifies when the Department is prohibited from issuing a license.
 - Section 9, amending § 16-4-406, MCA, provides the Department a method and authority for review of licensing eligibility.

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VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

BILL NO. HB 46

DATE MARCH 11, 1991 SPONSOR(S) REP. Galvin

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Ruby Johnson	NFIB	46		X
Bob Heftner	Dept of Commerce	46	X	
Pam Langley	Montana Agri Business Montana Grain Elevator		X	
John Sample	Aerial Applicators Tree/Lawn Applicators	46	X	

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

BILL NO. SB 206

DATE MARCH 11, 1991

SPONSOR(S)

SEN. MIKE HALLIGAN

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
DIANA KOON	D of REVENUE	206 46 53	—	—
KERRY NEWCOMER 265 W. FRONT MISSOURI 63102	SELF - PERSONS INTERESTED IN LICENSING APPLICATION	206		X

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. SB 131

DATE MARCH 11, 1991 **SPONSOR(S)** SEN. H. FRITZ

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jaqueline N. Terrell	Am. Insurance Assoc.	✓	
Sharon C. Wifke	State Auditor / Dept. of Insurance	✓	
Robert A. Minick Jr.	ALPS	✓	

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