

MINUTES

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

Call to Order: By CHAIRMAN JOHN HERTEL, on March 9, 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: HB 475, HB 428
Executive Action: HB 475 BE CONCURRED IN
HB 537 BE CONCURRED IN AS AMENDED

HEARING ON HB 475

Opening Statement by Sponsor:

REP. ROSE FORBES, HD 42, Great Falls, said HB 475 would allow title insurers to set up a foundation, using interest on nominal or short-term deposits, which would be used to educate the public on real estate issues, help provide continuing education as required by the Department of Insurance and funding opportunities for low-income housing projects. She said the foundation was modeled after one which was set up by the Montana Law Foundation.

Proponents' Testimony:

Bill Gowan, Montana Land Title Association, said **HB 475** would allow title agents in their trust accounts to garner interest on short-term deposits. He explained trust accounts normally had short-term deposits which were used for transacting real estate transactions, and currently were prohibited by law to garner interest. He stated the foundation income would be accessible by grant applications for charitable and educational purposes pertaining to real estate and continuing education of members.

Mr. Gowan said long-term accounts for clients could be interest-bearing accounts, but required set-up procedures by banks; however, it was impractical to figure interest for clients on short-term loans. He urged support for **HB 475**.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT asked how banks felt about not holding the short-term monies, but paying out interest. **John Cadby, Montana Bankers Association**, told the committee it was his understanding the funds were set aside and it was optional for the bank to set up the funds and to charge a fee. **Mr. Cadby** said he did not think the banks would object to **HB 475**.

SEN. MIKE SPRAGUE referred to Page 2, Lines 25-27, and asked for a definition of a nonprofit charitable organization and also wondered if title insurance was a nonprofit organization. **Bill Gowan** said title insurance was not, and charitable organization was not yet defined; however, the money would be dispersed through grant application and the foundation set-up would be by trustees who would have fiduciary responsibility.

SEN. SPRAGUE asked if agents of the Land Title Association were exempt from being recipients and **Mr. Gowan** said they were; however, the idea was to use some of the interest money for continuing education as required by the insurance commissioner. He claimed they figured about 75% of the available interest money would go to charity.

SEN. SPRAGUE asked if the intent was to establish a fair rate of interest. **Mr. Gowan** stated at this point, there was no interest paid on these accounts; however, the banks would establish the interest rate to be paid. He maintained the Lawyers organization was handled by the banks, who sent the money on a timely basis to the foundation, and theirs would operate in much the same way.

SEN. KEN MILLER asked for an estimate of how much was deposited. **Mr. Gowan** related not all title companies had trust accounts, and he had no figures at this point; however, a fair estimate would be \$50-\$100 thousand/year for charitable organizations.

SEN. CASEY EMERSON commented there were 500-600 closings in a city like Helena, and the account could earn \$50-\$100 thousand during the year. Mr. Gowan professed over the year, the total earnings from all title companies across Montana could be \$50-\$100 thousand.

SEN. SPRAGUE said the interest was basically a bank-subsidized charitable contribution for assets lying dormant. Mr. Gowan stated that was probably correct.

SEN. SPRAGUE complimented the banks for not opposing HB 475.

Closing by Sponsor:

REP. FORBES said examples of charitable organizations covered in HB 475 would be Habitat for Humanity, Neighborhood Housing, etc. She reported Frank Cody from the Commissioner's Office wanted to be on record as a proponent of HB 475, and felt it also offered consumer protection. REP. FORBES reported the amount of money would depend on the activity and the number of participants. She asked the committee to look favorably on HB 475. She stated SEN. KEN MILLER agreed to carry the bill on the Senate floor.

HEARING ON HB 428

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, Helena, said before he agreed to carry HB 428, he had three conditions, which were all met: (1) the banking community had to agree; (2) it could not offend his sense of consumerism; and (3) it could not offend his sense of fairness within the industry.

REP. EWER said the bill brought certain sections of the banking code into compliance with the Federally enacted Riegle-Neal Act, and then went on to explain various parts of HB 428, which he said would be more detailed in the testimony.

Proponents' Testimony:

Tom Hopgood, Montana Independent Bankers Association, stated the banking community was in complete agreement with HB 428. He said most of the bill was housekeeping and commented it had been carefully scrutinized by the legislative council. He referred to:

(1) Page 4, Lines 4-6 -- in order for banks to merge, they must have existed for five years upon completion of the merger, i.e. brought merger into conformity with acquisition laws;

(2) Page 4, Lines 12-14 -- when banks merged and other banks came under common ownership, future banks which would come under common ownership could also merge;

(3) Page 5, Lines 6-17 -- allowed branch banks to be relocated with the approval of the State Banking Board; the rest of the language was borrowed from the Detached Facilities Law;

(5) Sections 5,6,7 -- conformed the Montana Acquisition Statutes to the Riegle-Neal Act;

(6) Sections 12,13,14,15 -- said they had gotten inquiries regarding the interplay between Federal and state statutes and regulations.

Mr. Hopgood maintained the law on the books was antiquated and had not kept up with technology, so it was necessary to bring it into conformity with Federal law. He stated also, the definition of electronic funds transfer was extended to debit cards and point of sale cards.

Mr. Hopgood said there were disclosure provisions for the use of the electronic funds terminal, i.e. if the consumer would be charged for the use of the terminal, he or she must be advised the transaction could be cancelled; thereby, surcharge not incurred. He asked for favorable endorsement of **HB 428**.

George Bennett, Montana Bankers Association, referred to Sections 8 & 9 and alleged beginning in September, banks anywhere could acquire Montana banks, but they could not purchase branches unless the law allowed, i.e. out-of-state holding companies could not purchase branches; however, a Montana bank could purchase another Montana branch. He asked **HB 428** BE CONCURRED IN.

Donald Hutchinson, Commissioner, Banking & Financial Institutions, reiterated there had been numerous meetings to clarify the technical aspects of **HB 428**, and he believed all were addressed.

John Cadby, Montana Bankers Association, announced **HB 428** was a compromise which all could live with. He stated one feature he liked was the ability to sell branches.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. SPRAGUE asked if **HB 428** had anything to do with "Opt In/Opt Out". **John Cadby** stated it was rewritten to conform to Federal law which said there could no longer be a regional restriction. He related the language in **HB 428** clearly stated there was no "Opt In" or "Opt Out."

SEN. SPRAGUE asked **Tom Hopgood** the same question. **Mr. Hopgood** agreed with the testimony of **John Cadby**.

SEN. SPRAGUE asked if **HB 428** tightened the banking rules and regulations to a regrettable degree. **Don Hutchinson** declared "clarify" would be a better word than "tighten" because parity between state banking laws and Riegle-Neal had to be offered.

Closing by Sponsor:

REP. EWER reported HB 428 had three components: (1) provided conformance to Riegle-Neal; (2) provided consumers the option of using debit cards; and (3) provided an option for rules. He referred to Page 5 and stated the bill had language on branching which was carefully crafted by all parties. REP. EWER suggested careful and close work be done with the people who crafted the bill before any changes be proposed.

EXECUTIVE ACTION ON HOUSE BILL 475

Motion: SEN. WILLIAM CRISMORE MOVED HB 475 BE CONCURRED IN.

Discussion: SEN. EMERSON asked if it was proper to issue the interest money to nonprofit charitable organizations, or should it go back to the investors. SEN. MILLER said since it would be only \$5-\$10 per investor, it would cost the banks more than that to issue the check, i.e. the only way it would be cost effective would be to pool the money and issue one check to charity, etc. SEN. CRISMORE agreed with SEN. MILLER'S answer.

Vote: Motion that HB 475 BE CONCURRED IN PASSED UNANIMOUSLY by voice vote.

{Tape: 1; Side: B}

EXECUTIVE ACTION ON HOUSE BILL 537

Motion: SEN. STEVE BENEDICT MOVED TO ADOPT AMENDMENTS, EXHIBIT #1.

Discussion: Mark Staples explained the amendments as per EXHIBIT #1, and talked about the family in Dillon whose wife owned a place while he purchased a place across the alley, 20 feet away. He stated the gentleman had not yet applied for his license because the paperwork was still being done; however, it was opined the license should be included as if it were already in place, with the contract valid date as January 24, 1995. Mr. Staples referred to Amendment #9 and professed that was the reason for changing the date to February 1, 1995.

Mr. Staples said there was another family in Dillon where the mother and son-in-law had one place, while two doors down (not 150 feet away) the son-in-law and daughter had another place. He suggested the mother could be on one license while the son-in-law could be on another because they were not related. He commented that perhaps an amendment could be drawn up which would say

"businesses which are an historic business district in a community of 5,000 or less are exempt."

SEN. SPRAGUE asked if right of survivorship would handle the above problem. Mr. Staples said it would.

SEN. GARY FORRESTER asked if the constituents of SEN. CHARLES "CHUCK" SWYSGOOD were taken care of with the amendments. SEN. SWYSGOOD said the "across the alley" problem was, but a bigger one was the grandfathering of 10 years, because it could be impossible to pay it off in 10 years in a small town.

SEN. BENEDICT wondered if HB 537 was worth keeping because of the small problems which kept surfacing; however, if it passed, the people who had these problems would at least have 10 years. SEN. SWYSGOOD said his point was to protect people who had made substantial investments under current law, but because of HB 537, would have a negative economic effect.

SEN. BILL WILSON asked if the number of grandfather years should be 25. SEN. SWYSGOOD thought the extension would be better than ten years.

SEN. SPRAGUE said a lot of effort went into HB 537, and the letters he received indicated people would be offended either way.

SEN. BENEDICT said he had gotten form letters (all from one place), in which the senders had not even bothered to change the wording.

SEN. EMERSON asked if the original intent of HB 537 was to correct the stacking already in place, or was it to keep it from spreading. Mark Staples said it was both.

Vote: Motion TO ADOPT AMENDMENTS AS PER EXHIBIT #1 CARRIED UNANIMOUSLY by voice vote.

Motion: SEN. STEVE BENEDICT MOVED TO ADOPT AMENDMENTS hb053701.ajm, EXHIBIT #2.

Discussion: SEN. TERRY KLAMPE said he spoke against the amendments because the people had gotten their chance.

SEN. WILSON asked if Dave Brown would comment on the amendments and he did so, saying it added five years to the two places who had stacked licenses before 1991.

SEN. SPRAGUE asked if it was a problem that the sponsor did not agree to the amendments. Mr. Brown conveyed letters from Butte indicated a desire for fair treatment, but no letters came from Missoula.

SEN. KLAMPE asked if REP. LARSON had an opinion. REP. LARSON alleged the stackers bent the rules and they agreed to the principal of a 10-year grandfather.

{Tape: 2; Side: A}

Vote: Motion TO ADOPT AMENDMENTS hb053701.ajm, EXHIBIT #2, FAILED 5-4 on roll call vote (#1).

Motion: SEN. STEVE BENEDICT MOVED HB 537 AS AMENDED BE CONCURRED IN.

Discussion: SEN. EMERSON said 10 years was not enough time; in fact, it was his opinion the time should be extended to "until the business moved from the building."

SEN. CRISMORE said HB 537 was a game because by the time the next legislature met, someone would have figured a way around the law.

SEN. EMERSON said even though stacking stretched the rules, it did not break the law. He said it would be very difficult to consider the intent of the law, rather than the law itself, every time an action occurred.

SEN. KLAMPE said the majority of the people, including the two people, in the gaming industry knew they should not be stacking.

Vote: The motion HB 537 AS AMENDED BE CONCURRED IN PASSED 8-1 by voice vote, with SEN. WILSON voting "NO".

ADJOURNMENT

Adjournment: Meeting adjourned at 11:10 a.m.


SEN. JOHN HERTEL, Chairman


LYNETTE LAVIN, Secretary

JH/11

SEN:1995
wp.rollcall.man
CS-09

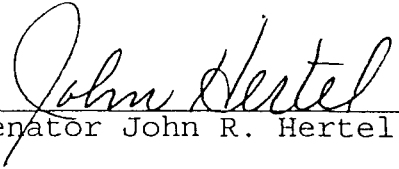
SENATE STANDING COMMITTEE REPORT


Page 1 of 1
March 9, 1995

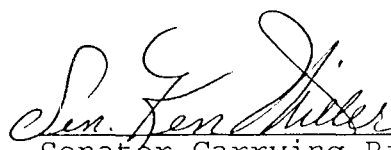
MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 475 (third reading copy -- blue), respectfully report that HB 475 be concurred in.

Signed: _____


Senator John R. Hertel, Chair


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

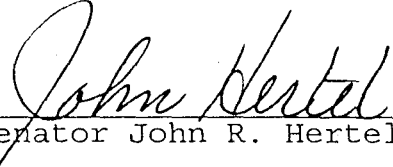
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SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 9, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB.537 (third reading copy -- blue), respectfully report that HB 537 be amended as follows and as so amended be concurred in.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Title, lines 4 and 5.

Strike: "A" on line 4 through "INTERESTS" on line 5

Insert: "ONE OR MORE COMMON OWNERS"

2. Page 1, line 19.

Strike: "OR"

Insert: ", "

Following: "for"

Insert: "or the transfer of which was validly contracted for"

Strike: "JANUARY 1"

Insert: "February 1"

3. Page 1, line 20.

Strike: "5-YEAR"

Insert: "10-year"

4. Page 2, line 14.

Following: "agreement"

Insert: "involving real property"

Following: "except"

Insert: ": (A)"

5. Page 2, line 15.

Following: "businesses"

Insert: "; or (B) an agreement by a licensee to lease premises from a person or entity that also leases other premises in the same building or structure to one or more licensees if there is no other common ownership between any of the licensees"


6. Page 2, line 17.


Following: "provides"


Strike: "or guarantees"

7. Page 2, line 18.

Following: "financing for"

 Amd. Coord.

 Sec. of Senate

 Senator Carrying Bill

551430SC.SRF

Strike: "the" through "costs."

Insert: ": (A) the purchase of the liquor license;

(B) the purchase of the premises; or

(C) operating expenses of more than \$25,000, except for
expenses allowed under 23-5-130."

8. Page 2, line 29.

Following: "loan"

Insert: ", except a loan guaranteed by a route operator who would
not otherwise be considered a common owner"

-END-

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 3-9-95 BILL NO. #B 537 NUMBER 1

MOTION:

favor amend. HB 053701. 2jm

failed 5 to 4

[illegible]

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE COMMITTEE PROXY

DATE 3-9-95

I request to be excused from the B&T
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Sen. Hertel.

Indicate **Bill Number** and your vote **Aye** or **No**. If there are
amendments, list them by **name and number** under the bill and
indicate a **separate vote** for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
Larson amendments	X	
Other "		X
Amended HB 537	X	

SENATE BILL/AMENDMENT	AYE	NO

Rep. Ken D. Miller
(Signature)

AMENDMENTS TO HOUSE BILL 537

Third Reading Copy, As Amended

Submitted to the Senate Business and Industry Committee
at the request of Representative Don Larson
March 6, 1995

1. Title, line 4 and 5.
Strike: "A COMMONALITY OF INTERESTS"
Insert: "ONE OR MORE COMMON OWNERS"
2. Page 2, line 14.
Following: "agreement"
Insert: "involving real property"
3. Page 2, line 17.
Following: "provides"
Strike: "or guarantees"
4. Page 2, line 17.
Following: "financing for"
Strike remainder of line 18.
Insert: ": (A) the purchase of the liquor license;
(B) the purchase of the premises; or
(C) operating expenses, except for expenses allowed under 23-5-130, of more than \$25,000."
5. Page 2, line 29.
Following: "loan"
Insert: ", except a loan guaranteed by a route operator who would not otherwise be considered a common owner"
6. Page 2, line 14.
Following: "except"
Insert: ": (A)"
7. Page 2, line 15.
Following: "businesses"
Insert: "; or
(B) an agreement by a licensee to lease premises from a person or entity that also leases other premises in the same building or structure to one or more licensees, if there is no other common ownership between any of the licensees"

AMENDMENTS TO HOUSE BILL 537 - CONTINUED - Page 2

Third Reading Copy, As Amended

Submitted to the Senate Business and Industry Committee
at the request of Representative Don Larson

March 6, 1995

8. Page 1, line 20.
Following: "during the"
Strike: "5 year"
Insert: "10 year"
9. Page 1, line 19.
Following: "granted"
Strike: "or"
Insert: ","
Following: "applied for"
Insert: ", or the transfer of which was validly contracted for"
Following: "prior to"
Strike: "January 1, 1995"
Insert: "February 1, 1995"

Amendments to House Bill No. 537
First Reading CopyRequested by Rep. Cocchiarella
For the Committee on Business and LaborPrepared by John MacMaster
February 13, 1995

1. Title, line 6.

Following: "OTHER"

Insert: "; EXTENDING FOR FIVE YEARS THE RIGHT TO CONTINUE A
SECOND OPERATOR'S LICENSE FOR A PREMISES SUBJECT TO CURRENT
ADJACENT PREMISES REQUIREMENTS; AND AMENDING SECTION 23-5-
117, MCA"

2. Page 3, line 1.

Following: page 2

Insert: "Section 2. Section 23-5-117, MCA, is amended to read:

"23-5-117. Premises approval. (1) Except as provided in
subsection (4), the department may approve a premises for
issuance of an operator's license if the premises meets the
requirements contained in subsections (2) and (3).

(2) The premises must:

(a) be a structure or facility that is clearly defined by
permanently installed walls that extend from floor to ceiling;(b) have a unique address assigned by the local government
in which the premises is located; and(c) have a public external entrance, leading to a street or
other common area, that is not shared with another premises for
which an operator's license has been issued.(3) If the premises shares a common internal wall with
another premises for which an operator's license has been issued,
the common wall must be permanently installed, opaque, and extend
from floor to ceiling and may not contain an internal entrance
through which public access is allowed.(4) A second operator's license may be issued or renewed
until June 30, ~~1996~~ 2001, for a person operating a gambling
activity on a premises that did not meet the requirements of
subsections (2) and (3) if:(a) the second operator's license was issued to the person
on or before January 1, 1991; or(b) (i) the application for the second operator's license
was received by the department on or before January 1, 1991;(ii) a second on-premises alcoholic beverages license was
obtained for the premises on or before January 1, 1991; and(iii) substantial physical modifications to the premises
were made on or before January 1, 1991."

Renumber: subsequent section

That such amendments read:

1. Title, lines 4 and 5.

Strike: "A" on line 4 through "INTERESTS" on line 5

Insert: "ONE OR MORE COMMON OWNERS"

2. Page 1, line 19.

Strike: "OR"

Insert: ", "

Following: "for"

Insert: "or the transfer of which was validly contracted for"

Strike: "JANUARY 1"

Insert: "February 1"

3. Page 1, line 20.

Strike: "5-YEAR"

Insert: "10-year"

4. Page 2, line 14.

Following: "agreement"

Insert: "involving real property"

Following: "except"

Insert: ": (A)

5. Page 2, line 15.

Following: "businesses"

Insert: "; or (B) an agreement by a licensee to lease premises from a person or entity that also leases other premises in the same building or structure to one or more licensees if there is no other common ownership between any of the licensees"

6. Page 2, line 17.

Following: "provides"

Strike: "or guarantees"

7. Page 2, line 18.

Following: "financing for"

Strike: "the" through "costs."

Insert: ": (A) the purchase of the liquor license;

(B) the purchase of the premises; or

(C) operating expenses of more than \$25,000, except for expenses allowed under 23-5-130."

8. Page 2, line 29.

Following: "loan"

Insert: ", except a loan guaranteed by a route operator who would not otherwise be considered a common owner"

-END-

DATE March 9, 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY SB 428 Rep. Ewen

SB 475 Rep. Forbes

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Bill Gowen	Montana Rural Telephone	475	✓	
Tom Hopgood	Mt. Indep. Bankers Assoc	428	✓	
GEORGE BENNETT	MONT. BKRS ASSN	428	✓	
JOHN CADDY	" " "	428	✓	
Donald W. Hutchinson	BANKING & FINANCIAL dir	428	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY