

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on January 17, 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. 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 67
Executive Action: Discussion of SB 38

HEARING ON SB 67

Opening Statement by Sponsor:

SENATOR J.D. LYNCH, SD 19, Butte, opened by stating that Senate Bill 67 is a just bill. He believes that the things going on in the government forced continuing education. Mandating that people stay current in the insurance industry is a rip-off of people's money. He stated that he has always supported some continuing education, but what they are doing now is requiring people who have been in the business over 30 years to spend money every year on continuing education for products they have never sold and never will sell. He added that he would like to see SB 67 amended to read 30 years of service instead of 35, and age 70. He urged for a compromise to be reached. The people he was

hoping would be affected by this bill are people who sell very little and are for the most part retired. The courses the law asks them to take simply aren't right. This is quite a bit of money for some people to spend. He pointed out that several of his constituents have given to him lists of the courses they have to take and they make no sense. He stated they seem to think they are going to save the insurance industry because they require ridiculous courses, which have no meaning to the people taking the classes. He stated this bill promotes less government and puts a little sense into the laws.

Proponents' Testimony:

John McKenna, Butte, said that he has been associated with New York Life for 45 years, has a clean record, and is obligated to take a continuing education course this year. Connolle Morton is based in Missoula. They do not offer the course in Butte. He testified he had to travel to Helena and be there at 8 a.m., pay \$125 for the course, return the following day at 8 a.m. for two hours to complete the course. There is no examination of the course. All that is required of the agents is that they sit and listen. He believes it is reasonable to ask that people over age 70 with 30-35 years of a clean record in the insurance business be exempt. Anyone with any marks on their record should be a different situation. He stated that he had earned around \$400 in first year commissions from New York Life last year. Most of his work is service work with people that he has done business with for over 45 years. He is required to keep up his license in order to witness signatures on forms that New York Life requires. The \$125 is not a hardship to him but paying \$125 for around \$400 in commissions to him seems like quite a bit to pay.

Opponents' Testimony:

Frank Cote, Deputy Insurance Commissioner of the State of Montana, stated he could name two agents in the State of Montana that this bill would affect, one of which is his father. He related as a young child his father made him eat all his vegetables, including lima beans, he had not liked that, but it was good for him. He further depicted, as he grew older, he thought he knew everything and had the world by the tail and wanted to quit school, but his father said "no". He stayed in school and believes he is a better person for it. He compared this to the agents in Montana who may not like continuing education but it's good for them and it is good for Montana insurance consumers who buy from these agents.

Mr. Cote pointed out that the industry in Montana has changed drastically in the last 10 years and the next 10 years may be the same. He insisted that with the average family in Montana paying over \$7000/year in insurance premiums, it is critical that agents who sell to these families be knowledgeable and helpful in making decisions. **Mr. Cote** remarked that it is never too late for anyone to learn.

Larry Akey, Montana Association of Life Underwriters, stated that their organization represents over 700 life and health insurance agents offering insurance products to the Montana consumer. The field of insurance is a rapidly changing field where new products are arriving all the time. Insurance is also a field where what is sold is not very tangible. It is a commitment and a complex financial product. He stressed the importance of the people offering the product to have full knowledge of the products. **Mr. Akey** referred to **Mr. McKenna's** testimony and argued that it was **Mr. McKenna's** choice to drive to Helena for the courses since there were courses offered in Butte and probably courses offered by his company. There is a host of educational opportunities available. **Mr. Akey** pointed out that their association held its convention in Butte last year and had 7 or 8 credits of continuing education offered at the convention. He stated that if **Mr. McKenna** had wanted to avoid the hardship of traveling he could have. Furthermore, if the continuing education program moves forward there will be a larger number of programs available.

Roger McGlenn, Executive Director Independent Insurance Agents of Montana, remarked that if the state begins to exempt people from continuing education laws where will it stop. A lot of people have serious and sincere reasons why they should be exempt.

Mr. McGlenn pointed out that there are specific courses available on all product lines throughout the state. Agents being current on policy changes is critical to ensure consumers are properly advised. He emphasized federal and state laws change quite rapidly in the insurance industry. The continuing education laws require agents to be current with the laws and the intent of the law.

The Independent Insurance Agents of Montana are aware of situations in the industry where people are no longer active in selling insurance. However, because the agents sold for years they must maintain their licenses in order to receive commissions from the previous sales and services. **Mr. McGlenn's** organization would be in favor of considering an inactive status for agents who no longer deal with the public, allowing them to continue to receive the compensation they are due. The State of California allows an inactive status. If an agent chooses to become active again, the agent can either take the insurance exam again or make up the continuing education courses, subject to a cap on hours (i.e. if they were inactive for 10 years they wouldn't have to make up the full 150 hours). He believes this would take care of the concerns of agents who are no longer actively dealing with the public.

Questions From Committee Members and Responses:

SENATOR CASEY EMERSON asked **SEN. LYNCH** about the amendment he had suggested. He inquired if **SEN. LYNCH** had any other suggestions about the 70 year age limit. **SEN. LYNCH** stated that although the

State of Utah has a 20 year limit, he had decided to go with 30 years rather than get carried away.

SENATOR BILL WILSON asked Roger McKenna why he hadn't taken the courses Mr. Akey had mentioned were available in Butte. Mr. McKenna stated that the only course offered in Butte was the MALU course, for 7 credits. To get a license reinstated 10 credits are necessary. Mr. McKenna went on to say that he is currently in retired status and is not required to have a license to collect commissions on previous sales. He keeps his license current so that he can serve the people who have been his clients for years.

SENATOR SPRAGUE pointed out that if Mr. McKenna serviced families for years, the offspring would trust him. He asked Mr. McKenna if he ever gives advice to the offspring of the families he has sold to for years. Mr. McKenna stated that he does give advice but with today's litigation standards, he would be off in left field to offer advice of any kind without a license.

SENATOR SPRAGUE pointed out to SEN. LYNCH that if the State of Montana is going to start making exceptions in the area of age and status of insurance agents, the realtors and all other licensees would be coming right behind wanting the same treatment. SEN. LYNCH replied that he doesn't know about realtors but he's not afraid to take each incident and bill as it comes. SEN. LYNCH stated that as a teacher he is required to take continuing education and he thinks it is "hogwash". They charge money to tell teachers what they already know. All a person has to do is say they attended a seminar and they get the credits. SEN. LYNCH believes "this is baloney".

SENATOR TERRY KLAMPE asked SEN. LYNCH if he voted for the continuing education bill. SEN. LYNCH replied that he didn't know every vote he had made. He pointed out that he had over 3500 votes while in the Senate and couldn't be sure how he voted.

SENATOR KLAMPE asked Larry Akey if there was any truth to the implication that SEN. LYNCH had made that certain people have to take certain courses. Mr. Akey replied that there is only one requirement in the statute and that is that once every two years every agent must take one credit hour relating to changes in laws and regulations. Aside from that it is entirely up to the agents what courses they take.

Closing by Sponsor:

SEN. LYNCH addressed Mr. Cody's statement that he thought he knew it all at age 16 and stated that Mr. Cody still didn't know everything. SEN. LYNCH then turned to Mr. Akey and said "hogwash". He added that the more he thought about it, he probably had supported continuing education when the insurance company sold it to him. SEN. LYNCH pointed out that Mr. Akey had just admitted that they don't care what the agents learn or what

the courses they take. He maintained that continuing education is absurd and a rip-off of the agents.

EXECUTIVE ACTION ON SB 38

Motion: SENATOR STEVE BENEDICT moved amendments be accepted to SB 38.

Discussion: SEN. BENEDICT stated that the bill, as introduced to the committee, already contained the amendments in it. The amendments would bring the original bill into conformity with the bill that was passed out to the committee. The amendments contain no changes from the bill originally presented in committee. SEN. BENEDICT stated that once the amendments are adopted and a motion is made on the bill, the committee could proceed with discussion of the bill.

Vote: The motion to AMEND SB 38 CARRIED unanimously.

Motion: SEN. MILLER moved to further AMEND SB 38. He asked that page 3, line 26, \$500,000 be changed to \$250,000.

Discussion: SEN. FORRESTER expressed his opposition to the amendment. He believes this is one of the better functions of government. Private enterprise and banks do not make these kinds of loans. He stated that in today's marketplace \$250,000 is not much. SEN. FORRESTER believes that cutting the amount in the bill would do a lot of damage.

SEN. EMERSON said that he also opposes lowering the amount. In reference to the \$20 million Micron bill, he stated that the State of Montana needs to have something that covers in between and that lowering this amount goes the wrong way.

SEN. SPRAGUE commended SEN. MILLER'S attempt to limit the state's exposure. He expressed that he was also concerned with the exposure on a loan with no collateral but disagreed that limiting the dollar amount was the correct approach. He believed it would be more sensible to limit the percentile of the investment.

SEN. CRISMORE asked if \$500,000 is the total of the loan or just the state's portion. SEN. BENEDICT answered that the loan could be for over a million, but the maximum portion the state would have is \$500,000.

SEN. MILLER explained that there are two reasons he would like to lower the amount. The first reason is that the CDBG has always had a shortage of funds. If the amount was lowered it would allow more businesses to participate. The second reason is to make it more secure. There is a higher percentage of foreclosure on the large CDBG loans than on the smaller ones. SEN. BENEDICT stressed this is not a CDBG program. The key difference is that many of the municipalities that operate under the CDBG really

don't have the ability to determine if a loan is going to be a good loan. They don't have the due diligence that a bank has. With the CDBG program in the smaller cities the decision is made on whether or not the small cities want the jobs. The larger cities have a finance officer to look into the loan. **SEN. BENEDICT** believes it would gut the bill to bring the amount down. The bill was not intended just for small projects.

SEN. MILLER asked if the matching funds could come from any direction. **SEN. BENEDICT** pointed out that the amendment says "which sources must include a financial institution." **SEN. MILLER** asked if it all must come from a financial institution. **SEN. BENEDICT** replied that the entire loan does not have to come from a bank, but a portion of it must be in cooperation with a financial institution. **Bart Campbell** clarified that the bill says 50% of the amount must come from a source other than the state and that the 50% must include a loan from a financial institution. The bill does not mandate what percentage of the 50% must come from a bank.

SEN. SPRAGUE pointed out that the banks won't be required to take a 50% collateral position but the state will be taking a 50% participation. The bank could theoretically put in only 20-25%; private funds could cover 25%, and the state would be in for 50% with no collateral position. **SEN. BENEDICT** stated that he did not believe that was the intent of the bill. His understanding of it is that the business that needs the loan goes to the lending institution to get a bankable loan, the lendee and the financial institution then go to the state and present the deal.

SEN. MILLER stated that he believes that a lot of the CDBG loans had private institutions involved, so the argument that these loans will be safer because of the private institutions involved is a moot point. Theoretically a bank could put in 5%, with 45% coming from other sources and the business would still qualify.

Vote: **SEN. MILLER'S** motion to **AMEND SB 38** failed.

Motion: **SEN. SPRAGUE** made the motion that **SB 38 BE AMENDED** to limit the state's exposure to 1/3 of the total project, with 2/3 coming from banks or private sources.

Discussion: **SEN. FORRESTER** stated that he believes the intent of the bill is to have the Commerce Department study the liability of the loan. The Commerce Department is unlikely to give a loan if a financial institution is only participating 5%.

SEN. BENEDICT agreed that this was the intent of the bill. The banks came to us and asked how they could work with us to get the loans going. The state will have the second collateral position and can execute against all the assets of the company. If only 50% of the loan is collateralized then chances are the Commerce Department won't be interested in the loan.

CHAIRMAN HERTEL asked **Bart Campbell** to explain exactly where this amendment would fit in the bill. **Mr. Campbell** stated that it would go on line 13, page 3, striking 50% and inserting 67%. This would not contradict or cause a change on amendment #8 .

SEN. SPRAGUE expressed that he did not want to sabotage the bill but would like to give the bank an incentive to give a prudent loan. In his experience with banks they always try for no risk factor. He believes they will try to get the SBA to cover 90% of their part so their risk is only 10%.

SEN. FORRESTER stated that he opposes the amendment. The bill helps people and puts businesses in a position to do business. He believes that the people who need this help are the types the Department of Commerce will find worthy.

SEN. EMERSON stated that he believes that the banks having 50% of the loan is enough without raising it to 2/3.

SEN. MILLER disagreed with **SEN. EMERSON** and insisted that the banks will take their 50% to the SBA and make it an SBA loan through the bank.

SEN. BENEDICT agreed that this was possible; however, the SBA will only loan 75-80% still leaving the bank with a portion of the loan.

Vote: **SEN. SPRAGUE'S** motion to **AMEND SB 38** failed.

Motion: **SEN. MILLER** made the motion to **AMEND SB 38**, page 3, line 14 to read "which sources must include a loan from a financial institution equal in amount to the job investment loan."

Discussion: **SEN. BENEDICT** protested that this would make the bill soft.

CHAIRMAN HERTEL asked if committee would be agreeable to let **Bart Campbell** write up the amendment and discuss it tomorrow.

SEN. BENEDICT stated that he was having a tough time finding the boggy man in the bill. They worked hard on limiting exposure but at the same time there is some risk. There is a risk in doing nothing and there is risk in changing this bill. An amendment could completely negate the bill when lawyers get a hold of it. He urged the committee to vote on the bill and if **SEN. MILLER** is intent on changing the bill he can do it when it reaches the floor or push for it in the House of Representatives.

SEN. SPRAGUE asked the committee to be patient. Since there is a tolerance of time he would like to pursue some of the alternate avenues. He believes **SEN. MILLER'S** motion is a reasonable request. He pointed out that first mortgage position is never equal to second mortgage position. He believes **SEN. MILLER'S**

intention is to be on equal footing. If the banks want equal participation with the state then the bank should be in equal position. He would like to try to define what the state's position is. He stated that it presently appears that the state will be taking all the risk, the bank will be doing the paper work and getting first mortgage position. He would like to see the state participate in these types of loans, but in a prudent and calculated way, as he would do if it was his own money.

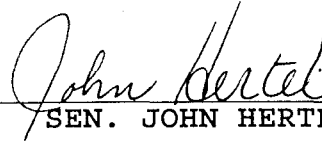
SEN. MILLER stated he would like to see the committee take more time on this. He would like to support the bill but the boggy man should be removed in committee, not on the floor, to provide the committee giving a united push for the bill once it reaches the floor.

Vote: The motion to **AMEND SB 38** failed on Roll Call Vote (#1).

Motion/Vote: The motion that the committee **POSTPONE ACTION** carried unanimously.

ADJOURNMENT

Adjournment: The meeting adjourned at 9:10 a.m.



SEN. JOHN HERTEL, Chairman



LYNETTE LAVIN, Secretary

JH/11

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE 1-17-95

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BUSINESS AND INDUSTRY COMMITTEE

DATE 1-17-95 BILL NO. SB 38 NUMBER 1

MOTION: Amend. SB 38

Gen. Sprague

[illegible]

MONTANA SENATE

VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE

1-17-95

SPONSOR(S)

Senator Lynch

SB67

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
ROGER MCGLENN	INDEPENDENT INS. AGENTS OF MONTANA		X
FRANK COTE	ST. Auditor		X
LARRY AKEY	MT ASSOC OF LIFE UNDERWRITERS		X

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