

**MINUTES**

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

**Call to Order:** By CHAIRMAN JOHN HERTEL, on February 28, 1995, at 8:00 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. Bill Wilson (D)

**Members Excused:** N/A

**Members Absent:** Sen. Terry Klampe (D)

**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: HB 148, HB 147, SB 408  
Executive Action: HB 148 BE CONCURRED IN  
SB 408 DO PASS AS AMENDED

**HEARING ON HB 148**

**Opening Statement by Sponsor:**

REP. DAN MCGEE, HD 21, Laurel, presented HB 148 at the request of the Board of Registration for Professional Engineers and Land Surveyors and the Department of Commerce. He said this bill truly was a simple house cleaning bill, to clean up language in the current statute. He stated Page 4, lines 28 through 30, simply redefined municipality to local government; on Page 6, lines 22 and 23, changed the formal education requirements to include semester hours, because the university systems currently were on semesters. He said to refer to Page 7, lines 27 and 28,

which allowed for an examination specifically related to land surveying in Montana; currently Montana was using national exams and they didn't give the amount of time necessary to quiz people on Montana law. On Page 8, lines 3 through 5, provided provisions for failures for examinations. **REP. McGEE** said Pages 10 and 11, redefined firms, partnerships, and corporations; and on Page 12, lines 15 through 18, deleted the requirement for the board acting in a six month period.

**REP. McGEE**, reported throughout the bill, under current law, the surveyor or engineer learning the trade was referred to as a surveyor-in-training or engineer-in-training; the national language had gone to the term, engineer intern or surveyor intern.

**Proponents' Testimony:**

**Dick Ainsworth, Chairman, Board of Engineers and Land Surveyors**, stated **REP. McGEE** covered **HB 148**; however, he had a couple things to cover in more detail. He stated they were making those house cleaning changes because the National Counsel of Engineers and Land Surveyors (NCELS) changed the terms "in-training" to "intern".

**Mr. Ainsworth** said there was no limit currently on number of times people take and retake the exams. They would like to change that to after the exam was failed twice, a person must wait one year before they can retake the exam. They currently test twice a year. He stated the exam, for the most part, was a national exam prepared by the NCELS. He announced after a third failure of the exam, the person would be prohibited from retaking the exam unless the board gave a special exception.

**Mr. Ainsworth** stated the six month deadline for investigation of charges was difficult for their board because they only met three times a year. They would like to remove the six month deadline. Land surveyors were different than engineers in that the laws differ from state to state. He said an engineer typically could go from state to state with their license as those laws didn't differ. They would like to have the ability to test for a longer length of time than two years.

**Bill Bucher, Professional Land Surveyor and Professional Engineer**, testified on behalf of the **Montana Association of Registered Land Surveyors (MARLS)**. He presented a letter from Dan Brien, President of MARLS, **EXHIBIT #1**, which addressed both **HB 147** and **HB 148**. MARLS supported the changes in **HB 148**.

**Nigel Mends, Montana Society of Engineers**, stated **HB 148** essentially was a housekeeping bill, simplifying the relationship between the people in the profession and the licensing board and they supported the passage of the bill.

Tom McNab, Montana Technical Council, which was a group of professional societies in the state representing about 1,500 design professionals; said they urged passage of **HB 148**.

Opponents' Testimony:

Bob Bushmaker, MSE, Incorporated, stated the only issue he had with **HB 148** was Page 8, lines 4 and 5, regarding the failure of three exams would disallow readmission to the examination. He was registered in Montana as well as three other states. This didn't affect him personally; however, there were many engineers within the state, who had failed the examination, had diligently tried to pass the exam, and he thought "three strikes and you are out" was an unfair limit. He further said the cost associated with the examination was an individual burden, not the State of Montana, and those people should be given the opportunity later in life to retake those examinations.

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT asked Robert Bushmaker if he wasn't comfortable with the next line on Page 8, lines 4 and 5, "the candidate may apply for a special circumstance waiver from the board to be readmitted for the examination". Mr. Bushmaker stated the decision making process of that resource should be decided by law and not a group of directors. He gave an example of a very talented engineer who had worked for him, who had the capabilities, but was a nervous wreck when he took tests. He was a valuable resource to Mr. Bushmaker, his company, and he trusted him explicitly. He failed the test by one point; the committee did not allow for a review of the examination. Mr. Bushmaker said the engineer didn't agree with the results of the test.

SEN. BENEDICT questioned Jim Shockly, public member on the Engineers and Surveyors Board, about being an attorney and how many times a person was able to take the Bar exam. Mr. Shockly stated he did not have to take one; however, he asked a friend a while ago who stated a person could take the test twice, but he honestly didn't know.

SEN. MIKE SPRAGUE questioned REP. DAN MCGEE on elections for County Surveyor, since one must be licensed, how often were the tests given and would that interfere with a candidates ability to run for office. REP. MCGEE stated, to run for the office, a person must be registered prior to running for the office. REP. MCGEE said the tests were given, he believed, twice a year.

SEN. GARY FORRESTER asked REP. MCGEE if the licensed land surveyor application only applied in class 1 counties, which meant there were only six or seven counties that required a licensed land surveyor or engineer. He commented Yellowstone county only had 32 licensed land surveyors and of the smaller counties, most didn't have one. REP. MCGEE stated they were licensed to practice state-wide. Several counties, such as

Stillwater, had combined the County Surveyor position with the Clerk and Recorder, but they had the opportunity, if they so chose, to have the County Surveyor position. **REP. McGEE** said; however, if they had one, then a Registered Professional Land Surveyor would have to be the one applying for that position.

Closing by Sponsor:

**REP. McGEE** commented there were many people who failed the test, himself included, and he petitioned the board to review his case, which they did, as they review cases routinely. He said it would be false to assume that if someone failed an examination, they had no recourse with the board to review the exam. He remarked the national portion of the exam was also reviewed by the national organization, so there were checks and balances within the system. **REP. McGEE** stated the test was not an academic exercise, not an extension of the university system. He insisted the whole point of the test was to determine the qualifications to serve the public. He said by the time someone had been tested and failed three times, there was something seriously wrong and in that case it would probably be in the public's best interest if they were not a professional land surveyor or professional engineer. He stated nationally, statistics showed, by the time a person had failed the test three times, they had problems measuring up to the competency level that was necessary.

HEARING ON HB 147

Opening Statement by Sponsor:

**REP. DAN McGEE, HD 21, Billings**, presented **HB 147**, which was a companion bill to **HB 148**, but **HB 147** was more involved. There were three items he wanted to go over with the committee. He said Page 2, lines 14 through 21, allowed a person with a doctorate degree in engineering to sit for the four hour professional examination. The next item, he stated, was Page 3, lines 5 through 9, which allowed for the addition of continuing education as part of the registration renewal process. The last item, **REP. McGEE** said Page 4, lines 6 through 11, injunctions, etc., would be placed against persons found practicing without being duly licensed. He stated the language there was completely redone by the Department of Commerce and applied to all boards state-wide.

Proponents' Testimony:

**Dick Ainsworth, Chairman, Board of Engineers and Surveyors**, explained the changes proposed on **HB 147**. He noted the first change, Page 2, dealt with permitting a person with a PHD degree in engineering, along with four years experience, to take the eight hour exam that would give them a certificate of

registration to practice engineering in Montana if the applicant was otherwise qualified.

**Mr. Ainsworth** stated the next change, Page 3, would permit the board to require continuing education as a requirement to remain licensed as an engineer or surveyor. He said there was not a program at the present time. He conveyed the surveyors in the state were pushing rather hard to require continuing education. He said the engineers were a little more lukewarm about continuing education. He declared this would not be an immediately requirement; however, this would permit the board to require continuing education by board rule. **Mr. Ainsworth** said they would adopt continuing education for land surveyors prior to doing so for the engineers. He maintained at present, they were not proposing continuing education to become mandatory; this would merely enable the board to do that through the rule making process if it were deemed necessary.

**Mr. Ainsworth** addressed the problem of dealing with unlicensed engineers and surveyors, because, their board was unable to deal with those people. He said their control over engineers and surveyors were only people that were board licensed, and the board's only recourse was to contact the county attorney to go after a person that was practicing without a license. He contended the county attorneys had more important things to do, so those unlicensed people were not dealt with.

**Mr. Ainsworth** stated those things were very important for the public's protection and protection of the profession and asked the committee to pass **HB 147**.

**Nigel Mends, Montana Society of Engineers**, which was the state chapter of the National Society of Professional Engineers, stated they supported the contents of this bill. He said the first element was the language to allow someone with a doctoral degree in engineering to take the examination to become a registered professional engineer without taking the fundamental exam. He maintained as a person attended college, they acquired the vocabulary of engineering, not becoming an engineer. He told the committee the exam for the fundamentals of engineering tested people on what they had learned of that vocabulary. He asserted after the four years of experience was acquired (where one learns to be an engineer), a person then took the PE exam to see the competency of practicing on one's own as a professional. He stated he didn't have a doctoral degree. He was a registered professional engineer and he was willing to concede that some with a doctoral degree and four years experience had learned the basic vocabulary of engineering. **Mr. Mends** would like to see that passed, as it would enable professors, the chance to become registered and serve as examples to their students.

**Mr. Mends** stated he personally was opposed to continuing education, but on the national level continuing education was the wave of the future. He said the professional organizations, such

as the National Society of Professional Engineers, the American Society of Civil Engineers, had both passed resolutions supporting continuing education and would be a requirement of the profession. He stated enabling the board to set up such a program in the future would happen at some point, whether today or tomorrow, so as an organization, they were in support of that language.

**Mr. Mendis** contended the licensing board needed an avenue to stop people practicing as engineers when they weren't qualified. He said engineers were keepers of the infrastructure, designers of the infrastructure, i.e. the highways, power plants that generated the light and heat used, facilities used every day, buildings, telephone systems, all involved engineers. He stated engineers designed and maintained everything, figured the best use of resources, both material and economic. He alleged as a consequence, anytime an engineer was involved and made a mistake, the best case would be it could cost money, the worst case would be people could die. He believed it was vitally important that the licensing board have an avenue to make sure that people who do not have credentials to practice, could not practice. **Mr. Mendis** stated this bill should be passed in it's entirety.

**Tom McNab, Montana Technical Council**, said they supported **HB 147** and urged the committee to give it a do pass. **Mr. McNab** presented two letters from engineers for the record, **James Weatherly, EXHIBIT #2**, and **Terry Druyvestein, EXHIBIT #3**, both were proponents of **HB 148** and **HB 147**. The issue of unlicensed practice was something he had heard many times throughout the state and this, of course, only dealt with engineers. He urged the committee to look at this issue, not only in the context of **HB 147**, but also in the context of **HB 518**, which would be heard by the committee on March 10, 1995.

**Bill Bucher, Montana Association of Registered Land Surveyors**, referred to the letter from **Dan Brien, EXHIBIT #1** (presented to the committee during the prior hearing today on **HB 148**). He read the letter in its entirety.

#### Opponents' Testimony:

**Bob Bushmaker, MSE, Incorporated**, was a registered engineer in three states, asserted in general the objective behind **HB 147** was very good. He thought there were details missing, however. He supported the first issue of continuing education, in terms of the quality of the profession. He stated the costs involved with the continuing education (the fees of the courses, plus the amount of time off work) would have an impact on the customers, an impact on the engineers and would impact business.

**Mr. Bushmaker** stated the boards had the right to supervise in all engineering within the state. He understood and agreed with the principle, but thought the wording was incorrect. He maintained approximately 30 to 35 engineers provided him verbal input in

regards to that particular issue. There were many questions, such as "if a contractor came in to put an elevation of a concrete slab together, did he need a licensed surveyor" or "someone putting in a septic tank and had to shoot elevation, must he have a licensed surveyor to shoot the elevations of the drain field". Those examples showed how people were interpreting **HB 147**. He said if the intent that engineers were involved with all aspects, the costs of construction would increase significantly. **Mr. Bushmaker** related the definitions of engineering and surveying both needed a bottom line.

Questions From Committee Members and Responses:

**SEN. GARY FORRESTER** asked **Bob Bushmaker** where the requirement was listed on **HB 147** for a contractor to have a licensed land surveyor to shoot the elevation for a slab, or a licensed land surveyor to shoot the elevation for a drain field. **Mr. Bushmaker** stated he was looking at the fact that professional engineers, as well as the non-registered engineers and surveyors, he worked with were concerned, because the details in the bill were pretty generic.

**SEN. FORRESTER** asked **Mr. Bushmaker** if he would provide this committee, at a later date before executive action was taken on **HB 147**, the information from the engineering field on how they defined the determination there was a requirement for a contractor to have a licensed surveyor. **Mr. Bushmaker** stated he had used that as an example.

**SEN. FORRESTER** questioned **REP. McGEE** on Section 3, did the bill now make the violation a felony, as line 29, "guilty of a misdemeanor" was struck. If the violation wasn't a misdemeanor, was it indeed a felony? **REP. McGEE** stated he didn't know if that would be a felony. He said the penalty would be appealing to the court for an injunction. He maintained the court issued the injunction and at that point, should the person continue to practice, they would then be in contempt of court. He said the penalty, see Page 4, line 11, of \$25,000 now was in response for them being in contempt of court. He explained the only relief the board was allowed, under this bill, was injunctive relief via the court. He conveyed the language established initially some civil penalties the board itself could implement and that had been stricken.

**SEN. FORRESTER** asked **REP. McGEE** to tell him how many cases he had in the past few years that would apply to Page 4, lines 4 and 5, "the Attorney General shall act as legal adviser of the board and tender legal assistance necessary" to comply with lines 6 through 11. **REP. McGEE** answered he had received a telephone call several weeks ago about two cases of unregistered people practicing land surveying. In 22 years of practice **REP. McGEE** had never seen a county attorney prosecute a misdemeanor charge against an unregistered practice of land surveying. He thought this dealt primarily with land surveying as opposed to engineering. He

related there were not many unregistered engineers practicing engineering; however, there were many in the surveying practice.

**SEN. FORRESTER** inquired from **REP. McGEE** if there was a fiscal note with this bill. **REP. McGEE** stated there was a fiscal note. He asked the committee to look at Civil Penalties under Revenues. He said the fiscal note was written prior to the change in the language of the civil penalty section on Page 4. **REP. McGEE** stated he didn't know if that fiscal note even applied at this time.

**SEN. FORRESTER** said there was now the cost factor of the Attorney General's office that wasn't reflected in the fiscal note the committee had before them. He stated prosecution's were never cheap and there should be a fiscal note regarding the Attorney General's office. **REP. McGEE** agreed that there should be another fiscal note that included the cost factor and he would request one.

**SEN. WILLIAM CRISMORE** asked **REP. McGEE** if it was his intent that every little thing would require a licensed surveyor.

{Tape: 1; Side: B}

**REP. McGEE** stated "absolutely not". This would not preclude a contractor going out and putting in a septic system. He stated nothing in the law here addressed, or inhibited anyone in doing contract work, from requiring an engineer or land surveyor to be there immediately in order to do that work.

**SEN. MIKE SPRAGUE** questioned **REP. McGEE** regarding Page 4, lines 6 through 11, where the concern about licensed people became generic, but also became paranoiac. He said reasonable people would assume the issue wouldn't be forced, but it was in the law, and he wondered if that would be a problem. **REP. McGEE** stated "no", because so many statutes were written that were generic. He stated **HB 147** referred to people offering their services that were not actually licensed or registered in that field.

**CHAIRMAN JOHN HERTEL** asked **REP. McGEE** about the time frame of the continuing education and how often should the licensed surveyor or engineer obtain the 15 hours of continuing education. **REP. McGEE** stated the original language of the bill, Page 3, line 5 "engaging in other activities, such as continuing education", listed no specified time intervals. **REP. SIMON**, Chairman of the House Business and Labor Committee wanted something specific in there, so they took what the National Council of Engineer and Land Surveyor Examiners had proposed for a source of continuing education. He stated they were talking about hours, not days. Legal changes and technology changes made it very important for surveyors and engineers to be kept up to date on all the changes, as those changes were transpiring very rapidly.



REP. SIMON said the surveying community was very desirous of having the continuing education. He stated the board was the vehicle by which they could get that accomplished. He conveyed the engineers did not want the continuing education requirement and were not interested at this time. He reported that was okay with the surveyors as the board must serve two disciplines and that language was to allow the board to address either discipline. REP. McGEE said they already had four seminars per year that addressed the issue. He maintained it fell into line with adjacent states and what they were doing.

Closing by Sponsor:

REP. McGEE reiterated in closing, the continuing education was about hours, not days, and the concern raised, was not a legitimate concern. He stated also, any continuing education process the board would entertain was part of the rule making process and had to go through several public hearings to establish that process. He maintained the engineers were not in favor of this as a group. He didn't think this would happen for years; however, the surveyors would like to institutionalize it tomorrow if it were possible.

REP. McGEE said they were not changing the definition of engineering or land surveying. He stated those concerns about contractors were not an issue, as they were dealing with land surveyors and engineers. He reported this was an important bill in two respects (to land surveyors in particular), the continuing education they would like established; the public health, safety, and general welfare was the basis for most laws and was with regard to the ability for the board to file injunctive action against non-registered individuals. He maintained currently, the board worked with him if he made an error; however, they could not do that with someone not licensed.

REP. McGEE asked SEN. KEN MILLER to carry HB 147 on the Senate floor and SEN. MILLER agreed to carry the bill.

HEARING ON SB 408

Opening Statement by Sponsor:

SEN. MIKE SPRAGUE, SD 6, Billings, presented SB 408 which applied the privatization mentality to government. He stated this was a process they had learned in the business sector and this bill applied that process to government. He declared this issue dealt with the State Lottery Commission, which had been a relatively successful entity and their sole function was to make a profit. He reported they would like to enhance that opportunity enabling them to purchase things in a more businesslike manner. SEN. SPRAGUE presented amendments to SB 408, EXHIBIT #4, and explained

those amendments to the committee. He also passed out copies of his fiscal note, **EXHIBIT #5**.

**Proponents' Testimony:**

**Charmaine Murphy, Director, Montana Lottery**, stated they were celebrating their eighth year and had transferred over \$45 million to Montana's educational system through the lottery process. They had also transferred \$2 million to the Board of Crime Control. They had given away \$96 million in prizes and \$12 million in retail commissions.

**Ms. Murphy** said, as they matured, they were increasingly challenged to operate more effectively. They had continued to find methods of operating more efficiently. **SB 408** provided the flexibility for the lottery to come up with a long-term solution to become more efficient. They were a market-driven organization and must respond quickly to market conditions and opportunities. **SB 408** gave them the ability to contract out and to do their own purchasing and negotiating. She asked the committee to support **SB 408** for the good of the lottery and for the good of the state programs benefitting from those proceeds.

**Leo Giacometto, Governor's Office**, conveyed this bill had come out of the Reviewing Government Task Force that held hearings around the state. He stated they came up with the proposal of more privatization abilities and this was one of their recommendations. The Governor fully supported **SB 408** and believed it gave the lottery the ability to maximize their return to the state. He declared they hoped the committee would give favorable consideration to this bill.

**Larry Akey, Video Lottery Technology (VLT)**, announced VLT was one of the leading manufacturers and providers of gaming devices and services in the country, founded ten years ago, based in Bozeman and were the on-line vendor for the Montana State Lottery. He said when privatizing state government functions there were two different things to be discussed. He stated, first, turning entire government operations over to the private sector in allowing government operations to work more like businesses. He maintained in the case of the Montana Lottery, it really didn't make a lot of sense to turn the lottery completely over to the private sector. He explained the logic behind privatizing was competition in the marketplace and would provide a more effective provision of services.

**Mr. Akey** expressed in the case of the lottery, it was really a state-created, state-run monopoly. He didn't think anyone would suggest multiple lotteries in the State of Montana; rather, a single lottery run by the state, acting like a business and that was what **SB 408** did, particularly with the amendments proposed by the sponsor. He said those amendments did two things: (1) they made it clear the security and integrity of lottery operations remained the responsibility of the director and of the state; and

(2) they made it clear for those large procurements that were likely to be prone to lawsuits, they would continue to follow the state purchasing code. He said the lottery ought to be given the flexibility required for them to act like a business with smaller, more frequent types of purchases. **Mr. Akey** said the larger contracts the lottery let should be left with the clearly defined ground rules spelled out in the State Purchasing Code. For that reason, they would ask the committee to adopt the sponsor's amendments and give this bill a do pass recommendation.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

**SEN. GARY FORRESTER** asked **Leo Giacometto** what was the problem that needed to be fixed and what happened to the Department of Administration and why weren't they here today. **Mr. Giacometto** stated he would rather have the Director of the Lottery speak on that. **Mr. Giacometto** said it wasn't that things had been done wrong; this bill would give the lottery more opportunity to maximize and not go through that process.

**Charmaine Murphy** said the Department of Administration had done nothing wrong. She stated what they found was the lottery had such specialized needs it took P&G an extraordinary amount of time, and the lottery people's time, to develop programs allowing them to operate. She remarked they had a huge amount of printing through the Publications & Graphics Bureau of the DOA. She said the lottery people gave the specifications to the graphics people, who rewrote the specs into their own format and then bid out to a printer. She reported the translation ended messed up oftentimes, through no fault of theirs, but because they perhaps didn't understand. She stated it took the lottery people more time to put it all together again and by the time it returned, a lot of money was spent, a lot of staff hours used, and sometimes it wasn't correct because of the translation. She thought if the middleman function was removed, they would be able to negotiate and contract directly with the printer. She claimed it would benefit the lottery, as well as the state overall, enabling them to meet the lottery's special needs.

**SEN. FORRESTER** asked **Ms. Murphy** what kind of dollar amount was figured in savings. He maintained the fiscal note didn't indicate actual dollar savings, but could the committee be given an idea of the savings by eliminating the middleman. **Ms. Murphy** stated in general they would save many staff hours and because they didn't have the flexibility to do that at present, it was difficult to actually place a dollar amount. She had asked the lottery's marketing director to put together an estimated cost savings of contracts they had gone through and project out what they may be able to generate in additional revenues because of the time spent on those inherent inefficiencies to more productive tasks.

Informational Testimony:

**Karalee Ellison, Director of Marketing, Montana Lottery,** stated she had put together an overview for **Ms. Murphy** some time ago from the marketing standpoint which would have been impacted in fiscal 1994, had they had the latitude to work as a private business. She said there were two areas effected. She stated one was in the active cost savings of goods and services they might enjoy being able to negotiate their own contracts. **Ms. Ellison** said the other was in the procedural structure they must adhere to as a state agency in working through the Department of Commerce or the Department of Administration, who made things happen. **Ms. Murphy** had alluded to that a little. She stated because of their needs, they went through other structures and then back again, which required a great deal of time. She said this agency didn't have the flexibility or the needed latitude to quickly respond to market conditions, which was a necessity in a market driven organization for profit.

**Ms. Ellison** explained for opportunities, or problems that came up, they needed the latitude for a more profitable operation. She said they estimated the lost revenue due to the procedural structure of a state agency was roughly 10% of their time, which directly translated to their revenue and that came to about, in fiscal 1994, \$3.7 million. She related in terms of the state, they returned to the state about 25%, so that came to about \$925,000 just from internal manhours needed to go through the procedural structure of the State of Montana, in whatever configuration that might be. She explained in terms of purchasing, specifically publications and graphics, they needed to design POS (point of sale) materials for their retailers, games, etc.

**Ms. Ellison** said those printing items went through the State of Montana. She said the publications and graphics alone were things that needed to be negotiated, which they couldn't do. She also stated that didn't take under consideration quality, turnaround, or other things that balanced what those negotiations would be. Based on that, they believed they could save on the average, about 20% of their printing costs if they were able to do it directly. She contended that potential savings came to about \$19,000 last year just on their printing alone.

**Ms. Ellison** said the other item was the preparatory work, which the P&G did for most state agencies. She stated because of their specialized needs, they needed to do their own prep work as it related to printing anyway (quality control, writing the specs, those types of things). She related what happened was P&G acted more like a clearing house or middleman to those things rather than actually doing that work on their behalf. She thought the savings there would come to about \$3,000 a year in fees for doing work that actually they had already created and then translated to another form before it was sent out. **Ms. Ellison** explained the internal labor could be spent maximizing revenues rather than

adhering to specific state procedure and the actual savings of negotiating their own printing.

Questions From Committee Members and Responses continued:

SEN. FORRESTER asked Mr. Giacometto, since no one was here from the Department of Administration, last session they had the department put into effect a cost accounting procedure, so how much money would the DOA lose in taking away that business. Mr. Giacometto stated there was plenty of work at present for DOA to do and on a cost analysis, he could not break that down. The turnaround time for the rest of the state agencies should improve.

Closing by Sponsor:

SEN. SPRAGUE declared the lottery had taken the initiative to implement some business principles that do work. They didn't have time to explain a lot. In his guess, they would save anywhere from \$3-\$5 million a year. He stated it was all part of an aggressive process as opposed to a passive process. He would like the committee to pass SB 408 so he could take it to the Senate floor.

EXECUTIVE ACTION ON HB 148

Motion: SEN. GARY FORRESTER MOVED HB 148 BE CONCURRED IN.

Discussion: SEN. BENEDICT stated he had a proposed amendment on Page 8, to strike lines 4 and 5. He thought a candidate failing three examinations and not allowed readmission to the examination was wrong.

SEN. BILL WILSON opposed that amendment. He had a personal experience of a situation where he worked, where people were allowed to take their tests unlimited amount of times and he thought it just demeaned the craft. He had taken a conductors examination for the railroad and was the only one of 15 that passed the examination. The others took it 3 and 4 times and it was the same test.

SEN. MIKE SPRAGUE commented there was a condition known as "test anxiety" and he and his son both had the condition. It was a form of "pressure" that brought on the anxiety.

SEN. WILLIAM CRISMORE stated he agreed with both SEN. WILSON and SEN. BENEDICT. He thought the board could potentially prevent people from getting their licenses. He thought it unfair to shut people out for life because of the three times and you're out.

SEN. KEN MILLER commented if the committee accepted the proposed amendment, he thought the committee should be more specific, like

on the line just above, it said wait 1 year before your third examination. He explained it could state specifically a waiting period for the fourth and fifth, etc., times.

**SEN. WILSON** insisted in many industries people took the examinations, became familiar with them, and didn't really take them seriously. When he took another promotion within his company, they had a failure requirement in that if you failed it you were washed out and they did wash people out. He conveyed it came down to the fact if a person couldn't handle the pressure, then that person didn't belong there and they didn't want that person there because situations were too serious and there was too much at stake.

**SEN. SPRAGUE** declared, as a Viet Nam veteran, etc., they did a survey at one time and talked about the five most feared things in the world; death, sky diving, etc., and the one most feared was public speaking. He said people all had different fears.

**Motion/Vote:** **SEN STEVE BENEDICT MOVED TO AMEND HB 147.** The motion **FAILED 5-2** on roll call vote #1.

**Vote:** The motion **HB 147 BE CONCURRED IN CARRIED UNANIMOUSLY** on voice vote.


#### **EXECUTIVE ACTION ON SB 408**

**Motion/Vote:** **SEN. MIKE SPRAGUE MOVED TO ADOPT AMENDMENTS** as presented during the hearing. Motion **CARRIED UNANIMOUSLY** by voice vote.

**Motion/Vote:** **SEN. STEVE BENEDICT MOVED SB 408 AS AMENDED DO PASS.** Motion **CARRIED UNANIMOUSLY** by voice vote.

ADJOURNMENT

**Adjournment:** The meeting adjourned at 9:40 a.m.

  
SEN. JOHN HERTEL, Chairman

  
LYNETTE LAVIN, Secretary

JH/11

MONTANA SENATE  
1995 LEGISLATURE  
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE 2-28-95

[illegible]

SEN:1995  
wp.rollcall.man  
CS-09

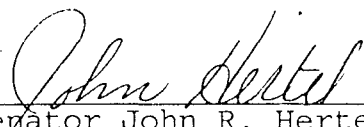


SENATE STANDING COMMITTEE REPORT


Page 1 of 1  
February 28, 1995


MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 148 (third reading copy -- blue), respectfully report that HB 148 be concurred in.

Signed: 

Senator John R. Hertel, Chair

 Amd. Coord.

 Sec. of Senate

SEN. KEN MILLER  
Senator Carrying Bill

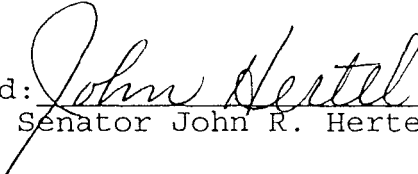
471237SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 28, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration SB 408 (first reading copy -- white), respectfully report that SB 408 be amended as follows and as so amended do pass.

Signed:   
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 5.  
Strike: "COMMISSION"  
Insert: "DIRECTOR"
2. Title, line 6.  
Strike: "ORDER" through "TO"
3. Page 1, line 22.  
Strike: "Under"  
Insert: "With"  
Strike: "direction"  
Insert: "concurrence"
4. Page 1, line 23.  
Strike: "shall"  
Insert: "may"
5. Page 1, lines 25 and 26.  
Strike: "All" on line 25 through "contracts" on line 26  
Insert: "The state shall provide for management, security, and internal audit control"
6. Page 2, line 21.  
Following: "lottery"  
Insert: "that have an aggregate value of more than \$250,000"

-END-



Amd. Coord.  
Sec. of Senate

471243SC.SPV

## A hand-drawn oval containing a hash symbol (#) and a diagonal slash (/).

MOTION: amend HB 148

Failed

[illegible]

PRESIDENT  
DANIEL P. BRIEN  
P.O. Box 225  
SOMERS, MT 59932  
406 - 857-3563 (O) (Fax)



VICE-PRESIDENT  
LINDA S. SMITH  
1935 3RD AVE. EAST  
KAUSPEL, MT 59901  
406 - 755-5369  
406 - 758-5393 (Fax)

PRESIDENT-ELECT  
WARREN P. LATVALA  
Rte 85 Box 4244  
LIVINGSTON, MT 59047  
406 - 686-4452 (O) (Fax)

SECRETARY-TREASURER  
ROBERT R. GUSTINE  
P.O. Box 3727  
BOZEMAN, MT 59729  
406 - 587-5407  
406 - 587-5408 (Fax)

P.O. Box 359  
COLUMBIA FALLS, MT 59912

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 2-28-95

BILL NO. # HB 147 & 148

*(presented by Bill Bucher)*

February 24, 1995

Senate Business and Industry Committee / Room 410

Re: Hearing on HB 147 and 148 at 8:00am on Tuesday, February 28, 1995

Dear Committee Chairman Senator John R. Hertel and members:

House Bill 147 deals with two major areas we have tried to address for many years. Land surveying is a highly technical and ever changing profession. Surveying right now throughout the world is being done with the use of satellites. Within the next ten years this satellite surveying very likely will be used by the average surveyor. We've come along way from the transit and chain. We need to keep up or fall by the wayside. With the value of property today in Montana, and every increasing litigation dealing with land, we also need to keep up on the legal issues and boundary law.

Our association has a Continuing Education committee that holds from 3 to 4 seminars a year. In the spring of 1994 we held a seminar attended by 112, and later in the fall one attended by 190. This past January we had another one attended by over 130. These past three seminars have been done over the Montana Educational Telecommunications Network (METNET), held at eight sites around Montana. We now have the resource in METNET, to let the surveyors throughout Montana be involved fairly easily and very cost effectively.

As of 1994, by either state statute or by board rule, twenty six states have mandatory Continuing Education. Seven other states have voluntary Continuing Education. House Bill 147 would allow the Board of Registration the option of requiring Continuing Education. Our association feels Continuing Education is a must.

page 2

February 24, 1995

Senate Business and Industry Committee

Secondly, the need for dealing with the unlicensed practice of land surveying is of paramount concern. Currently our Board of Registration has no control over the unlicensed practitioner. Right now this is only a misdemeanor. This is not a deterrent to the unlicensed individual. We as an association, have found it very difficult to get our County Attorneys to investigate and prosecute these cases. This bill would put some enforcement teeth with the Board that currently regulates all of the licensed surveyors in our profession.

House Bill 148 is mainly a house keeping bill to clean up areas of concern by our Board of Registration.

On behalf of our membership comprising of 177 Montana Registered Professional Land Surveyors, I urge your support of these two bills as transmitted to the Senate.

Professionally,

A handwritten signature in cursive script that reads "Daniel P. Brien".

Daniel P. Brien  
President MARLS

February 27, 1995

SENATE BUSINESS &amp; INDUSTRY

EXHIBIT NO. 2DATE 2-28-95BILL NO. HB 147 & HB 148*(presented by Tom McNaab)*

Senate Business and Industry Committee

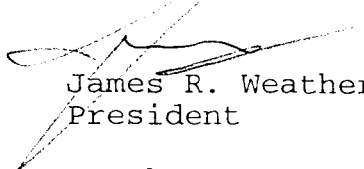
RE: House Bills 147 and 148

Dear Mr. Chairman and Committee Members:

I am a registered professional engineer who was first licensed in the state of Montana in November of 1973. I have practiced as a consulting engineer in Missoula, Montana since 1971. I urge your committee to vote favorably on House Bills 147 and 148. These changes to existing state law will allow the Board of Registration to modernize their administration of engineers and land surveyors. It will also provide an avenue for the Board of Registration to police those unlicensed professionals who attempt to practice. This is becoming a very serious problem in many areas of Montana. We continually find clients who believe they have obtained professional services only to find out the consultants were not licensed, and provided sub-standard services.

I urge a do pass vote on these bills. Thank you very much for your time and consideration.

Sincerely,  
WGM group

  
James R. Weatherly, P.E.  
President

JRW:kw

9502129



CONSULTING ENGINEERS  
COUNCIL *of Montana*

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 2-28-95

BILL NO. HB 147 & HB 148

*(Presented by Tom McNab)*

February 23, 1995

Members of Senate Business & Industry Committee:

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

Dear Committee Members:

This letter will serve as an endorsement by the Consulting Engineers Council of Montana in favor of House Bill 147 and House Bill 148.

We believe House Bill 147 will clarify experience requirements needed for taking the engineering examination and will allow the registration board to formulate continuing education requirements of our membership. We believe the bill to be in the best interest of our profession and also will benefit the people of Montana by ensuring the qualifications of engineers serving the public.

We believe House Bill 148 is also in the best interest of the State as it updates language and clarifies certain aspects of our current licensing regulations.

We appreciate this opportunity to address your membership.

Sincerely,

Terry Druyvestein, President  
CECM

mc\

SENATE BUSINESS & INDUSTRY  
EXHIBIT NO. 4  
DATE 2-28-95  
BILL NO. SB 408

Amendments to Senate Bill 408  
First Reading Copy

Prepared by  
Charmaine Murphy, Montana Lottery

1. Page 1, line 22.  
Strike: "Under" and "direction"  
Insert: "With" and "concurrence"
2. Page 1, line 23.  
Strike: "shall"  
Insert: "may"
3. Page 1, line 25 and 26..  
Strike: "All contracts must be made in accordance with state law, except a law that specifically excepts one or more types of contracts."  
Insert: "The state shall provide for the management, security, and internal audit control."
4. Page 2, line 21.  
Following: "lottery"  
Insert: "that have an annual aggregate value of more than \$250,000"



## STATE OF MONTANA - FISCAL NOTE

EXHIBIT NO. 5Fiscal Note for SB0408, as introducedDATE 2-28-95BILL NO. SB 408DESCRIPTION OF PROPOSED LEGISLATION:

An act to allow the Montana Lottery Commission to contract directly for goods and services under \$250,000. Exempts Montana Lottery from having to use the services of the Purchasing Division and Publications and Graphics Division of the Department of Administration.

ASSUMPTIONS:

1. The Lottery Commission and the director will exercise the authority for goods and services only in cases where the Lottery will benefit through dollar savings and/or the quality or value of the good or service received far exceeds that which the Lottery could produce/performance itself.
2. The Lottery will have the ability to directly negotiate contracts it enters into for prize merchandise and other goods and services. It is assumed that the prices the Lottery will pay for these items will be lower. Additionally, the Lottery could take advantage of economies of scale where the opportunity exists.
3. By directly contracting and negotiating with printing companies, the Lottery will assume full responsibility for preparation work and quality control and thus eliminate administrative fees associated with performing these functions elsewhere.
4. It is assumed that staff hours currently spent completing contracting through other state agencies will be diverted to more productive tasks.
5. It is also assumed that this legislation will allow the Montana Lottery the flexibility to respond to its ever changing industry and market place. Often times, opportunities are missed or delayed as a result of having to follow state processes which work well for most other state agencies.

FISCAL IMPACT:

Because of the assumptions made above, it is impossible to assess the full fiscal impact of the proposed legislation. However, the Lottery anticipates reducing the price it pays for many goods and services thus increasing the effectiveness and efficiency of the operation to maximize revenue transferred to the state.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposed legislation will allow the Lottery greater flexibility in operating and allow for negotiating better terms in contracts. This will save staff time since the Lottery will be able to contract with vendors directly rather than through a third party.

NOT FOR  
DISTRIBUTION

David Lewis 2-23-95  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Mike Sprague 2/27/95  
MIKE SPRAGUE, PRIMARY SPONSOR DATE

Fiscal Note for SB0408, as introduced

DATE

February 28, 1995

SENATE COMMITTEE ON

Business and Industry

BILLS BEING HEARD TODAY:

SB 408 Senator Sprague  
HB 147 Rep. McVee HB 148 Rep. McVee  
Rep. Brainard

&lt; ■ &gt;

PLEASE PRINT

&lt; ■ &gt;

Check One

Name	Representing	Bill No.	Support	Oppose
Nigel Mands	Montana Soc. of Eng	147 148	✓	
KARALEE ELLISON	MONTANA LOTTERY	408	✓	
Bill Bucher	MT Association of Registered Land Surveyors	147 148	✓	
ROBYNNE SINDELAR	SELF			
Robert J. Bushmaker	MSE, Inc	147 148		✓
David Loftus	MSE Inc	147 148		
Dick Ainsworth	Board of Eng. & Sur	147 148	✓	
Mary Hamlin	Bd of P.E.s	147 148	myo only	
TOM MCNAB	MONTANA TECH LAND	147 148	✓	
Gene Alberts	MT. Assoc of REALTORS	148	mon. for	
Charmaine Murphy	Montana Lottery	408	✓	
LARRY AIKEY	VLT/ ANI	408	✓	
Leo Giacometto	Governor's OFFICE	408	✓	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY