

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS & INDUSTRY**

**Call to Order:** By J.D. Lynch, Chair, on February 10, 1993, at 10:00 a.m.

#### **ROLL CALL**

##### **Members Present:**

Sen. J.D. Lynch, Chair (D)  
Sen. Chris Christiaens, Vice Chair (D)  
Sen. Betty Bruski-Maus (D)  
Sen. Delwyn Gage (R)  
Sen. Tom Hager (R)  
Sen. Ethel Harding (R)  
Sen. Ed Kennedy (D)  
Sen. Terry Klampe (D)  
Sen. Francis Koehnke (D)  
Sen. Kenneth Mesaros (R)  
Sen. Doc Rea (D)  
Sen. Daryl Toews (R)  
Sen. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Council  
Kristie Wolter, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: HB 161, HB 178  
Executive Action: None.

#### **HEARING ON HB 161**

##### **Opening Statement by Sponsor:**

Representative Gary Mason, House District 63, opened on HB 161 stating it would revise the laws regarding real estate appraisers. He stated HB 161 would allow real estate certificates to be renewed every three years, as compared to every year according to the current statute. He stated HB 161 would eliminate the "rural" classification of appraisers and eliminate the requirement for all appraiser exams to be held in

Helena. He stated HB 161 would define the continuing education requirements more clearly.

**Proponents' Testimony:**

Pat Asay, Chairman, Board of Real Estate Appraisers, spoke from prepared testimony in support of HB 161 (Exhibit #1).

A. Farrell Rose, appraiser, spoke from prepared testimony in support of HB 161 (Exhibit #2).

Joe Moore, Helena Chapter of the National Association of Independent and Fee Appraisers stated his association's support of HB 161.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Toews asked Mr. Asay what the licensing fee was. Mr. Asay stated the fee is set by rule at \$450 for three years.

Senator Harding asked Mr. Asay if the Board is directed by rules. Mr. Asay stated the Board is controlled by state law, but has the authority to produce administrative rules.

**Closing by Sponsor:**

Representative Mason closed asking for favorable consideration on HB 161. He stated Senator Rea would carry HB 161.

**HEARING ON HB 178**

**Opening Statement by Sponsor:**

Representative Gary Mason, House District 63, stated HB 178 would assure the public that an accountant could not hide behind the confidentiality clause in the law when he or she is under review. He stated if the Board requests any material from the accountant, they are required to release the material to the Board. He turned the floor over to Tom Harrison, Representing the Montana Society of Certified Public Accountants.

**Proponents' Testimony:**

Mr. Harrison stated the changes on page one and two of HB 178 were just bill drafting changes to clarify language. He stated the amendment of interest is on page two. According to the law,

CPA's are subject to peer review where a peer CPA would study and evaluate the quality of the work. He stated if a peer reviewer requests documents from the person being reviewed, that person can not claim confidentiality of the documents. Mr. Harrison stated the problem of CPA's hiding behind the confidentiality clause has occurred in other states and HB 178 would address the problem before it arises in Montana. He stated the overall purpose of the newly amended section would be to guarantee confidentiality for the client of the CPA.

Shirley Warehime, Chairperson, Board of Public Accountants, spoke from written testimony in support of HB 178 (Exhibit #3)

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Rea asked Mr. Harrison to define "peer" as it was referred to in HB 178. Mr. Harrison stated the "peer" would be a person assigned by the Board of Accountancy.

Senator Christiaens asked Ms. Warehime if there is a periodic review of CPA's and how often the review would occur. Ms. Warehime stated the Board has a request by a firm on a three-year basis. She stated if a report by a firm is not acceptable, the accountants are requested to take corrective measures and then another peer review is given. She stated the accounting firm has control over who gets reviewed and the reviews are done on by contract. Senator Christiaens asked Ms. Warehime if the client whose records are being reviewed were informed of the review. She stated the clients are normally informed. Senator Christiaens asked Ms. Warehime how a peer review would come about. Ms. Warehime stated if a client was not satisfied with their accountants work and filed a complaint with the Board, the board would investigate the specific complaint. She stated if there were a number of complaints against a firm, there may be a total review.

Senator Harding asked Ms. Warehime what a Practice Review Program was. Ms. Warehime stated a Practice Review Program was a "spot check" on all CPA firms. There are two programs: a Practice Monitor Program, which is established by the Board, and all licensed CPA's fall under this program; there is also a Quality and Peer Review by the American Institute which are complete reviews and are required for membership in the American Institute.

Closing by Sponsor:

Representative Mason closed on HB 178.

Announcement:

Bart Campbell announced he had the amendments ready for SB 197 and SB 218 and supplied the members of the Committee with a copy of the amendments (Exhibit #4 and #5). Senator Christiaens asked the Committee to review the amendments and stated executive action on the amendments and the corresponding bills would occur on February 11.

HEARING ON COMMITTEE BILLDiscussion:

Senator Bruski-Maus addressed the Committee and asked their help in drafting a Committee Bill. She stated there was a situation in Glendive where the pharmacy in Glendive was no longer allowed to drop prescriptions at a business in Wibaux for the local people to pick up. She stated Senator Kennedy and herself were working on an amendment which would allow the pharmacy to take the prescriptions to a medical facility or to a medically licensed person in Wibaux.

Senator Klampe asked Senator Bruski-Maus if there would be a medical person available in the small towns for a drop-off point. Senator Bruski-Maus stated there were nurses living in the town and a nursing home which could be designated drops. She stated she believed most small towns had nursing homes.

Senator Kennedy asked Bonnie Tippy, Executive Director, Montana Pharmaceutical Association, if she had ever had any questions from pharmacists about the ability to deliver prescriptions in a more convenient manner in rural areas. Mrs. Tippy stated she had not been approached on the subject and was not aware of a community with a nursing home and no pharmacy. Senator Bruski-Maus stated there were some small towns with nursing homes and no pharmacies.

Senator Kennedy stated he felt the situation was an isolated incident. He read from the Arizona law which would allow a little bit more than the Montana Law does. He asked the Committee for consideration of an amendment which would stipulate "a rural area where a person is not within twenty miles of a pharmacy, prescriptions could be delivered to and left for pick-up at another medical facility where a licensed medical professional is on staff."

Senator Christiaens asked Senator Kennedy if he had talked to anyone on the Board of Pharmacy about the legalities of the proposed amendment. Senator Kennedy stated he had talked to

Warren Amole who is the Executive Director for the Board of Pharmacy and Mr. Amole stated it was an isolated case and was hesitant to recommend an amendment.

Senator Rea asked Senator Kennedy if he had addressed the issue of who was authorized to make the delivery. Senator Kennedy stated a "common carrier" as defined by statute could deliver a prescription. Senator Rea then asked Senator Kennedy to clarify that any person could pick up a prescription at a pharmacy and deliver it. Senator Kennedy stated an agent of the pharmacy, which could be just about anyone, could deliver the medication to the nursing home, but the law was "shady" on who could pick it up from the nursing home.

Senator Christiaens asked Bart Campbell about the deadline for a Committee Bill. Mr. Campbell stated a Committee Bill could be requested through February 13.

Senator Mesaros asked Senator Kennedy if anyone may pick up a prescription from the original pharmacy. Senator Kennedy stated that was correct. Senator Mesaros stated perhaps a nurse from the small town who commuted could pick up the prescriptions. Senator Kennedy stated a person could pick up a prescription and carry it to the prescriber. He stated the problem in Wibaux was the prescriptions were being left at a store in Wibaux and that was in violation of the law.

Senator Klampe asked if the amendment would state the prescriptions would be delivered specifically to the health care professional, or to a facility where a health care professional works. Senator Kennedy stated the amendment had not been developed as far as specifics. Senator Klampe stated he felt it would be more feasible for the drop to be with a health care professional.

Vice-Chair Christiaens assigned Senator Kennedy, Senator Bruski-Maus and Senator Klampe to work with Bart Campbell and draft a Committee Bill to present to the Committee by Friday, February 12.

Senator Klampe stated the law was to protect the consumer and the pharmacist has the ability to look at a person and use their professional judgement at the time of the exchange.

Senator Bruski-Maus stated the pharmacist would have the same ability to judge the person who was picking up the prescriptions for other people. She also stated the pharmacist should be able to use their professional judgement when delivering prescriptions to a point for pick-up which has been pre-arranged by the patient with the pharmacy.

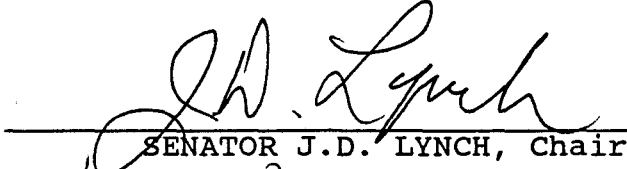
SENATE BUSINESS & INDUSTRY COMMITTEE

February 10, 1993

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ADJOURNMENT

Adjournment: 10:40 a.m.

  
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SENATOR J.D. LYNCH, Chair

  
\_\_\_\_\_  
KRISTIE WOLTER, Secretary

JDL/klw

# ROLL CALL

SENATE COMMITTEE Business & Industry

DATE 2/10/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch			✓
Senator Christiaens	✓		
Senator Bruski-Maus	✓		
Senator Gage	✓		
Senator Hager	✓		
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Koehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Toews	✓		
Senator Wilson	✓		

TESTIMONY  
REGARDING HOUSE BILL 161

FROM  
PATRICK ASAY, CHAIRMAN  
BOARD OF REAL ESTATE APPRAISERS

To begin, I would like to emphasize that HB161, amending the Montana Real Estate Appraisers Act, is housecleaning in nature. It does not add to cost, in fact, it attempts to streamline the administrative process and should lead to more efficient use of Department of Commerce staff. We all must do our part to cut costs and promote efficiency in state government, and this Bill is the Board of Real Estate Appraisers' step in that direction.

Federal legislation related to the savings and loan crisis, mandated that states provide a mechanism for licensing and certification of real estate appraisers involved in federally related transactions. The Montana Real Estate Appraisers Act was enacted in the last legislature as a result. Since that time, the Board (five members) has licensed and certified 215 individuals. The proposed legislation does not change the existing criteria for licensing or certification in any way.

Brief comments from the legislation:

Section 1. Section 37-54-210: This amendment simply allows the staff to renew licenses each year at the same time, rather than every three years at various times throughout the year as provided for in existing legislation. The Board must bill each license and certificate holder annually to collect a federal registration fee (mandated by the federal government) and this amendment allows staff to consolidate the billing and renewal process. A significant reduction in staff time and paperwork is anticipated and makes the renewal process similar to other Boards.

Section 2. Section 37-54-211: This amendment changes the current late license renewal time from three to one year. The point of licensing and certification is to assure competency in the profession and ultimately to protect the public's interest. Allowing individuals to renew a license or certificate three years after non-renewal is contrary to the purpose of the Act.

Section 3. Section 37-54-303: This amendment eliminates the agricultural/rural lands certification classification. The federal legislation referred to previously specifically mandates that the state's provide for a license level, residential certification level, and the general certification level. The federal government does not recognize the agricultural/rural lands certification level, there is no criteria for its adoption, and Montana is the only state with such a classification. The American Society of Farm Managers and Rural Appraisers, the principle supporter of the original legislation creating the agricultural/rural land certification level, is now in support of its elimination.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

2/10/93

112 111

Agricultural appraisal activity is included in the general certification level, therefore, the agricultural/rural land certification is a duplication and, if retained, will result in a significant increase in administrative cost to the Board.

Section 4. Section 37-54-310: This amendment allows the Board to give exams in cities other than Helena. Given the size of the state, the logic in this amendment is obvious. No increase in cost is anticipated.

Section 5. Section 37-54-310: This amendment allows the Board to renew certificates annually on the same date. This is similar to the amendment proposed in Section 1 for license renewal.

Section 6. Section 37-54-311: This amendment changes the period within which a certificate can be renewed after non-renewal, from three years to one year. This is similar to the amendment proposed in Section 2 for licensing.

Section 7. Section 7. Transition: This is a new section which allows the Board to transition from a three-year renewal to a one-year renewal period, and confirms the rights of existing licensees and certificate holders. Specifically, fees will be prorated to March 1 from the date the existing three-year licenses and certificates expire.

I appreciate your attention and hope you will look favorably on this legislation. Good luck and Godspeed in all your legislative efforts.

Respectfully submitted,



Patrick Asay, Chairman  
Montana Board of Real Estate Appraisers

PA/ts

TESTIMONY OF BOARD FOR REAL ESTATE APPRAISERS  
DEPARTMENT OF COMMERCE  
HELENA, MONTANA  
REGARDING LC206  
"REVISE REAL ESTATE APPRAISER LICENSING LAW;  
RENEWAL AND CONTINUING EDUCATION"

TO: CHAIRMAN AND COMMITTEE MEMBERS

MY NAME IS A. FARRELL ROSE. I AM AN APPRAISER HOLDING MONTANA GENERAL CERTIFICATE #47. I AM HERE TODAY AS A BOARD MEMBER ON BEHALF OF THE BOARD FOR REAL ESTATE APPRAISERS. THIS BILL SPECIFICALLY OUTLINES AN ACT REVISING THE LAW REGARDING THE LICENSURE OF REAL ESTATE APPRAISERS TO PROVIDE THAT ALL LICENSES AND CERTIFICATES EXPIRES ON THE SAME DATE ANNUALLY.

**JUSTIFICATION:**

- IT WILL BE ECONOMICALLY EASIER FOR A LICENSEE TO PAY A YEARLY LICENSE FEE OF \$150 RATHER THAN HAVING TO PAY A \$450 FEE FOR A 3-YEAR PERIOD.
- THE LAW NOW ALLOWS A LICENSE OR CERTIFICATE TO BE RENEWED ON THE EXACT DATE 3 YEARS FROM THE DATE OF ISSUANCE. THIS MEANS EACH LICENSEE HOLDS THEIR OWN RENEWAL DATE. THE NEW ANNUAL DATE WOULD ALLOW ALL LICENSEES TO RENEW AT THE SAME TIME AND WOULD BE A HELP TO OTHERS IN THE INDUSTRY TO REMEMBER THE RENEWAL DATE. THE STAGGERED RENEWAL DATES CREATE A MANAGEMENT CONCERN AS THE ADMINISTRATIVE ASSISTANT IS ALSO INVOLVED IN OTHER BOARD RENEWALS. A ONE-DATE ANNUAL RENEWAL IS MUCH MORE COST-EFFECTIVE TO THE BOARD AND LICENSEES BECAUSE OF THE TIME INVOLVED IN CONSOLIDATING THE WORK-LOAD.
- THE BOARD IS MANDATED BY THE FEDERAL GOVERNMENT TO SUBMIT TO THE FEDERAL REGISTRY A FEE FOR EACH LICENSEE AND ALL NAMES OF EACH LICENSEE ON A YEARLY BASIS. THIS COLLECTION AND DISTRIBUTION COULD ALL BE DONE IN CONJUNCTION WITH THE STATE RENEWAL PROCESS.
- BUDGET PROJECTIONS ARE BETTER DEFINED WHEN YOU USE 1-YEAR BUDGET FIGURE ESTIMATES RATHER THAN A 3-YEAR BUDGET SCENARIO. THE FIGURES ALLOW FOR A MORE REALISTIC PROJECTION.
- FEE CHANGES OR BUDGET REFORM CAN BE BETTER ADDRESSED WHEN USING A 1-YEAR PROJECTION.

THIS BILL WOULD ALSO ALLOW FOR LATE RENEWAL UP TO 1 YEAR AFTER EXPIRATION OF A LICENSE OR CERTIFICATE.

**JUSTIFICATION:**

- CURRENTLY, A LICENSE NOT RENEWED WITHIN THE 3-YEAR PERIOD FROM THE DATE OF ISSUANCE MAY RENEW 2 YEARS FROM THE DATE THE LICENSE EXPIRES. CHANGING THE DATE TO 1 YEAR WILL ALLOW BETTER MAINTENANCE AND STORAGE OF ACTIVE RECORDS.

ADDITIONALLY, THIS BILL WOULD ELIMINATE THE AGRICULTURE/RURAL LANDS CERTIFICATION.

**JUSTIFICATION:**

- THE BOARD FELT THE DESIGNATION WAS DUPLICATED IN THE GENERAL CERTIFICATION LEVEL. THERE HAVE BEEN NO APPLICATIONS MADE FOR THIS SEPARATE LEVEL.

ANOTHER MODIFICATION OF THE CURRENT LAW WOULD BE REMOVAL OF THE REQUIREMENT THAT CERTIFICATION EXAMINATIONS BE HELD IN HELENA.

**JUSTIFICATION:**

- THE LAW NOW REQUIRES THAT EXAMS CAN ONLY BE HELD IN HELENA. THE BOARD WOULD LIKE THE ABILITY TO OFFER TO THE LICENSEES OTHER TEST SITE LOCATIONS.

SPECIFIC LANGUAGE EXISTS IN THE BILL THAT WOULD PLACE CONTINUING EDUCATION REQUIREMENTS ON A 3-YEAR SCHEDULE.

**JUSTIFICATION:**

- CONTINUING EDUCATION WILL STAY ON THE SAME 3-YEAR RENEWAL CYCLE. THE WORDING WAS CHANGED TO BETTER DEFINE WHEN CONTINUING EDUCATION NEEDS TO BE ACQUIRED AND WHEN IT WILL BE REPORTED.

THIS BILL WILL PROVIDE A TRANSITION PERIOD FOR RENEWAL OF LICENSES AND CERTIFICATES, AND PRORATION OF FEES.

**JUSTIFICATION:**

- THE TRANSITION PERIOD, ALONG WITH THE PRORATED FEES, ALLOWS EACH LICENSE AND CERTIFICATE HOLDER FULL USE OF THEIR 3-YEAR LICENSE.

Exhibit #2

2-10-93

HB-161

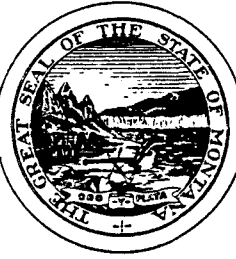
FINALLY, THIS BILL MAKES AMENDMENT TO SECTION 37-54-403,  
MONTANA CODE ANNOTATED.

**JUSTIFICATION:**

- THE STANDARDS OF PROFESSIONAL PRACTICE ARE MODIFIED AND  
UPDATED FREQUENTLY, TO THE POINT WHERE A PUBLIC HEARING ON  
EACH MODIFICATION WOULD BE BURDENSOME. SINCE THE STANDARDS ARE  
ADOPTED NATIONALLY AND THE STATES MUST COMPLY, THE  
MODIFICATIONS COULD AUTOMATICALLY BE IN FORCE IN MONTANA,  
UNLESS THE BOARD IDENTIFIES IT AS A PARTICULARLY UNUSUAL  
MODIFICATION WHICH IS NOT APPROPRIATE IN MONTANA.

# BOARD OF PUBLIC ACCOUNTANTS

DEPARTMENT OF COMMERCE



MARC RACICOT, GOVERNOR

111 N. JACKSON, LOWER LEVEL

## STATE OF MONTANA

(406) 444-3739

PO BOX 200513  
HELENA, MONTANA 59620-0513

February 10, 1993

To: Senate Business & Industry Committee  
From: Shirley J. Warehime, CPA  
Chairperson, Board of Public Accountants  
RE: House Bill 178

Chairman J. D. Lynch and Committee Members:

On behalf of the Board of Public Accountants, I would like to express our support for House Bill 178. The exception provided by the proposed amendment would allow for accessibility to privileged communications for practice review programs approved by the Board. Examples of practice review programs include the peer and quality reviews of the American Institute of Certified Public Accountants. Review programs afford protection to the public that public accounting firms reporting on financial statements comply with established standards. The Board utilizes approved peer or quality review programs in monitoring licensees to ensure the quality of the accounting profession.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 2/10/93

BILL NO. HB 178

Amendments to Senate Bill No. 197  
First Reading Copy

Requested by Senator Christiaens  
For the Committee on Business and Industry

Prepared by Bart Campbell  
February 10, 1993

1. Title, line 5.

Following: "LANDLORD"

Insert: "OR THE LANDLORD'S ASSIGNEE"

2. Title, line 6.

Following: "DETECTOR;"

Insert: "ALLOWING THE TENANT TO INSTALL A SMOKE DETECTOR;"

3. Page 3, following line 25.

Insert: "(4) (a) At the start of a tenancy, the landlord or the landlord's assignee shall obtain written confirmation from the tenant that a smoke detector has been installed on the premises and that it is in working order.

(b) If the landlord or the landlord's assignee fails to install a working smoke detector, the tenant may send written notice by certified mail with return receipt to the landlord or the landlord's assignee that if a working smoke detector is not installed within 72 hours of the date of the letter that the tenant can install a smoke detector and deduct the cost from the tenant's next month rent.

(c) Upon installation of a working smoke detector, the tenant is responsible for maintaining the smoke detector in working order."

4. Page 4, line 1.

Following: "landlord"

Insert: "or the landlord's assignee"

5. Page 4, line 7.

Strike: "is injured"

Insert: "suffers serious bodily injury as defined in 45-2-101,"

6. Page 4, line 8.

Following: "landlord"

Insert: "or the landlord's assignee"

SENATE BUSINESS & INDUSTRY  
EXHIBIT NO. 4  
DATE 2/10/93  
BILL NO. SB 197

Amendments to Senate Bill No. 218  
First Reading Copy

Requested by Senator Kennedy  
For the Committee on Business and Industry

Prepared by Bart Campbell  
February 10, 1993

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 5

DATE 2/10/93

BILL NO. SB 218

1. Title, line 6.

Strike: "LICENSURE"

Insert: "REGISTRATION"

2. Title, line 13.

Strike: "LICENSED" through "TO"

Insert: "REGISTERED AS A FOREIGN CORPORATION IN"

3. Page 4, lines 22 through 24.

Strike: "paying" on line 22 through the rest of line 24

Insert: "registered in this state as a foreign corporation."

4. Page 6, lines 5 and 6.

Strike: "a" on line 5

Strike: "licensed" on line 5 through "and" on line 6

5. Page 6, line 10.

Following: "technicians"

Insert: "with a ratio of technicians to pharmacists no greater  
than the maximum ratio allowed for an in-state pharmacy  
under the board's rules"

6. Page 6, line 11.

Strike: "and"

Insert: "(4) shall register each pharmacist identified under  
subsection (2) with the board, with proof of the  
pharmacist's good standing with the licensing authority in  
the state where the pharmacist is employed and with the  
pharmacist's written commitment to comply with the approved  
utilization plan and any other requirements of this chapter  
applicable to the pharmacist's activities; and"

Renumber: subsequent subsection

7. Page 6, following line 13.

Insert: "**New Section.** Section 4. Discipline of registered  
pharmacists. The board may, upon investigation and  
opportunity for hearing, suspend or revoke the registration  
of a pharmacist registered under 37-7-703 for any violation  
of this chapter by the pharmacist.

**NEW SECTION.** Section 1. {standard} Codification  
instruction. [Section 4] is intended to be codified as an  
integral part of Title 37, chapter 7, part 7, and the provisions

of Title 37, chapter 7, part 7, apply to [section 4].

NEW SECTION. Section 2. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Renumber: subsequent section"

DATE 2/10/93

SENATE COMMITTEE ON Business & Industry

BILLS BEING HEARD TODAY: HB 161, HB 178

Name	Representing	Bill No.	Check One	
			Support	Oppose
Joe B. Moore	Helena Chapter Nat'l Assoc. Independent Est. Appraisers	161	✓	
Tim Moore	Self	161	✓	
Det. Asay	Appraisal Board	161	✓	
Orrell Rose	Appraisal Board	161		
Shirley Warehime	Board of Pub. Acct	178	✓	
Brenda St. Clair	Bd of Public Accts	178	✓	
Tom Hammon	Nat. Society of CPA's	178	✓	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY