

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS & INDUSTRY**

Call to Order: By CHAIRMAN JOHN HERTEL, on February 16, 1995, at 7:00 a.m.

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)
Sen. Bill Wilson (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

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

Committee Business Summary:

Hearing: SB 320, SB 327, SB 329, SB 335
Executive Action: SB 187 DO PASS AS AMENDED
SB 313 DO PASS AS AMENDED
SB 239 DO PASS
SB 290 DO PASS AS AMENDED
SB 311 DO PASS AS AMENDED
SB 322 DO PASS AS AMENDED
SB 329 DO PASS
SB 327 DO PASS
SB 320 TABLED
SB 335 DO PASS
SB 332 TABLED
SB 326 DO PASS

EXECUTIVE ACTION ON SB 187

Motion: SEN. FORRESTER MOVED TO ADOPT THE AMENDMENTS TO SB 187, sb018703.agp.

Discussion: SEN. BENEDICT stated his original intention on this bill was to table it because he felt it was too much to put on the backs of the small taverns in his area. It seemed everyone wanted to speak but nobody was, so he went to all the groups and asked what it would take for all of them to agree. They wanted the credit increased from \$300 to \$600 per machine for those machines that could be converted. The industry and the Attorney General reasoned it probably wouldn't go much over \$600 and it could be less. The Attorney General agreed to look at all systems, not just the Dial-up. There could be a better system unknown to them.

SEN. BENEDICT stated another thing the groups wanted was the credits applied in equal amounts over 3 years. Originally, the credits applied to all 14,000 machines already in place on January 1, 1994. However, according to the budget office there was room to go to January 1, 1995, so a little over 15,000 machines would be affected. The older machines were granted a 6 year grandfather period. The amendments stated 4 years, but the system needed another 2 years to be implemented. Owners of older machines would still get the credits if they phased out their machine in 6 years. If they didn't, they had another 2 years after that to phase out their machine, which gave a total of 8 years, but for the 7th and 8th years there would be no credit.

SEN. FORRESTER asked who received the credit. SEN. BENEDICT replied that the credit followed the machine. That was for all machines that could be retrofitted. If they couldn't be retrofitted they had six years to buy a new machine and they received the credit when they bought the new machine. They continued to report the old way until they had a new machine.

SEN. KLAMPE asked who had attended the meeting and what were their feelings. SEN. BENEDICT stated Don't Gamble with the Future, Montana Tavern Association, gaming machine people, Larry Akey's people, Attorney General's Office, and Leo Giacometto attended. They all agreed it was the best deal that came up. There would still be people who wouldn't like it but that was as good as they could get. The old machines that couldn't be retrofitted were allowed to report using the old method for 8 years.

SEN. FORRESTER asked how much the bill would cost the state. SEN. BENEDICT stated they had said there was plenty of money because the revenues increased over the next 3 or 4 years. He did not completely agree with the increase. Others said because public trust would be higher, gambling would be increased.

SEN. FORRESTER asked **SEN. BENEDICT** to explain how the tax credits would be given. **SEN. BENEDICT** answered a portion of the credit would be taken in equal amounts over 12 quarters, starting the quarter after conversion. He referred to the fiscal note. County government would not lose any money because of the added revenue. **SEN. SPRAGUE** pointed out there was an assumed 3.5% additional revenue. **SEN. BENEDICT** replied the credit would come out of the increase in gambling tax. That was not an income tax credit, it was a gambling tax credit. **SEN. FORRESTER** stated it said on the fiscal note it would cost \$3.5 million. Was that figured on the \$600 credit? **SEN. BENEDICT** replied "yes".

SEN. SPRAGUE commented the people he talked with wanted that type of thing, so they could adjust their own application for that year as they made the conversion. **SEN. FORRESTER** stated he didn't see how the fiscal note could be correct if that was from the time the credit was \$300. The amount would now be doubled to \$7 million since the credit doubled. **SEN. BENEDICT** stated it would be more than that. **SEN. FORRESTER** asked if he could question someone who knew about the distribution of revenue tax to find out who could get hurt by the credit.

SEN. BENEDICT asked if the committee wanted to wait until he could get some people up there. **SEN. KLAMPE** stated, in fairness they needed to see a fiscal note. **SEN. BENEDICT** replied there could not be an amended fiscal note until the amendment was accepted and the bill was passed. There couldn't be an amended fiscal note until the bill was amended. **SEN. SPRAGUE** stated a fair idea was given if everything on the fiscal note was doubled, but to remember the time was also doubled so the yearly affect would be drawn out. **SEN. CRISMORE** stated the committee tried to read a lot more into it. The figures discussed would be the worst case scenario. That could be less, they didn't know for sure. **SEN. BENEDICT** said the budget office had been a part of the process all the way and had said "yes, the money is there", and "no, it won't negatively impact the counties to the tune of anything less than what they are getting right now".

SEN. MILLER suggested they pass the bill and **SEN. BENEDICT** could then work with the department to make certain it was what everyone said it was. Then they would have an amended fiscal note on the floor. **SEN. EMERSON** suggested they thought of that as a sign which read \$600 on each machine. Someone had to pay for the sign. Did they want to spend that kind of money? He feared that was going to cost someone more money. He thought that was just another expenditure and it should be knocked in the head.

SEN. BENEDICT stated he agreed with that point of view at first but the more he thought about it, the more he thought there were people 100 years ago who thought a quill pen was just fine, so why buy a fancy typewriter. The situation was similar, the manual system used was unpredictable and there was uncertainty whether or not it was working. The tavern owners needed a system

in place where there was no question in anyone's mind whether or not anyone cheated. **SEN. HERTEL, CHAIRMAN** affirmed this was inevitable. It had to be installed someday and it would never be cheap. Now was the opportune time.

Vote: The motion to **AMEND SB 187 CARRIED 6-3** on voice vote with **SEN. FORRESTER, SEN. EMERSON** and **SEN. WILSON** voting "NO".

Motion: **SEN. EMERSON MOVED SB 187 DO PASS AS AMENDED.**

Discussion: **SEN. EMERSON** reiterated he believed this was not the time or place to do that. He thought that would create a mess and passing the bill played into the hands of the bureaucracy.

Substitute Motion/Vote: **SEN. EMERSON MOVED A SUBSTITUTE MOTION TO TABLE SB 187.** The substitute motion **FAILED 6-3** on roll call vote (#1).

Discussion: **SEN. FORRESTER** stated he could not see flushing \$10 million of state revenue down the drain to create another bureaucracy. There was no proof of cheating, and yet they were banking on there being at least \$10 million worth of cheating. **SEN. KLAMPE** suggested once the amended fiscal note was prepared, that could be debated on the floor.

SEN. BENEDICT remarked he would vote for the bill but he disagreed somewhat with **SEN. FORRESTER AND SEN. EMERSON.** However, the main reason he wanted to vote for the bill was that 2 years hence some committee members would not be there and the bill would be back. It could be worse and the gaming industry might not get any credits.

Vote: The motion **SB 187 DO PASS AS AMENDED CARRIED 6-3** on voice vote with **SEN. EMERSON, SEN. FORRESTER,** and **SEN. WILSON** voting "NO".

EXECUTIVE ACTION ON SB 313

Motion: **SEN. WILSON MOVED TO ADOPT AMENDMENTS TO SB 313.**
SB031301.ABC.

Discussion: **Bart Campbell** stated the bill combined two sets of amendments, one from the Department and one set from **Mary McCue.**

SEN. EMERSON asked if there was good reason for it being taken away from Commerce and put in the Justice Department. **Beth Baker, Department of Justice,** stated the bill, in its original form, would put the new law into the current Unfair Trade Practices Act, which was primarily enforced by the Department of Commerce, although the Attorney General had some ability to bring enforcement action as well. What the Department of Commerce proposed in the amendments took the bill out of the Unfair Trade Practices Act and made it a section by itself.

Ms. Baker contended it was more along the lines of an anti-trust action, so they decided it would be better for the Department of Justice to handle it. The problem was that neither department had an anti-trust enforcement unit. She discussed that with the sponsor. By making the rule making authority discretionary, rather than mandatory, and taking out some of the enforcement issues, they thought the fiscal impact would be lessened. However, no matter where it was put, there could be some fiscal impact if state enforcement was used. They looked at a couple of other health care related bills floating around that put more enforcement authority in the Department of Justice. **Ms. Baker** stated the bill could dovetail with those to make it more consistent.

Vote: The motion to **AMEND SB 313 PASSED** unanimously on voice vote.

Motion/Vote: **SEN. EMERSON MOVED SB 313 DO PASS AS AMENDED.** The motion **CARRIED 7-2** on voice vote with **SEN. FORRESTER** and **SEN. WILSON** voting "NO".

EXECUTIVE ACTION ON SB 239

Discussion: **CHAIRMAN HERTEL** stated the bill had been tabled but was moved off the table.

Motion: **SEN. CRISMORE MOVED SB 239 DO PASS.**

Discussion: **SEN. CRISMORE** stated the only reason he requested the bill be brought back and asked for a do pass, was because he continually received calls from small microbrewers all over the state who claimed they were being discriminated against. He admitted he did not have all the answers but knew he needed to respond to the concern that had been expressed, so he brought the bill out for another debate.

SEN. EMERSON said he, also, had received a number of calls but handled them by referring to the contract between the distributor and the brewery, and the fact that the district could be defined in any way he wanted and get around the 75% call rule. It only required more paperwork. He would rather see it go that route than change the law.

SEN. BENEDICT stated the bill had been discussed a great deal. It concerned a distributor in Missoula who wanted to be more than he was capable of being. He tried to rally his accounts to use an hysterical approach and he had everyone calling the committee members to get the bill passed. Ninety-nine percent of the other distributors had no problem. The microbreweries would not be helped by this bill. It was the distributor who couldn't service what he had.

SEN. MILLER stated this was government at its worst. They were picking out a few people they regulated and a few they didn't, rather than treating everybody the same. If the bill was bad the way it was set up, it should be redone, but to pick and choose those whom were affected was wrong.

Vote: The motion SB 239 DO PASS CARRIED 5-4 on roll call vote (#2).

EXECUTIVE ACTION ON SB 290

Discussion: **Bart Campbell** explained the amendments, SB029001.ACE, number 2 inserted 'each', number 3 inserted 'individual'. The amendments would be changed on number 2 after the word 'each', 'individual' should be inserted.

Motion/Vote: **SEN. BENEDICT** MOVED TO ADOPT AMENDMENTS SB029001.ACE. The motion CARRIED 7-2 on voice vote with **SEN. FORRESTER** and **SEN. WILSON** voting "NO".

Motion: **SEN. SPRAGUE** MOVED SB 290 DO PASS AS AMENDED.

Discussion: **SEN. EMERSON** stated he spoke with the opponents after the hearing and they replied this changed in '83 or '85 and was a minimal change; but if they changed it back, it would be a big change. He pointed out if it was minimal to change it, it would be minimal to change it 2/3 of the way back. The change would be more fair if a person who deserved a break, would get the break.

SEN. FORRESTER added he talked to Claudia Clifford and she replied her interpretation still stood. She knew a young woman could be discriminated against. **Mr. Hopgood** said he would have an amendment here today that would guarantee there would be no price differentiation between a young woman and young man. The committee didn't see that amendment here this morning, do they?

SEN. BENEDICT stated he didn't recall that being said.

Vote: The motion SB 290 DO PASS AS AMENDED CARRIED 6-3 on voice vote with **SEN. WILSON**, **SEN. KLAMPE**, and **SEN. FORRESTER** voting "NO".

EXECUTIVE ACTION ON SB 311

Motion: **SEN. MILLER** MOVED SB 311 DO PASS.

Discussion: **CHAIRMAN HERTEL** stated the fiscal note was now available. He added **SEN. FORRESTER** pointed out the bill appeared to have a contingent void in the clause to consider. He knew the people downstairs wanted the chairman of the committee to make certain the committee was aware of that and brought it out. He

spoke to **SEN. WELDON** about the matter and told him they had to have a fiscal note. He thought there were to be amendments on the bill but there were none.

SEN. EMERSON reiterated what he said at the hearing. It appeared there would be 2000 calls a year and 5000 packets which would mean 40 calls and packets. Someone had to receive those calls. They already had 2 persons who worked full time at it and some persons who worked part time. It seemed to him that if the staff they already had was organized, those persons could gather them up and do this with no fiscal impact. The fiscal note showed \$131,000 and \$29,000. He thought that was false, or perhaps they operated very uneconomically. If they already had the people hired who could do it, organize them and get it done.

SEN. SPRAGUE agreed with **SEN. EMERSON** that it would not cost that much. When the fiscal note was put together **SEN. WELDON** did not sign, therefore he must have disagreed with it. He disagreed with it too. However, if one had ever gone through the process they knew it was an absolute nightmare. They had to work on efficiency.

SEN. BENEDICT asked what was to be done about the contingent void clause. Were they going to put one on it? **CHAIRMAN HERTEL** stated he had not received a clear answer whether it was necessary.

Motion/Vote: **SEN. BENEDICT MOVED TO AMEND SB 311 AND PLACE A CONTINGENT VOID CLAUSE.** The motion **CARRIED 7-2** on voice vote with **SEN. WILSON** and **SEN. FORRESTER** voting "NO".

Discussion: **SEN. EMERSON** asked the **CHAIRMAN** if he would talk to them about the fiscal note. He believed it was very false. **CHAIRMAN HERTEL** stated he talked to **SEN. WELDON** about it and that was why he didn't sign it.

SEN. BENEDICT stated if the committee passed it out with a contingent void clause, and **SEN. WELDON** convinced the committee members the fiscal note did not accurately reflect, then the contingent void clause could be taken off when they received a new fiscal note in the House.

SEN. EMERSON stated **SEN. WELDON** could talk to those who prepared the fiscal note and point out where he thought it was inaccurate, and get it changed. **SEN. BENEDICT** commented the budget office would not change the fiscal note unless Congress told them to do so. **SEN. SPRAGUE** claimed that in his experience with a fiscal note, if a new concept was submitted, panic ensued, extra time was called for, and an hypothesis had to be drawn up and a new fiscal note was put out just to get the note done. He knew they wanted to be responsible about it but they were under a time crunch.

SEN. BENEDICT said it wasn't just a time crunch. It also was a fact of life that each Department fought for their budget and if they could figure out a way to slip in an FTE or two, here or there, they would do it.

SEN. EMERSON replied he could see no indication where they considered the fact they already had people working at the job. They talked about how much time it would take. It appeared to him that was their way of adding new staff people.

Motion/Vote: **SEN. BENEDICT** MOVED SB 311 DO PASS AS AMENDED. The motion SB 311 DO PASS AS AMENDED CARRIED UNANIMOUSLY on voice vote.

EXECUTIVE ACTION ON SB 322

Motion: **SEN. SPRAGUE** MOVED TO ADOPT AMENDMENTS TO SB 322, SB032201.ABC.

Discussion: **Bart Campbell** pointed out number 3 on the amendments on the insert on the second to the last line where **SEN. JACOBSON** had indicated she felt more comfortable with 60 days instead of 30, so that was changed.

SEN. KLAMPE agreed the 60 days seemed a lot more reasonable.

SEN. EMERSON stated that the 60 day time limit seemed better, but the committee should be aware of the fact that if someone wanted coverage on some condition they had, and wanted to rig the deal, they could get 60 days of free coverage, then change policies, and get another 60 days of free coverage.

{Tape: 1; Side: B}

Vote: The motion to **AMEND SB 322 CARRIED UNANIMOUSLY** on voice vote.

Motion: **SEN. BENEDICT** MOVED SB 322 DO PASS AS AMENDED.

Discussion: **SEN. MILLER** declared he was all for portability and supported it in other areas, but SB 322 did not accomplish that. The problem was there were many insurance policies which were portable. But when there was no cost containment on it whatsoever, a person could go to a new policy. They had to cover the policy owner, but there was no telling what it would cost. That really didn't help anything.

SEN. EMERSON stated the government caused the portability problem by making premiums paid by companies tax deductible. If they had done the same thing with individuals rather than the companies and made the companies pay taxes on the premiums, people would never have had a problem with portability; everyone would have

had their own insurance policy. Another law passed to try to correct a problem the government caused in the first place.

Vote: The motion SB 322 DO PASS AS AMENDED CARRIED 7-2 on voice vote with SEN. MILLER and SEN. EMERSON voting "NO".

HEARING ON SB 329

Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, SD 26, Helena, stated that bill came as a joint effort of the State Auditor and AARP. They worked with people from the insurance industry on the bill and hoped they had a bill that addressed some concerns about long term care. She had worked on long term care issues for the last couple years in an effort to reduce Medicaid costs. They had a bill on the floor that afternoon that would restrict Medicaid coverage for people who had other means of covering their costs. That bill would put pressure on the long term care insurance industry. As she studied long term care insurance in the past, there had been a number of policies which were not appropriate; people bought expensive policies which didn't serve their needs. The availability of long term care insurance needed to be increased. She had a commitment to try increasing the availability of long term care insurance that was affordable.

SEN. WATERMAN related SB 329 addressed some of the concerns that senior citizens had expressed to her about problems with long term care insurance. The provisions of the bill addressed appropriate sales criteria. The bill made it the responsibility of the insurance company to talk to the applicant about whether or not they needed long term care insurance on that particular policy. In the past there had been insurance companies which sold long term care insurance to people who qualified for Medicaid and did not need to buy that policy. At the same time, on page 5 of the bill, that didn't preclude that person from buying, or the insurance company from selling, the person a long term care policy because there were people who qualified for Medicaid but refused to use it. The insurance companies recognized that they were all served by having that type of bill.

SEN. WATERMAN stated on page 4, there was a prohibitive practice in which the insurance company might not issue a refund to a person other than the owner of the policy. That prohibited someone from deciding they didn't want a policy and so the insurance agent came to the person with a refund check, made out to him, and proceeded to try to sell another policy to the person. Non-forfeiture was an area that was a concern to seniors. They want a non-forfeiture provision.

When SEN. WATERMAN talked to the industry, they convinced her all that did was to drive up the cost of insurance to seniors and that was one of the concerns she wanted to address. So, at

present, she could buy term life or buy whole life. What the bill asked was when the agent was selling long term insurance he needed to discuss with the person the availability of non-forfeiture benefits; they, at least, must offer it. She stated the last thing the bill did was to give the auditor's office the right to establish rules which specified the requirements for offering the sale of the policy of non-forfeiture benefits.

Proponents' Testimony:

Tom Hopgood, Health Insurance Association of America, supported SB 329 and appreciated the fact they were able to discuss the provisions of the bill with **SEN. WATERMAN** prior to its' introduction and urged DO PASS.

Bill Olson, AARP State Legislative Council, remarked they had 110,000 members in Montana, all of whom were seniors. He said **SEN. WATERMAN** covered all the points which they were concerned with in her presentation and asked DO PASS.

Claudia Clifford, State Auditor's Office and Insurance Commissioners Office, expressed the bill was very much a step in the right direction. It was intended to enhance the confidence in those types of products. Long term care had eaten up more of the Medicaid budget, and anything they did to slow that down and encourage the purchase of insurance, was good. **Claudia Clifford** stated **Clyde Dailey**, from her office, was present and would be more of an expert in answering questions.

Larry Akey, Montana Life and Health Association, asked for a DO PASS. Private long term care was the wave of the future as population grew older. They needed to be certain that long term care policies were adequate for the needs of the their senior population. **Mr. Akey** also asked for endorsement of **SEN. WATERMAN's** bill which was on the floor that day because without that bill, SB 329 would not have much impact.

Ron Iverson, insurance agent who writes longterm care insurance, asked for a DO PASS. They needed the protection for the average senior citizen who might not understand what longterm care insurance was all about. Also, in meeting with both **SEN. WATERMAN** and **Clyde Dailey** of the Commissioner's office, they had discussed some of the possibilities for the future of working through the problems in the next few years, in order to develop a very good consumer and insurance industry rapport.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. KLAMPE asked **SEN. WATERMAN** to explain the comment made earlier that "SB 329 didn't do much if her bill on the floor that

day did not pass". SEN. WATERMAN said, at present, she could go on Medicaid, shelter her estate and pass it on to her children. However, that was not the intention of Medicaid. Medicaid was a welfare program for the poor. In this state, 2/3 of the people in nursing homes were on Medicaid. They needed to encourage people to plan for their futures, buy long term care insurance, or have the family care for them. Opportunities needed to be expanded so people had other opportunities in nursing homes.

Closing by Sponsor:

SEN. WATERMAN urged a DO PASS of SB 329.

EXECUTIVE ACTION ON SB 329

Motion/Vote: SEN. WILSON MOVED SB 329 DO PASS. The motion CARRIED UNANIMOUSLY on voice vote.

HEARING ON SB 327

Opening Statement by Sponsor:

SEN. TERRY KLAMPE, SD 31, Florence, explained the bill was about health care reform. Health care reform wasn't insurance reform or cost containment; it also dealt with maintaining high quality health care. They had the best health care in the world and they wanted that maintained. He said that was what the bill addressed.

Proponents' Testimony:

Dr. Christopher Buzan, President of Montana Board of Chiropractors, stated the bill required a four year college degree in order to be licensed as a chiropractor in the State of Montana. Currently, there were four states in the country which required a bachelors degree for licensure; Maryland, North Carolina, Florida, and Wisconsin. There were other states considering the same legislation and those were California, Delaware, West Virginia, South Dakota, and Idaho. There were two schools that required more than two years of prerequisite training right now. Every school in the country required at least 60 hours of prerequisite training. Dr. Buzan said there was the "3 and 1 program", where a student studied at a university for 3 years, then started chiropractic school with the understanding that first year of chiropractic school was applied to the 4th year of the university. Nationally, 50-75% of students who entered chiropractic schools had a B.A. or B.S. The Board of Chiropractors supported the bill and believed it kept Montana in the forefront of professional standards' legislation without proposing undue hardship on future doctors.

Dr. John Sando, Montana Chiropractic Association, recommended DO PASS.

Mary Lou Garrett, Executive Director Montana Chiropractic Association, also urged a DO PASS.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. WILSON asked what the requirements currently were to get into chiropractic school. Dr. Buzan replied 60 hours (about two years). SEN. WILSON asked if it mattered what the 60 hours were in. Dr. Buzan stated the 60 hours had to be in certain specific basic sciences.

SEN. EMERSON questioned if the increased requirements for chiropractors would cause rate increases. Dr. Buzan stated he couldn't see that happening. It was so easy for them to obtain the degree, that would not be a hardship for them. SEN. EMERSON stated generally when a group increased requirements, the fees then went up.

SEN. BENEDICT asked how that would affect chiropractors already practicing. Dr. Buzan explained everyone would be grandfathered in. The bill would take effect in October of 1995. Those in chiropractic school at the time the bill was passed would be grandfathered in. Those already licensed were grandfathered in.

SEN. BENEDICT asked how many chiropractors are currently practicing in Montana that do not have a Bachelor's degree. Mary Lou Garrett stated 178 chiropractors practice, but she had no idea how many did not have a Bachelor's degree. Dr. Buzan guessed about 50%. SEN. BENEDICT asked if that would preclude 50% of new applicants that would not be able to get into the field because this would put a barrier in their way, kind of like a closed shop. Dr. Buzan stated they considered that but it was so easy to get the Bachelor's degree that it was not much of a barrier. SEN. BENEDICT asked if SB 327 was an attempt to limit competition. Dr. Buzan replied "no", they were simply trying to elevate the standards of their profession.

Closing by Sponsor:

SEN. KLAMPE stated the Board of Chiropractors and the Association of Chiropractors were in agreement on the bill and that meant something. As chiropractic practice continued to evolve into the future of our health care system, it was important that legislation did what could be done to maintain a high quality of practice.

EXECUTIVE ACTION ON SB 327

Motion: SEN. SPRAGUE MOVED SB 327 DO PASS.

Discussion: SEN. BENEDICT stated he had some reservations that the bill would limit the ability of some people who didn't want to finish their college education but could get through the state chiropractic school the way 50% of the chiropractors had in the past and were practicing. That limited competition.

SEN. EMERSON stated in the end it would lead to higher rates; however, perhaps that was not all bad if they were better educated and better trained to do the work.

Vote: The motion SB 327 DO PASS CARRIED UNANIMOUSLY on voice vote.

HEARING ON SB 335

Opening Statement by Sponsor:

SEN. KEN MILLER, SD 11, Laurel, explained SB 335 provided for less government restriction and was good for business.

Proponents' Testimony:

Brad Griffin, Montana Retail Association, presented his written testimony on the background for SB 335, EXHIBIT #1. He presented the Average Daily Balance Methods for Calculating Finance Charges on Credit Cards, EXHIBIT #2. He also presented EXHIBIT #3, regarding Duplicate Notices.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. FORRESTER asked Mr. Griffin if that would change the APR. Mr. Griffin stated the bill did not affect those. SEN. FORRESTER asked if he had an account with a \$500 balance, what would that do. Mr. Griffin referred to page 2 of EXHIBIT 2, Summary Points.

SEN. SPRAGUE asked Mr. Griffin as a retailer, those things were necessary, but the devil was in the details of them. That bill was three bills in one. As to late charges, if he had a balance of \$100 and charged something else in the process, would the late fees be charged on the whole thing or just the part that was late. Mr. Griffin stated you would be charged just the interest on the new purchase. The companies looked only to recoup their costs, not lose or hurt customers.

{Tape: 2; Side: A}

SEN. SPRAGUE stated he saw the logic of the interest rate but so many times the consumer was confused. They thought they were doing what was right; they wanted to continue to use their credit card but they didn't know if the interest was simple, compound, or daily. The typical person thought they had a 30 day grace period. Mr. Griffin stated that most of the VISA and Mastercards were located in national banks and used the form of calculation they tried to incorporate in this bill.

Closing by Sponsor:

SEN. MILLER stated there were three separate issues in the bill; however, they were related to the same thing. This would not affect them if they paid their bills on time. Banks charged interest the second a person borrowed the money; they didn't wait 30 days. Retailers should be allowed to do the same.

HEARING ON SB 320

Opening Statement by Sponsor:

SEN. EVE FRANKLIN, SD 21, Great Falls, asked that the bill be tabled by the committee. They needed more time to work out the issues.

EXECUTIVE ACTION ON SB 320

Motion/Vote: SEN. KLAMPE MOVED THAT SB 320 BE TABLED. The motion CARRIED UNANIMOUSLY on voice vote.

EXECUTIVE ACTION ON SB 335

Motion: SEN. WILSON MOVED SB 335 DO PASS.

Discussion: SEN. EMERSON declared he believed the bill stated what was current practice.

SEN. SPRAGUE maintained he would vote for the bill because the companies it represented, namely, Sears, Montgomery Ward, and J.C. Penny, were very ethical companies. He had some concerns if the compounding effect and the perpetual loan happened here.

SEN. BENEDICT stated that he had a problem with the confusion in the average daily balances, but it was the same as what the major credit cards did at present.

Vote: The motion SB 335 DO PASS CARRIED UNANIMOUSLY by voice vote.

EXECUTIVE ACTION ON SB 332

Motion: SEN. KLAMPE MOVED SB 332 DO PASS.

Discussion: SEN. BENEDICT stated he would vote for the bill but had a difficult time going back and forth while he tried to protect the rights of free enterprise. The discussion disclosed there were some bad apples among the landlords, but that didn't mean 90% weren't doing right by their tenants. There were a few who came from California, purchased the parks, developed 13 pages of rules, and tried to do away with older homes while there was no place for those people to go. He wished to amend all the new language out of this bill with the exception of section 2.

SEN. MILLER stated he could not support the bill. It was a complete infringement on personal property rights. The public water portion of the bill was already addressed by another bill in Natural Resources. If they put restrictions on what they had to do to get them back to original condition this was unfair as the free market took care of that. Most people who lived in mobile home parks lived there because it was affordable. If they started to put restrictions on them, it drove up their costs and would hurt them in the long run. That should be addressed on a local level. In Billings, a few new mobile home parks had opened up and took only the older trailers because they found a niche there.

SEN. SPRAGUE agreed with SEN. MILLER. He lived in an area which was diverse. There were parks there which had only one entrance and one exit. Some of the smaller parks found that impossible. He believed there was a problem in the Helena valley. There was also a problem with the commissioners, with zoning rights, and all those things. This was not a statewide problem. He opposed the bill on the free enterprise concept.

SEN. WILSON agreed with the previous comments. One of the things that jolted him was the item of "restoring to original condition". That was not always possible.

SEN. EMERSON stated they had a big hearing on that in Bozeman during the election campaign. Adding that information to what he heard in their hearing, the problem in Bozeman was due to the city fathers who made it impossible to start a new trailer park. Those people could not move out even if they wanted to. They were caught between a rock and a hard place. The solution was to pressure the County Commissioners and the City Council. They still tried to make the regulations even tighter and caused more problems. If the bill passed, it would add more problems to what they had. He said the bill was not the solution.

Substitute Motion/Vote: SEN. MILLER MOVED A SUBSTITUTE MOTION SB 332 BE TABLED. The substitute motion CARRIED 6-3 on voice vote with SEN. KLAMPE, SEN. CRISMORE, AND SEN. BENEDICT voting "NO".

EXECUTIVE ACTION ON SB 326

Discussion: CHAIRMAN HERTEL entered letters, he received after the hearing on SB 326, into the record and read the names of the parties submitting those exhibits. EXHIBIT #4, Dan O'Neill in opposition; EXHIBIT #5, Stephen Johnson who was a proponent of this bill; EXHIBIT #6, Douglas Wood in opposition; and EXHIBIT #7, Kelly Clarke who was in support of SB 326.

Motion: SEN. SPRAGUE MOVED SB 326 DO PASS.

Discussion: SEN. EMERSON stated they needed to dismiss the side issues and arrive at the simple thing it was, namely, where did the check go. That did not affect cost and where the check went was really the only thing affected by the bill.

SEN. SPRAGUE stated he thought it was more complex than that and he also thought the option of the insured was paramount there. It should be kept in mind the caregivers had a responsibility to keep their rates competitive. That was another issue, so in all fairness it was both things. He thought it was down to the option of the insured.

SEN. MILLER agreed with SEN. EMERSON that it was simple; however, he viewed it quite differently. The bottom line was government should stay out of controlling business. They were trying to manage free enterprise again. Free enterprise took care of it.

SEN. KLAMPE explained that SEN. MILLER didn't understand that government had already become involved and favored BC/BS by permitting them not to pay that tax. It was the insurance company of Montana because of governmental involvement. They used their power as a lever over the doctors.

SEN. BENEDICT stated in the last three to four years, they requested the insurance companies to contain costs by their best means and put into place mechanisms to accomplish that. Whether or not one liked BC/BS, they attempted to control costs as much as they could and offered some incentives for health care providers to help them control costs. When that was done, it allowed a run on cost containment.

SEN. EMERSON stated he understood all that but he thought no one ever wanted to set up a monopoly which controlled costs. That was a free enterprise question; letting the policy holder send the check wherever they wanted.

SEN. SPRAGUE agreed with SEN. EMERSON that this was a control issue. When BC/BS got into this, government was already involved. It was not free enterprise if an enterprise was totally tax exempt as a non-profit organization, and they tipped the scale. They couldn't have it both ways, fair was fair.

SEN. MILLER stated it was wrong to create bills which tried to correct bad bills. If there was a problem with BC/BS's tax exempt status, that was not the way to fix it.

SEN. CRISMORE understood the hangup. They received information at the hearing which demonstrated how much money the current system saved, but that didn't help the doctors in their business. The part he had to sort out was, if it was better in the overall picture of cutting cost.

SEN. KLAMPE stated dentistry had decreased from 7% to 3-5% of the overall health care expenditures in the country in the last ten years. Cost containment was working for dentistry within the free enterprise system. Government perceived a problem with health care and asked the providers to lower their salaries. It was tantamount to asking IGA or any grocery store to lower the food costs. This was not a free enterprise system at play here.

SEN. FORRESTER stated the committee members all knew the bill quite well. The committee was now debating philosophy. They should get back to business.

SEN. BENEDICT stated the bill was not just a dentists' bill. It was a bill which blew the whole system wide open on managed care and cost containment.

SEN. EMERSON stated it would not blow it wide open. There would still be competition present and people who belonged to BC/BS were still going to end up with a lower fee. That would still be a carrot to drag in other people.

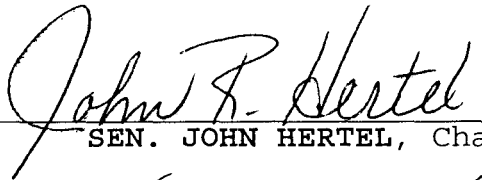
SEN. SPRAGUE stated the committee was obliged to get the bill to the floor for general and open discussion because of the bill's sincerity.


Substitute Motion/Vote: **SEN. MILLER MOVED SB 326 BE TABLED.** The substitute motion **FAILED** 5-4 on roll call vote (#3).

Vote: The motion SB 326 **DO PASS CARRIED** 5-4 on roll call vote (#4).

ADJOURNMENT

Adjournment: The meeting adjourned at 9:33 a.m.


SEN. JOHN HERTEL, Chairman


LYNETTE LAVIN, Secretary

JH/11

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE _____

2-16-95

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SENATE STANDING COMMITTEE REPORT

Page 1 of 5
February 16, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 187 (first reading copy -- white), respectfully report that SB 187 be amended as follows and as so amended do pass.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 8.

Following: " ; "

Insert: "ASSIGNING RESPONSIBILITY FOR PAYMENT OF VIDEO GAMBLING
MACHINE TAXES TO THE OWNER OF THE MACHINE; "

2. Title, line 9.

Following: "CREDIT"

Insert: "TO THE MACHINE OWNER"

Following: "SECTIONS"

Insert: "23-5-116, 23-5-602, "

Following: "23-5-610"

Insert: " , "

Strike: "AN IMMEDIATE"

3. Title, line 10.

Strike: "DATE"

Insert: "DATES"

4. Page 1, line 16.

Following: " . "

Insert: "The rules should provide that management information may
be an option for machine owners."

5. Page 1, line 20.

Following: " . "

Insert: "The rules should provide that funds may not be
transferred electronically without the consent of the
licensed operator."

6. Page 1, line 28.


Insert: "Section 2. Section 23-5-116, MCA, is amended to read:
"23-5-116. Disclosure of information. (1) The department
shall, upon request, disclose the following information from a
license or permit application:

(a) the applicant's name;

(b) the address of the business where the activity under



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the license or permit is to be conducted;

(c) the name of each person having an ownership interest in the business; and

(d) types of permits requested by the applicant.

(2) In addition to the information enumerated in subsection (1), the department may disclose any other relevant information obtained in the application or tax reporting process or as a result of other department operations to:

(a) a federal, state, city, county, or tribal criminal justice agency; and

(b) the department of revenue and the federal internal revenue service.

(3) In the event of delinquency or at the request of a video gambling machine permitholder, the department shall inform the permitholder of the status of a route operator's tax payments for a machine located at the permitholder's place of business."

Section 3. Section 23-5-602, MCA, is amended to read:

"23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(4) "Gross income" means money put into a video gambling machine minus credits paid out in cash.

(5) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno as defined by rules of the department. The machine utilizes a

video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(6) "Licensed machine owner" means a licensed operator or route operator who owns a video gambling machine for which a permit has been issued by the department."

Renumber: subsequent sections

7. Page 2, line 1.

Strike: "operator issued a permit under this part"

Insert: "machine owner"

8. Page 2, line 3.

Strike: "licensed"

Insert: "issued a permit"

Strike: "operator"

Insert: "machine owner"

9. Page 2, line 8.

Strike: "operator"

Insert: "machine owner"

10. Page 2, lines 10 and 11.

Strike: "issued" on line 10

Insert: "active"

Strike: "or" on line 10 through "date" on line 11

Insert: "January 4, 1995"

11. Page 2, line 15.

Following: "(iii)"

Insert: "the department determines that"

12. Page 2, line 17.

Following: "actual"

Insert: "hardware or software"

13. Page 2, line 19.

Strike: ":"

14. Page 2, lines 20 through 25.

Strike: "(i)"

Strike: "\$300" on line 20

Insert: "\$600"

Following: the first "for" on line 20

Insert: "each"

Following: "gambling" on line 20

Strike: remainder of line 20 through "more" on line 25
Insert: "machine or the actual hardware and software cost,
whichever is less"

15. Page 2, line 26.

Following: line 25

Insert: "(c) After January 4, 1995, but prior to the date notice
is given under subsection (2)(a)(ii), a licensed machine
owner may obtain tax credits for replacement machines in the
amount allowed under subsection (2)(b) by notifying the
department that specified machines are to be removed from
eligibility for tax credits and by transferring eligibility
to the same number of replacement machines. Additional tax
credits are not created by this subsection (2)(c)"

Renumber: subsequent subsections

16. Page 2, line 26.

Strike: "operator"

Insert: "machine owner"

Following: "that"

Insert: "the department determines"

17. Page 2, line 28.

Strike: "\$300"

Insert: "\$600"

Strike: "new"

Insert: "replacement"

18. Page 2, line 30 through page 3, line 3.

Strike: "(2)(c)" on line 30

Insert: "(2)(d)"

Following: "1" on line 30

Strike: remainder of line 30 through "year" on page 3, line 3

Insert: "the credit is applied in equal amounts over 12 quarters,
beginning the quarter after conversion to the automated
accounting and reporting system"

19. Page 3, line 6.

Strike: "third"

Insert: "fourth"

20. Page 3, lines 8 and 9.

Strike: "not" on line 8

Following: "other" on line 8

Strike: remainder of line 8 through "other" on line 9

Following: "machine"

Insert: "prior to the time the machine for which the tax credit

is allowed is connected to the automated accounting and reporting system"

21. Page 3, line 10.

Strike: "operator issued a permit under this part"

Insert: "machine owner"

22. Page 3, line 11.

Following: "machine"

Insert: "issued a permit under this part"

23. Page 3, line 13.

Strike: "operator issued a permit under this part"

Insert: "machine owner"

24. Page 3, line 15.

Strike: "licensed to the operator"

Insert: "issued a permit under this part"

25. Page 4, line 13.

Strike: "and"

26. Page 4, line 14.

Strike: "3"

Insert: "6"

27. Page 4, line 15.

Following: "system"

Insert: "; and

(f) allow the requirement of a performance bond from the machine owner for the payment of taxes"

28. Page 4, line 24.

Strike: "date"

Insert: "dates"

Following: the third "."

Insert: "(1)"

Strike: "[This act] is"

Insert: "[Sections 1, 5 through 7, and this section] are"

29. Page 4, line 25.

Insert: "(2) [Sections 2 through 4] are effective July 1, 1996."

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 16, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 313 (first reading copy -- white), respectfully report that SB 313 be amended as follows and as so amended do pass.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 6.

Strike: "COMMERCE"

Insert: "JUSTICE"

2. Page 1, line 10.

Strike: "commerce"

Insert: "justice"

3. Page 1, lines 25 through 27.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

4. Page 2, line 2.

Strike: "commerce" through "18"

Insert: "justice"

5. Page 2, line 30.

Strike: ", "

Insert: "or"

6. Page 3, lines 1 and 2.

Strike: ", " on line 1 through "violation" on line 2

7. Page 3, lines 4 through 6.

Strike: "(1)" on line 4 through "30-14-223." on line 6

Renumber: subsequent subsections

8. Page 3, line 7.

Strike: "enter"


Insert: "bring"

9. Page 3, line 8.

Following: "7]."

Insert: "If the action is brought by:

(a) the department, one-half of the amount of the penalty must be deposited in the general fund of the county where the

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action was brought and the remainder in the state general fund;
or

(b) a county attorney, the entire amount of the penalty must be deposited in the general fund of the county where the action was brought."

10. Page 3, line 9.

Strike: ", "

Insert: "or"

11. Page 3, line 10.

Strike: ", " through "violation"

12. Page 3, line 16.

Strike: "related"

Insert: "health care"

Strike: "licensed"

Insert: "as defined"

Following: "5"

Insert: ", except for health maintenance organizations"

13. Page 3, line 18.

Strike: "; "

Insert: ". "

14. Page 3, lines 19 and 20

Strike: subsection (4) in its entirety

15. Page 3, line 22.

Strike: "shall"

Insert: "may"

-END-

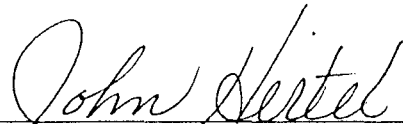
SENATE STANDING COMMITTEE REPORT


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
MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 329 (first reading copy -- white), respectfully report that SB 329 do pass.

Signed:


Senator John R. Hertel, Chair

 Amd. Coord.

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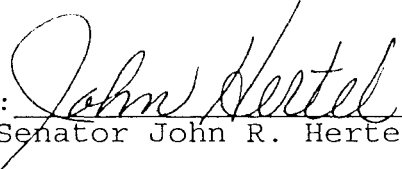
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SENATE STANDING COMMITTEE REPORT

Page 1 of 3
February 16, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 290 (first reading copy -- white), respectfully report that SB 290 be amended as follows and as so amended do pass.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Title, lines 5 and 6.
Strike: "ALL FORMS OF"

2. Page 1, line 27.
Following: "policy."
Insert: "(1) Each individual policy of disability insurance issued or issued for delivery in this state must contain coverage for maternity care consisting of prenatal and obstetrical care."
Renummer: subsequent subsections

3. Page 1, line 27.
Following: "Each"
Insert: "individual"

4. Page 1, line 28.
Strike: "or certificate issued ~~thereunder shall~~ under the policy"


5. Page 1, line 29 through page 2, line 2.
Following: "coverage₇" on line 29
Strike: remainder of line 29 through "(b)" on page 2, line 2

6. Page 2, line 8.
Strike: "A"
Insert: "An individual"
Strike: "or certificate"
Following: "of"
Insert: "disability"

7. Page 2, line 9.
Strike: "the accident and sickness"

8. Page 2, line 10.
Strike: "maternity care or of"

9. Page 2.


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Following: line 15

Insert: "(6)(a) As used in this section, "individual policy of disability insurance" means:

(i) a hospital- or medical expense-incurred policy or certificate;

(ii) a subscriber contract or contract of insurance provided by a health service organization; or

(iii) a health maintenance organization subscriber contract issued or issued for delivery to an individual.

(b) The term does not include:

(i) accident-only insurance;

(ii) specified disease insurance;

(iii) short-term hospital or medical insurance;

(iv) hospital confinement indemnity insurance;

(v) credit insurance;

(vi) dental insurance;

(vii) vision insurance;

(viii) medicare supplement insurance;

(ix) long-term care insurance;

(x) disability income insurance;

(xi) coverage issued as a supplement to liability coverage;

(xii) workers' compensation or similar insurance; or

(xiii) automobile medical payment insurance."

10. Page 2, line 18.

Following: "coverage."

Insert: "(1) A group disability policy or certificate of insurance issued or issued for delivery in this state must contain coverage for maternity care consisting of prenatal and obstetrical care."

ReNUMBER: subsequent subsections

11. Page 2, lines 22 through 25.

Following: "of" on line 22

Strike: remainder of line 22 through "(b)" on line 25

12. Page 2, line 28.

Strike: "for maternity care and"

13. Page 3.

Following: line 4

Insert: "(5) As used in this section, "group disability policy or certificate of insurance" means a group hospital- or medical expense-incurred policy or certificate. The term does not include:

(a) accident-only insurance;

(b) specified disease insurance;

(c) short-term hospital or medical insurance;
(d) hospital confinement indemnity insurance;
(e) credit insurance;
(f) dental insurance;
(g) vision insurance;
(h) medicare supplement insurance;
(i) long-term care insurance;
(j) disability income insurance;
(k) coverage issued as a supplement to liability
coverage;
(l) workers' compensation or similar insurance; or
(m) automobile medical payment insurance."

