

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS & INDUSTRY**

**Call to Order:** By Chairman J.D. Lynch, on January 30, 1991, at 10:00 a.m.

**ROLL CALL**

**Members Present:**

J.D. Lynch, Chairman (D)  
John Jr. Kennedy, Vice Chairman (D)  
Betty Bruski (D)  
Eve Franklin (D)  
Delwyn Gage (R)  
Thomas Hager (R)  
Jerry Noble (R)  
Gene Thayer (R)  
Bob Williams (D)

**Members Excused:** None

**Staff Present:** Bart Campbell (Legislative Council).

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

**Announcements/Discussion:** None

**HEARING ON SENATE BILL 8**

**Presentation and Opening Statement by Sponsor:**

Senator Mazurek, sponsor of the bill, stated that this bill is introduced as part of the fall out federal S & L crises. That legislation which is formally titled the financial institution reform, recovery, and enforcement act (generally referred to as FIRREA) requires the use of license for certified appraisers to complete federally related transactions. Anything that will be involved with federal financing through local banks, savings and loans, and credit unions there is federal money involved and generally speaking there must be a certified or licensed appraisor, or the federal money can't be involved in transaction. The federal legislation requires this and the statement has to be maintained and sent to Washington D.C. listing certified and licensed appraisers. You must be certified for any transaction over one million dollars, or licensed for transactions of fifty thousand dollars or higher. This bill would not be here if not for the federal requirements. The appraisal organizations that

Senator Mazurek has been working with, agreed to do is bring forth a proposed certification and licensing bill which complies minimally with the federal requirements. They are meeting the federal requirements, but no more. If this bill does not pass, if we do not certify and license appraisers then we will not have federally related transactions in this state.

Proponents' Testimony:

Pat Melby, substituting for Tom Hopgood and representing the Montana association of realtors, the national association of fee appraisers, the appraisal institute, the American society of farm managers and rural appraisers, stated that all of the organizations are in strong support of senate bill 8. He stated that the law from section 11 in FIRREA which requires appraisals and federally related transactions to be preformed by licensed and certified appraisers. This law goes into effect on July 1, 1991. There must be a licensing mechanism in affect on that date as well. For such appraisals to be preformed in Montana it is necessary then that this bill be passed. If the bill fails to pass, the result is the appraisals for federally related transactions will stop. If those appraisals stop, federally related transactions will also stop. The impact would create a potential convening a special legislative session if this bill isn't passed in this session. Section five of the bill exempts a person from licensing and certification as long as that person does not represent himself/herself as licensed or certified.

Steven Hall, the state coordinator for the appraisal institute, spoke in favor of the bill. This organization has been actively involved with trying to promote this legislation for over two years. This legislation meets all of the minimum requirements.

Jim Campbell, representing himself, stated that why he is here today is because he is interested in a career change, and has looked into becoming a certified appraisor. The only thing that he would ask is the experience factor to be open for review. He has asked three appraisers about the possibility of being able to get some experience so that he can be able to get into this career. All three appraisers have indicated that they are just trying to understand the law themselves. The course that a person has to take is the uniformed standards of professional appraisal practices. He will already taken by the end of the week one hundred and twenty credit hours of the education.

Pat Asey, representing the R/W association in the state of Montana, stated that there are one hundred and fifty members in the state and they strongly support the legislation.

Ronald Appel, an appraisor and the legislative chairperson of the Montana chapter of ASFM and rule appraisers, spoke in favor of the bill. He stated that he has worked with the groups already mentioned, and his group also supports passage of this bill.

Al Frezzette, a real estate appraiser for the state of Montana, spoke in favor of the bill (See Exhibit 5).

Joe Moore, representing the Montana association of fee

appraisers, spoke in favor of the bill. He stated that there are thirty members, ten members in the state. They worked with the other appraisal organizations. The members support the bill 100% percent. The bill as it is written meets the federal minimum guidelines for experience and examinations.

William M. Spilker, a real estate broker appearing on his own behalf, and as a representative of the Montana association of realtors spoke in favor of the bill (See Exhibit 2).

Dennis Adams, director of the department of revenue, spoke in favor of the bill. Under the title 15-7-105 the department of revenue is required to provide training and examination and certification of the appraisers. Once the appraiser passes the exam they are issued a certificate that says they are a certified residential, commercial, or farm appraiser. He feels that their appraisers should be under this bill.

John Cadby, representing the Montana bankers association, spoke in favor of the bill (See Exhibit 3 and 3A).

Annie Bartos, chief legal council with the department of commerce, spoke in favor of the bill. The department believes that this bill is most necessary due to the federal agencies that impose upon the state by July 1, 1991. Real estate secured loans will require appraisals to be done by certified and licensed real estate appraisers. The department has seen potentially some conflicts of interest, the rules and guidelines by the federal financial examinations council that was adopted in January 1990 provides that the certification and licensing shall be established as a totally independent regulatory agency. The potential conflict of interest is the director of the department if also the chairman of the state banking board, and the banking institutions may be viewed as an associated or effective industry by this particular board. The real estate appraisers board will replace within the professional occupational licensing bureau of the department of commerce. These are their two concerns.

Jock Anderson, on behalf of the Montana league of savings institutions, spoke in favor of the bill. He stated that it is a problem within the savings and loan industry nationally that was the impotence behind FIRREA which brings us to this bill today. He stands in support of the amendments proposed and in particular the amendment that would place a member of the lending industry on the board. It may or may not be unusual for a spot set aside for somebody outside of the appraising business on the board. This is an unusual circumstance. Their concern is that there has to be a balance between adequate qualifications to insure compliance with the law and competent appraisals, and a need to be sensitive to the fact if the requirements are too high you will limit the ability of appraisal services. That in turn will raise costs which will be passed on to the customer. The lending industry is in a unique position to monitor that balance on the board. This bill existed because of the requirements put on the lending industry.

Michael Varone, vice president of norwest bank and also manager of the real estate department, spoke in favor of the bill. He stated that the problem that they have is mainly in the rural areas and the number of appraisers that are available.

There are time delays and additional expenses that are passed on to the consumer.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Williams asked when establishing the board if the sunrise bill effects this at all.

Senator Mazurek replied no, because this is a federally required process. If this were not mandated by the federal government, then yes the sunrise would apply.

Senator Williams asked if Senator Mazurek would go along with trading the two thousand hours for experience.

Senator Mazurek replied that his concern is that you do not do anything that would bring us out of compliance with the federal law.

Senator Noble asked if Senator Mazurek would like to have a banker on the board.

Senator Mazurek replied that he has worked most closely with the realtors and the appraisers. His concern is to just pass the bill.

Senator Gage asked about page five which defines real property, and does that include minerals.

Senator Mazurek replied yes.

Senator Gage asked about page six states that before January 1, a real estate appraiser board member must be a designated member belonging to a national organization, does that mean after January 1, they don't have to be.

Senator Mazurek replied that on the top of page seven this is a transition period until you get people licensed to meet the qualifications. They do not necessarily have to belong to a national organization after January 1.

Senator Gage asked about page seven which states that the board must meet at least once each calendar quarter to transact its business, does that mean that they must meet even if they have no business.

Senator Mazurek replied yes.

Senator Gage asked on page eight and on page eleven, he recalled a couple years ago, the board of optometry had to administer examinations and what happened is they were contracting with the out of state areas to administer those examinations. He then asked if Senator Mazurek would anticipate that same thing happening here, that they may contract with North Dakota or South Dakota.

Senator Mazurek replied the board has the authority to delegate as long as they are ultimately responsible.

Senator Lynch asked how Mr. Adam's people got into the transaction.

Senator Mazurek stated that he thought Senator Lynch should visit more with Mr. Morrison about that. There would be a substantial cost to the state if they were required to be

certified.

Ken Morrison, administrator of property tax, stated that he has an proposed amendment (See Exhibit 4).

Senator Lynch asked how much this would cost.

Ken Morrison replied that they do not have exact figures. Under the current certification program you are required to pay a fee, so that will be an additional cost.

Senator Lynch asked if the state pays the fee for their people.

Ken Morrison replied that would probably be the case.

Senator Lynch asked if lawyers that work for the state, don't they pay for their own fees.

Senator Mazurek responded that the lawyers pay their own fees.

Senator Lynch commented that they would not act on the bill today, and asked if Mr. Morrison could give them an estimate to how much this will cost.

Senator Lynch asked if the lawyer for the department of commerce still wonders if there is a conflict with our being under the department of commerce even though other people say there shouldn't be.

Annie Bartose stated that they wanted to bring this to the committee attention. If the federal appraisal committee does not see a problem with this particular statute and with placing this board with the department of commerce.

Senator Mazurek stated that there are states which have had their statutes approved, one in which they referred to was the state of Hawaii has improved. The distinction is that really this is an independent board. For administrative purposes it is attached to the department of commerce.

Pat Melby stated that in Nov 1990 the Hawaii organization was approved by the appraisal subcommittee in Washington.

Senator Lynch stated that the committee could clean the bill up as much as they want to, and if they find something back from Washington then they can make any necessary changes in the house. Senator Mazurek's recommendations of who should be on the board, there is a new amendment that the department of revenue should be on it. The experience factor will be looked at.

### Closing by Sponsor:

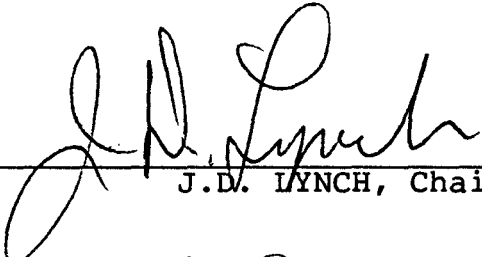
Senator Mazurek closed by saying that he urges the committee to keep the bill moving. With respect to the board, he would not treat this board any differently than he would any other board. He urges them to make their own judgement, whether they think the circumstances deserves different treatment. He has worked most closely with the appraisers. Mr. Campbell has told him about trying to get on with appraisers to try and get experience, and has been turned back. He stated that if you can do something like that and not without running into foul with the federal government, he has no objections. He wants to comply with the federal government.


Senator Lynch stated that they will not act on this bill today, they will act on it tomorrow and get it moving into the

house of representatives.

ADJOURNMENT

Adjournment At: 11:10 a.m.

  
\_\_\_\_\_  
J.D. LYNCH, Chairman

  
\_\_\_\_\_  
DARA ANDERSON, Secretary

JDL/dia

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 30 day of January, 1991.

Name: Jim Campbell

Address: 23 So. Benton  
Helena, Mt. 59601

Telephone Number: 443-2382

Representing whom?

Myself

Appearing on which proposal?

SB # 8

Do you: Support?  Amend?  Oppose?

Comments:

Qualification section 6  
Education & Experience

Add:

Acceptable appraisal experience includes, but is not limited to, the following:

- Fee & staff appraisal, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate counseling, highest and best use analysis, feasibility analysis/study and teaching of appraisal courses.

COMMITTEE ON

DATE

1/30/91

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
W. James Kembel	Public Safety Div	SB 8	Information	
Grace Berger	Prof. & Occup. Licensing	SB 8	Information	
ANNIE BARTOS	DIRECTOR'S OFFICE DOC	SB 8	✓	
JOHN CADBY	MT BANKERS ASSN	SB 8	✓	
Jack Anderson	MT- League of Savings	SB 8	✓	
Michael Varone	MT BANKERS, NORTHWEST BK HILTON	SB 8	✓	
William M Spitzer	MT ASSOC REALTORS	SB 8	✓	
Jack B Moore	Nat- Assoc Indp Appr	SB 8	✓	
Glen E. Moore	Appraiser	SB 8	✓	
M. L. Inman	PROFESSIONAL REVIEWERS	SB 8	✓	
Pet Ascy	Int. R/W Assoc	SB 8	✓	
Ronald Appel	ASFM & RA (Appraiser)	SB 8	✓	
Allen Jones	Appraisal Institute	SB 8	✓	
Robert Shurt	NAIFA - Full Appraiser	SB 8	✓	
Al Gyzette	NAIFA - ASA	SB # 8	✓	
Jim Campbell	Self	SB # 8	✓	
Tim Bennett	First Citizens BK. Bldg	SB # 8	✓	
Don Chance	MT. BUILDING INDUSTRY ASSN.	SB 8	✓	
Pat Melby	Realtors & Appraisers	SB 8	✓	
Joe Moore	MT chapter National Assoc Ind. Ecn. App.	SB 8	✓	
Jerry Bratfren	Self	SB 8	✓	
Denis Adam	DOR			
Ruth A Smith	self	SB 8		
STEVEN HALL	APPRAISERS	SB 8		
C Robert White	Self	SB 8	✓	

(Please leave prepared statement with Secretary)



ROLL CALL

Business & Industry COMMITTEE

DATE 1/30/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Bruski	X		
Senator Franklin	X		
Senator Gage	X		
Senator Hager	X		
Senator Noble	X		
Senator Thayer	X		
Senator Williams	X		
Senator Kennedy	X		
Senator Lynch	X		

Each day attach to minutes.

Testimony to Senate Bill 8

Senate Business and Industry

January 30, 1991

My name is William M. Spilker - I am a real estate broker and am appearing on my own behalf and as a representative of the Montana Association of Realtors.

Senate Bill 8 is perhaps one of the most important pieces of legislation that will come before you this Legislative session. The Federal Government has issued a mandate that any real property mortgages used to secure loans which are insured, guaranteed or financed with Federal participation must have a real estate appraisal completed by a state licensed or state certified real estate appraiser.

This mandate applies to loans made on July 1, 1991 and there after. That means unless this bill is passed and the necessary administrative procedures are put in place come July 1, there will be no -

VA home loans, Small Business Administration participating loans, Federal Land Bank loans, Farm Credit System loans, <sup>FARM</sup> ~~FHA~~ home loans - both for individual rural housing or agricultural production loans, no more Montana Board of Housing loans. You can appreciate the daily reliance by Montana Homeowners, Montana farmers and Montana small businessmen as <sup>so the Agency</sup> source of available financing in their operations. Senate Bill 8 sets in motion the response to the mandate.

Montana Association of Realtors is especially interested in seeing this legislation pass because of the major impact it will have on the ability of people to purchase homes. The home financing industry has evolved into a structure of major reliance on Banks, Savings & Loan and Mortgage Company's originating loans and in turn selling those loans to out of state investors, mortgage bankers and loan servicers. These loans are only saleable if they have guarantees by the Federal Government through FHA or VA.

To give you an idea of the impact of this financing availability I want to cite two examples:

Western Federal Savings & Loan is a large Savings & Loan with offices in Missoula, Helena, Hamilton, Great Falls and Bozeman. During its fiscal year ending June 30, 1990 - 66% of its fixed rate loans were either FHA insured or VA guaranteed. The year ending June 1989 the percentage was even higher at 71%.

Closer to home I can cite some numbers from my own Brokerage business:

% of residences sold requiring bank financing	1990	1989	1988
(excludes cash, assumption and seller financed)	71	63	67
% of bank financed loans which were Federally backed	76	81	78

We believe this is good legislation. The appraisal organizations have worked very closely with Senator Mazurek to develop a bill that is tailored to meet

the criteria demanded by the Federal mandate, this has not been an easy task. They have also worked diligently to cooperate with the various related interest groups who have a desire to see this legislation pass. And this has not been easy. We support the manner in which they have structured their board and the need to locate the <sup>FUNCTION</sup>~~junction~~ in the Bureau of Occupational and Professional licensing.

We also concur in the amendments recommended by Senator Mazurek.

Hope you will give this a prompt do pass in order to move this legislation along so the administrative machinery can be put in place in order for Montana to comply with the July 1, 1991 deadline.

SENATE BILL 8  
APPRAISERS LICENSING ACT  
by Montana Bankers Association

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 1/30/91

BILL NO. SB8

Mr. Chairman and Members of the Committee:

I am John Cadby, Montana Bankers Association, which consists of 140 member banks and trust companies or about 90% of all bank assets in Montana.

Congress regrettably, waited too long to resolve the savings and loan crisis which will cost all of us dearly. A section of the 1,000 page bill called FIRREA requires licensed or certified appraisals on most loans. Congress authorized the appraisers to set up the criteria for being licensed and established a review committee to oversee the states.

We therefore have no choice but to enact this bill. The only choice you might have would be in allowing the financial institutions to have a representative on our licensing board. Instead of four appraisers on a five member board, we would suggest three appraisers and one officer from either a bank, savings and loan, or credit union.

Although the Federal Appraisal Subcommittee has taken into consideration real estate lending and review of appraisals as part of its criteria for licensing, we suggest it be incorporated into our state law. The Subcommittee is changing its rules almost daily so there is no assurance the appraisers will allow real estate loan officers to become licensed in the future. For example, the

SB 8 - Introduced

Proposed Amendments:

1. Amend page 6, Section 3 (new section), line 14 following "(3)" by deleting the word "four" and inserting the word "three"; further amend line 15, page 6 following "estate appraisers", by inserting "one member, an officer of a bank, savings and loan or credit union."

Further amend page 7, Section 3 (new section), line 2 following "1992", strike word "three" and insert "two".

Note: Amendment would provide a five member board of "real estate appraisers" consisting of three appraisers, one representative of financial institutions and one representative of the public.

2. Amend page 11, Section 6, line 23 following word and punctuation "application." by adding the following: "Time spent in real estate appraisal by a real estate lending officer or real estate broker if such person has been engaged in the actual performance or professional review of real estate appraisals shall qualify hereunder."

Note: The Financial Examination Council by press release dated November 28, 1990 has provided that a state "might well recognize real estate related experience such as that of a real estate lending officer or a real estate broker as being acceptable for some or all of the experience requirement -- but only if such experience has included the actual performance or professional review of real estate appraisals." (See pages 4 and 5 of such press release.)

AMENDMENT TO SB 8  
First Reading Copy (white)

The purpose of this amendment is to require that Department of Revenue appraisers become licensed pursuant to section 5 of this bill within two years. It also makes the Director of Revenue a member of the Board of Real Estate Appraisers.

1. Page 6, line 14  
Following: "(3)"  
Strike: "Four"  
Insert: "Three"
2. Page 6, line 15  
Following: "appraisers,"  
Insert: "one member must be the director of revenue,"
3. Page 10, line 7  
Following: "duties"  
Insert: "except as provided in 15-7-107"
4. Page 31  
Following: line 2  
Insert: Section 4. Section 15-7-107, MCA, is amended to read:  
"15-7-107. Certification required. (1) Within 1 year 2 years after his employment by the department or by July 1, 1980 1993, whichever occurs later, any appraiser employed by the department to appraise: ~~(a) residential property must obtain a certificate in appraising residential property;~~  
~~(b) agricultural land must obtain a certificate in appraising agricultural land; and~~  
~~(c) commercial and industrial property must obtain a certificate in appraising commercial and industrial property.~~  
(2) The department may promulgate rules requiring appraisers to complete continuing education courses in laws, rules, and methods relating to appraisal must become licensed pursuant to [section 5] in order to determine the value of any real property for property tax purposes.

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB 8, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act regulating the practice of real estate appraising, establishing the Board of Real Estate Appraisers, providing for licensure and certification of real estate appraisers, providing penalties, establishing fees.

ASSUMPTIONS:

1. Assume that there will be 200 licensees with 20 new licensees per year.
2. Assume that the 5 member board will meet eight times in FY92 and five times in FY93 and that the meetings will last one day.
3. Assume that travel will cost \$585 per meeting.
4. Assume that the expenses of the board will include per diem, travel, supplies, communications, postage, printing and administrative overhead charges.
5. Assume that the administrative overhead charges must be also reflected in the POL Bureau of the Department of Commerce. This will include an additional .25 FTE.
6. Assume the following services must be provided to the licensing program - process rule adoptions, collect fees, process applications and licenses, process continuing education program, process examinations, maintain a registry of names, provide administrative support for disciplinary procedures process reciprocity licenses, process temporary permits, board meetings.
7. Assume the Board will use contracted services to establish the examination and required grading system.

FISCAL IMPACT:

Expenditures:

	FY92		FY93			
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Personal Services	0	2,000	2,000	0	1,250	1,250
Operating Expenses	0	33,477	33,477	0	23,141	23,141
Equipment	0	0	0	0	0	0
TOTAL	0	35,477	35,477	0	24,391	24,391
<u>Revenues:</u>						
Fees	0	36,000	36,000	0	36,000	36,000
<u>Net Impact:</u>	0	523	523	0	11,609	11,609

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: NA

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: NA



AL J. FREZZETTE, Real Estate Appraiser & Consultant  
Member, ASA, IFAS, CRA

1620 N. Benton Avenue, Helena, Montana 59601



SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 5

DATE 1/30/91

BILL NO. SB8

January 30, 1991

Re: Montana State Certification of Real Estate Appraisers.

Mr Chairman, members of the committee, my name is Al Frezzette.

I am a real estate appraiser from Helena, Montana. I am also a senior member of the National Association of Independent Fee Appraisers and the American Society of Appraisers and am currently serving as State Director for the Society. On behalf of the members of the American Society of Appraisers, I would like to thank you and the members of this committee for the opportunity to express our full support of the objective of Senate Bill #8, Real Estate Appraiser Licensing and Certification Act. We hope that this committee, through these hearings and any other committee reports, seek to address our concerns regarding the statutory deadline for use of State Licensed or Certified Appraisers mandated by Title XI of the Federal Institution Reform, Recovery and Enforcement Act of 1989, which was enacted on August 9, 1989. Title XI mandates minimum standards for real estate appraisers involved in federally related transactions. Appraisers involved in these transactions, which include virtually all mortgage, State and local government appraisals, will be required to pass a Montana state certification exam by July 1, 1991. In addition, certain

educational requirements must be met prior to attaining Certification. These requirements will include classroom hours and appraisal experience. Senate Bill #8 conforms to the guidelines set by Title XI and we urge this committee to consider recommending passage of this bill in its present form.

We appreciate the opportunity to express our full support of Senate Bill #8.

PROPOSED AMENDMENT TO

AMENDMENT NO. 1

Senate Bill 8

DATE 1/30/91

BILL NO. SB8

Page 11, Replace Section 6, (4) with the following:

(4) must have experience conforming to the minimum requirements of the Appraisal Qualification Board of the Appraisal Foundation.

Senator Joe Mazurek:

The undersigned hereby requests Section 6 of Senate Bill 8 be amended by replacing (4) with the language above.

Montana Association of Realtors

Appraisal Organization

By:

By:

William M. Spilker  
William M. Spilker

Joe B. Moore  
Joe B. Moore

Also change:  
p. 23, line 12

— strike 150  
insert 165

— federal law requires this change