14. Page 3, line 8.

Following: "corporation."

Insert: "(1) A disability insurance plan or group disability insurance plan issued or issued for delivery in this state by a health service corporation must contain coverage for maternity care consisting of prenatal and obstetrical care."

Renumber: subsequent subsections

15. Page 3, lines 10 through 13.

Following: "insurability of" on line 10

Strike: the remainder of line 10 through "(b)" on line 13

16. Page 3.

Following: line 20

Insert: "(4) As used in this section, "disability insurance plan" or "group disability insurance plan" means a group hospital- or medical expense-incurred policy or certificate.

The term does not include:

(a) accident-only insurance;
(b) specified disease insurance;
(c) short-term hospital or medical insurance;
(d) hospital confinement indemnity insurance;
(e) credit insurance;
(f) dental insurance;
(g) vision insurance;
(h) medicare supplement insurance;
(i) long-term care insurance;
(j) disability income insurance;
(k) coverage issued as a supplement to liability
coverage;
(l) workers' compensation or similar insurance; or
(m) automobile medical payment insurance."

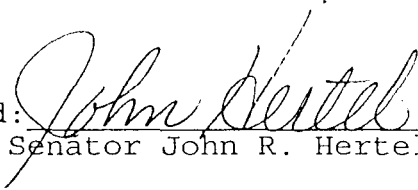
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 16, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 311 (first reading copy -- white), respectfully report that SB 311 be amended as follows and as so amended do pass.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 7.

Following: "DATES"

Insert: "AND A CONTINGENT VOIDNESS PROVISION"

2. Page 6, line 4.

Insert: "NEW SECTION. **Section 12. Contingent voidness.** In order to maintain a balanced budget, because [this act] reduces revenue, it may not be transmitted to the governor unless a corresponding identified reduction in spending is contained in House Bill No. 2. If a corresponding identified reduction in spending is not contained in House Bill No. 2, [this act] is void."

Renumber: subsequent section

3. Page 6, line 5.


Strike: "Section"

Insert: "Sections"

Following: "3"

Insert: "and 12"

-END-

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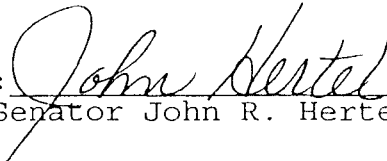
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 16, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 322 (first reading copy -- white), respectfully report that SB 322 be amended as follows and as so amended do pass.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 5.

Following: "HAD"

Insert: "QUALIFYING"

Strike: "AND"

2. Title, line 6.

Following: "MCA"

Insert: "; AND PROVIDING AN APPLICABILITY DATE"

3. Page 1, lines 16 and 17.

Strike: "If" on line 16 through imposed on line 17

Insert: "A health care insurer shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services in a policy or certificate of disability insurance for the period of time that an individual was previously covered by qualifying previous coverage that provided benefits with respect to those services if the qualifying previous coverage was continuous to a date not more than 60 days prior to the effective date of the new coverage"

4. Page 1, line 24.

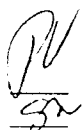
Following: "arrangement"

Insert: "that provides benefits similar to or exceeding benefits provided under the policy or certificate of disability insurance issued under this section"

5. Page 1, line 28.

Insert: "NEW SECTION. Section 2. Applicability. [This act] applies to a policy or certificate of disability insurance and health service membership contract entered into or renewed on or after [the effective date of this act]."

-END-



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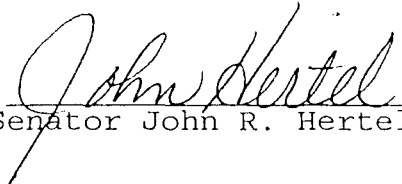
SENATE STANDING COMMITTEE REPORT

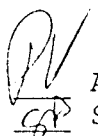
Page 1 of 1
February 16, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 239 (first reading copy -- white), respectfully report that SB 239 do pass.

Signed:


Senator John R. Hertel, Chair



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Sec. of Senate

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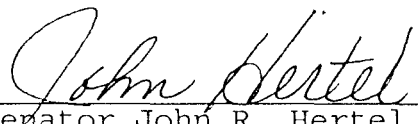
SENATE STANDING COMMITTEE REPORT


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
MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 327 (first reading copy -- white), respectfully report that SB 327 do pass.

Signed:


Senator John R. Hertel, Chair

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SENATE STANDING COMMITTEE REPORT

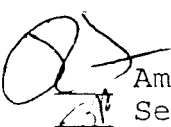
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
MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 335 (first reading copy -- white), respectfully report that SB 335 do pass.

Signed:


Senator John R. Hertel, Chair

 Amd. Coord.

 Sec. of Senate

401315SC.SRF

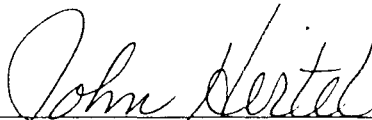
SENATE STANDING COMMITTEE REPORT

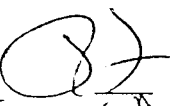
Page 1 of 1
February 16, 1995


MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 326 (first reading copy -- white), respectfully report that SB 326 do pass.

Signed:


Senator John R. Hertel, Chair

 Amd. Coord.

 Sec. of Senate

401316SC.SRF

BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 2-16-95 BILL NO. SD187 NUMBER 1

MOTION: _____

to Table SB 187

[illegible]

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 2-16-95 BILL NO. 239 NUMBER 2

MOTION: SB 239 DP

| NAME | AYE | NO |
|-------------------------------|-----|----|
| STEVE BENEDICT, VICE CHAIRMAN | | ✓ |
| WILLIAM CRISMORE | ✓ | |
| CASEY EMERSON | | ✓ |
| GARY FORRESTER | ✓ | |
| TERRY KLAMPE | ✓ | |
| KEN MILLER | | ✓ |
| MIKE SPRAGUE | ✓ | |
| BILL WILSON | ✓ | |
| JOHN HERTEL, CHAIRMAN | | ✓ |
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(didn't pass)

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 2-16-95 BILL NO. SB 326 NUMBER 4

MOTION: _____

To DP SB 326

[illegible]

SEN:1995
wp:rlclvote.man
CS-11

*The voice of retailing
in Montana!*



SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 2-16-95

BILL NO. SB 335

(Presented by Brad Griffin)

318 N. Last Chance Gulch ♦ Suite 2A ♦ Helena, MT 59601 ♦ 406-442-3388 ♦ Fax (406) 442-2633 ♦ 1-800-388-0236

THE CASE FOR LATE FEES FOR MONTANA RETAIL CREDIT GRANTORS

BACKGROUND FOR SENATE BILL 335

Retail credit customers who fail to remit their monthly minimum payment by the agreed due date cause the retailer to incur additional costs in attempting to collect the past due accounts. These collection costs are in addition to the normal costs incurred in extending credit and servicing the credit customer. These additional costs, if not prevented or recouped by the credit grantor, may show up in higher merchandise prices, meaning that cash customers and those who properly make their payments provide a subsidy to those who don't adhere to agreed payment terms.

The best public policy response to this obvious inequity is for Montana retailers to be able to assess a late payment fee on delinquent credit customers at an amount which encourages the customer to make timely payment and enables the retailer to recover those additional costs. While the Retail Installment Sales Act authorizes late fees, those fees are limited to the less of 5% of the payment due or \$15. Because retail credit card balances are low (generally under \$300.00) the monthly payment is typically \$30.00 or less which means that the maximum late fee a Montana retailer can collect on a typical billing is only \$1.50. Recent studies in several states have shown that the average cost of attempting to collect delinquent payments is several times that amount.

Besides allowing the retailer to offset the additional costs incurred, late fees also provide an incentive for the customer not to miss the payment in the first place. Under federal law, out-of-state credit grantors can and do charge late fees that are higher than Montana retailers can assess. This puts our Montana retailers at a competitive disadvantage because customers will first pay those bills with a significant late fee. As a result, the bills from Montana retailers go to the bottom of the stack and those from out-of-state creditors get paid first.

For most retailers, finance charge revenue is less than the cost of running a credit operation. A finance charge is imposed to try to offset the normal costs of running a credit program and it is based on people complying with the payment terms they agreed to. When they don't comply, added costs are incurred and these costs are what late fees are intended to minimize and to help offset.

Imposing a late payment fee on the customer who fails to keep the payment agreement is common in many consumer transactions. Utilities, doctors, lawyers, and home mortgage lenders all are able to charge late fees. Allowing a fee which lets retail creditors recover more of their costs would equitably put the extra collection cost on those customers who make the added expense necessary.

LEGISLATION - SENATE BILL 335.

The proposed legislation, SB 335, recognizing the increasing costs incurred by retailers when customers are late in paying their bills, provides for a late payment fee not to exceed \$15 with respect to payments which are not paid within 10 days after the scheduled due date. It is legislation which is fair both to Montana retailers and their customers.

AVERAGE DAILY BALANCE METHODS FOR CALCULATING FINANCE
CHARGES ON CREDIT CARDS*

(Presented by Brad Griffin)

* Analysis by Ray McAlister, Ph.D., Professor of Business Administration, University of North Texas, Denton, Texas.

Most credit card issuers use some type of "average daily balance" (ADB) system to compute finance charges. The following is an explanation of how two of these systems work along with the merits of each.

Currently permitted under Montana law--ADB Excluding Current Purchases: (ADB-X): The balance to which the monthly finance charge rate is applied is calculated by taking the sum of each day's unpaid balance and dividing by the number of days in the billing cycle. Each day's unpaid balance consists of the previous day's ending balance **less** any **payments** or **credits**. Under this system, however, there would be no finance charge imposed in any month in which either the beginning balance was zero or if that beginning balance was paid in full. This ability to avoid finance charges is commonly known as a "grace period."

Proposed change to Montana law--ADB Including Current Purchases (ADB-W): The balance to which the monthly finance charge rate is applied is calculated by taking the sum of each day's unpaid balance and dividing by the number of days in the billing cycle. Each day's unpaid balance consists of the previous day's ending balance **plus** any **new purchases** and **less** any **payments** or **credits**. This method differs from ADB-X described above in that any purchases made during the current billing cycle are included in the unpaid balance from the date of each purchase. This system also has the same type of "grace period" as described earlier, that is, there would be no finance charge imposed in any month in which either the beginning balance was zero or if that beginning balance was paid in full.

How ADB Systems Work

The following example will serve to illustrate how these two systems work. Assume the following:

| | | |
|----------------|-------------------------------|-------------------|
| March 1 | 0 balance | |
| March 16 | \$100 purchase | Monthly Finance |
| March 31 | Billing Date | Charge Rate: 1.5% |
| April 11 | \$20 payment | |
| April 21 | \$40 purchase | |
| April 30 | Billing Date | |
| May 16 | \$50 purchase | |
| May 21 | Paid April 30 balance in full | |
| May 31 | Billing Date | |

March: There would be no finance charge under either ADB system since the beginning account balance on March 1 was zero.

April: There would be a finance charge under both methods as follows:

Under ADB-X (current law):

| <u>Dates</u> | <u>No. Days</u> | <u>Unpaid Balance</u> | <u>Sum of Daily Balances (Balance x # Days)</u> |
|--------------|-----------------|-----------------------|---|
| April 1-10 | 10 | \$100 | \$1,000 |
| April 11-30 | <u>20</u> | \$ 80 | <u>\$1,600</u> |
| | 30 | | \$2,600 |

ADB for April would be: $\$2,600/30 = \$86.67 \times .015 = \$1.30$ FinChg

Under ADB-W (proposed law):

| <u>Dates</u> | <u>No. Days</u> | <u>Unpaid Balance</u> | <u>Sum of Daily Balances (Balance x # Days)</u> |
|--------------|-----------------|-----------------------|---|
| April 1-10 | 10 | \$100 | \$1,000 |
| April 11-20 | 10 | \$ 80 | \$ 800 |
| April 21-30 | <u>10</u> | \$120 | <u>\$1,200</u> |
| | 30 | | \$3,000 |

ADB for April would be: $\$3,000/30 = \$100 \times .015 = \$1.50$ FinChg

May: There would be no finance charge for May under either system since the April 30 balance was paid in full on May 21.

Summary Points

- (1) Neither of the ADB systems described above will result in a finance charge yield to the creditor greater than the nominal or stated APR disclosed under Truth in Lending regulations.
- (2) Both systems provide consumers with a "grace period," that is, the ability to avoid finance charges entirely by paying their monthly balances in full.
- (3) Under the proposed system (ADB-W), customers lose their "grace period" only for the number of days remaining in the cycle in which the purchase is first made. Advantages of this grace period can be regained by paying the balance in full in the following month.
- (4) Under the proposed system (ADB-W), customers are never charged a finance charge on any amount that is not owed for some number of days. This system will still be no more expensive and will usually be less expensive than a loan of money under similar conditions.

- (5) Extensive analysis of actual customer retail revolving account use over time show that seventy (70) percent of customers avoid paying finance charges all or, at least, some of the time.¹
- (6) An ADB-X system (present law) can be expected to produce about 5 to 8 percent less revenue for the retailer than ADB-W (proposed law).¹ This would be equivalent to reducing the nominal APR charged from 21% to less than 20 percent.
- (7) The difference in cost to an average customer would amount to only about \$0.18 a month.¹

1) These statistics are based on three studies of 16,000 actual customer accounts at 27 retailers in three states (California, Pennsylvania, and Texas). Each account was examined over a period of twelve months. These studies, all under the direction of Dr. McAlister, were as follows:

California Retail Revolving Credit: Its Use and Price Compared To Other States, Management Information Series No. 11, Merchants Research Council, Chicago, December, 1989.

An Analysis of Retail Revolving Credit Use in Texas, December, 1990.

An Analysis of Retail Revolving Credit Use in Pennsylvania, Feb., 1993.

*The voice of retailing
in Montana!*



SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 2-16-95

BILL NO. SB 335

(Presented by Brad Griffin)

318 N. Last Chance Gulch ♦ Suite 2A ♦ Helena, MT 59601 ♦ 406-442-3388 ♦ Fax (406) 442-2633 ♦ 1-800-388-0236

MONTANA SENATE BILL NO. 335

DUPLICATE NOTICES? WHY?

Section 2 of Senate Bill No. 335 would amend the section of the Montana Retail Installment Sales Act (RISA) which deals with the notices which a retail credit grantor must send to its cardholders when it changes the terms of its retail charge account agreements. (Such notices may be required when the retailer changes minimum payment requirements, adjusts fees for late payments or returned checks, etc.).

Montana is now one of only two states which require that a notification of a change in the terms of a credit account which will apply only to future purchases on the account must be given to the cardholder (described as "the buyer" in the RISA) during two billing cycles before its effective date. Since such notices must be given to all cardholders - whether or not they have outstanding balances and would otherwise be receiving a bill during the billing cycle - the costs incurred by a creditor in sending change of terms notices are not inconsiderable. Doubling those costs by requiring that the notice be sent twice to each of the retailer's cardholders in the state should not be necessary - especially when the change will be applied only in the future - unless the Legislature believes that for some reason Montana residents require more protection by the state than those of almost all other states.

Senate Bill No. 335 would amend the law by providing that the credit grantor shall give notice of the change of terms during the billing cycle prior to the effective date of the change. Under Senate Bill No. 335 a customer who objects to a change in the terms of the credit account would have the simple expedient of paying off the account under its existing terms.



Daniel J. O'Neill, D.D.S.
DENTISTRY FOR CHILDREN AND ADULTS

EXHIBIT NO. 4
DATE 2-15-94
BILL NO. 326

3310 Monroe Avenue
Belle Creeke Office Park
Butte, Montana
406-494-1316
(FAX) 494-1317

February 14, 1995

Senator John Hertel
Chairman of Business & Industry Committee

Dear Sir,

I am writing you regarding SB326, and though you do not represent my district I do feel that you represent the interest of Montana as a whole. If I may give you a little background I am a 5th generation Montanan and practicing dentist since 1981.

In 1993 Dentistry was sucked into the call to revamp the health care industry, even though it represented less than 3% of the health care dollar spent. The insurance industry, not counting the government Medicare and Medicaid, represented approximately 45% of the private dollars paid. A myriad of disbursement plans, ie. PPO, HMO, IPO pay a "portion" of their subscribers billing to the provider.

I have a list of the insurance carriers we deal with in our office, over 196. Prior to 1993, the insurance company that caused their patients, subscribers and us the most problems, necessitated rebilling for insurance company clerical errors, demand for payment of dental services covered under a patient's contract was Blue Cross/Blue Shield of Montana. They are the worst insurance company that we deal with on an annual basis!

Even though Blue Cross does not have to subscribe to laws specifically established for an insurance company it still looks and smells like one. This cash cow is sucking dollars from providers and subscribers and buying up small companies to insulate itself from the market place. Please consult the State Auditors office regarding this company in the last three years.



Daniel J. O'Neill, D.D.S.
DENTISTRY FOR CHILDREN AND ADULTS

3310 Monroe Avenue
Belle Creek Office Park
Butte, Montana
406-494-1316
(FAX) 494-1317

Page 2

So why am I picking on Blue Cross of Montana. They provide 28% of the insurance dollars paid into my practice, but register 98% of patient complaints that we file with the Insurance Commissioner of Montana,...until January 1994. At that time we elected not to participate in the Blue Cross PPO established for dentists in Montana, and as a result the payment for dental services provided, dental services agreed to between the doctor and patient would be sent to the patient, despite being clearly indicated on the insurance form. In addition, the Explanation of Benefits(E.O.B.), which explains how the services were paid was sent to the patient. Without the EOB our office could not evaluate the payment and we could not help our patients fight for the reimbursement due them. As you could expect our complaints against Blue Cross of Montana dwindled to less than 10%. Insurance companies make mistakes! Fighting for what is due our patient is our number one priority, and SB326 addresses this issue.

I can only imagine how the insurance industry is going to fight this bill. How many lobbyists and paid attorneys are going to be roaming the halls of the Capitol. But if you will, while you chair this committee please think of these things as well. With the newly created dental PPO Blue Cross, will restrict reimbursement to the provider, if they participate, or ask their subscriber to pay more out of pocket expense. If I am a "Blue Cross" provider this does not entitle me to a reduced mortgage payment, does not reduce my monthly utility bill, does not reduce the wages paid to staff, or does not entitle me to discounts on supplies.

In your discussion, please ask the participants about providing the "E.O.B." (Explanation of Benefits) to the health care provider. This is the critical piece of paper which allows us, on behalf of the patient to critique what is being paid for by their insurance carrier. There may be hundreds of variables in a Blue Cross plan for each of a hundred patients all paid differently. We can not represent our patients without the EOB. As a patient do you know the reimbursement on: MOD Amalgam #13, PFM Pontic #9, or subgingival scaling/curettage URQ.

As a health care provider, the person in the trenches, trying to do my best for the patients, who by choice visit our office, I ask you to consider SB326 on its merits and how it addresses problems newly created by the insurance industry.

Sincerely,

Daniel J. O'Neill, D.D.S.

Paper Chase
7 East Oregon St.
N. Main & E. Oregon
Kalispell, MT 59901

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 5DATE 326 2-15-94326

FAX COVER SHEET

406 752-4944

FAX 406 752-4955

TO: Senator John Hertel
Business & Industry
COMPANY: Committee
SB 326
FAX NO: 1-900-225-1600

PHONE NO: _____

NO. OF PAGES (INCLUDING COVER): 2

FROM: Dr. Stephen P. Johnson
COMPANY: self

OUR FAX NO: _____

OUR PHONE NO: _____

DATE: 2/14/95RE: SB 326 -

Please have this letter become a part of
the committee record and be supplied to
all committee members.

PAPER CHASE'S FAX SERVICE can receive FAX transmissions
24 hours a day.

Please call (406) 752-4944 if you have any difficulties receiving
this transmission.

February 14, 1995

Business and Industry Committee
Senator John Hertal, Chairman:
Montana State Capitol
Helena, MT 59604

RE: Senate Bill 326

Dear Senator Hertal.

I would like to comment on Senate Bill 326, a bill regarding assignment of insurance benefits.

I am in favor of this bill because allowing the benefits to be assigned to the servicing doctor makes our record keeping much easier and also aids the patient by tracking their insurance claims. If insurance companies continue to send the insurance payments to the insured, doctors will be forced into not providing the service of submitting insurance claims for the patient.

When our office submits a claim for a patient, the patient receives the check from the insurance company, and we have no way of knowing to which claim that payment should be applied, leaving an outstanding insurance claim on our books. In turn, the patient then asks us which of his claims have been paid by the insurance company and we have no answer.

Health care providers will also be forced into asking for payment at the time of service and leave the insurance claims to be submitted by the insured.

Please vote yes on SB326.

Sincerely,



Stephen P. Johnson, D.D.S.
3 Sunset Plaza
Kalispell, MT 59901
(406)752-1166

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 6
DATE 2-16
BILL NO. SB 326

Memorandum

Date: February 14, 1995

To: Business and Industry Senate Committee

From: Douglas E. Wood, D.D.S.
10 Three Mile Drive
Kalispell, MT 59901
(406) 752-8212

Reference: Senate Bill 326 (Assignment of Benefits)

Effective January 1, 1994, Blue Cross Blue Shield of Montana implemented the Preferred Provider program for dentists. Dentists were invited throughout the state to participate in the program, which determines how much a dentist can charge for his/her services. However, dentists weren't allowed to know what the allowable fees were prior to enrollment--and Blue Cross Blue Shield said they could change the fees at any time!

This program, which encourages patients to visit only dentists who had signed up as Preferred Providers, was designed for one reason--to maximize insurance company profitability.

Blue Cross Blue Shield simultaneously implemented a policy which dictated that patients could not choose to assign benefits to their dentist of choice. Unlike other insurance companies (Blue Cross Blue Shield keeps maintaining it is not an insurance company and therefore does not have to adhere to regular State insurance law), Blue Cross Blue Shield will not mail payment for services rendered to the patient's dentist--if the dentist is not enrolled as a Preferred Provider--not even if the patient requests it!

I am in opposition to Senate Bill 326 for the following reasons:

1. **The patient's right to choose is being violated.**
2. A few patients receive a check from Blue Cross Blue Shield and then do not pay their dentist, which **increases the cost of treatment** to people who do pay their bills.
3. When the dental office receives an insurance check, a review is made as to the correctness of payment. If no communication or payment from the insurer is not received, **providers cannot help the patients to evaluate the accuracy in payment**

For all of the above reasons, I urge you not to endorse Senate Bill 326. Thank you.

February 14, 1995

Senator John R. Hertal, Chairman
Business and Industry Committee
Montana State Legislature
Helena, Montana

Reference: Senate Bill 326 (Assignment of Benefits)
Hearing: Wednesday, February 15, 10:00 am

Dear Senator Hertal:

Enclosed with this facsimile is a memorandum to the Business and Industry Committee. It outlines all of the reasons why I am opposed to Senate Bill 326.

Would you please submit it into the record for the hearing tomorrow morning?

Thank you very much.

Sincerely,

Douglas E. Wood, D.D.S.
10 Three Mile Drive
Kalispell, MT 59901
(406) 752-8212

2-14-95

To
From

Senator John Hertel - Chairman
Kelly M. Clarke DDS. Billings, Mt. 652-5550
RE: Senate Bill 326.

Dear Senator Hertel;

I am writing in support of Senate Bill 326, which allows for Insurance payments to go to the Doctor if the Patient assigns them.

BC+BS allowed the assignment of benefits prior to the formation of their "Preferred Provider Program." If you decline to join their "club" in which you take lower fees, then this is one of their ways of "punishing" you by making your collections more difficult. Presently even if ~~the~~ patient assigns the benefits over to us, BC+BS will ignore their wishes and not send the check to us. Unless, you are in their "club", then they will allow the assignment of benefits to the "Preferred Provider."

Please Vote For SB 326. Thank You.

Kelly M. Clarke, DDS. Specialist in Pediatric Dent.

DATE February 16, 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: SB 320 Senator Franklin

SB 327 Senator Klumpe SB 329 Senator Waterman

SB 335 Senator Miller

< ■ >

PLEASE PRINT

< ■ >

Check One

| Name | Representing | Bill No. | Support | Oppose |
|--|------------------------|----------|-----------|--------|
| Tom Hopgood | HIAA | SB 329 | ✓ | |
| Barbara Larsen, ^{Arkent} LPN | Self | SB 320 | | ✓ |
| Dr. Chris Buzan | MT. Board of Chiropr. | 327 | ✓ | |
| Cheryl Smith | Dept of Commerce Staff | 327 | Info Only | |
| Melissa Case | CMCA | 320 | | ✓ |
| Ed Caplis | MSCA | 329 | ✓ | |
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE

February 16, 1995

SENATE COMMITTEE ON

Business and Industry

BILLS BEING HEARD TODAY:

SB 320 Senator Franklin
 SB 327 Senator Klumpe SB 329 Senator Waterman
 SB 335 Senator Miller

< ■ >

PLEASE PRINT

< ■ >

Check One

| Name | Representing | Bill No. | Support | Oppose |
|---------------------|-------------------------------|----------|---------|--------|
| Bill Olson | AARP | SB 329 | ✓ | |
| Claudia Clifford | State Auditor's Office | SB 329 | ✓ | |
| Barbara Larson | Self | | | ✓ |
| Stan Hall | Montana APRN | SB 320 | ✓ | |
| Jean Ballantyne | Mt. Board of Nursing | SB 320 | ✓ | |
| LANCE MELTON | DEPARTMENT OF COMMERCE | SB 320 | X | |
| Mary Lou Garnett | Mt. Chiropractic Assoc | SB 327 | X | |
| Brad Griffin | Mt Retail Assoc | 335 | ✓ | |
| Bank Booker | Mt. Nurses Assoc | SB 320 | ✓ | |
| John J. Sando, D.C. | Montana Chiropractic Ass | SB 327 | ✓ | |
| Steven Shapiro | MT NURSES ASSN | SB 320 | X | |
| Malace West | Self | SB 320 | | ✓ |
| LARRY AKFI | Mt ASSOC OF LIFE UNDERWRITERS | SB 329 | ✓ | |
| ROIVALD J. IVERSON | MONTANA AGENCIES SERVICE | SB 329 | | |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY