

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on January 30, 1997, at
9:00 A.M., in ROOM 410

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Mary Gay Wells, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 35; HB 58; 1/20/97
Executive Action: HB 35; SB 148; SB 78

{Tape: 1; Side: A; Approx. Time Count: 9:04 AM; Comments: N/A.}

HEARING ON HB 35

Sponsor: REP. ROGER DEBRUYCKER, HD 89, FLOWEREE

Proponents: Peter Blouke, Director, Department of Commerce
Don Chance, MT Building Industry Assoc.
Jim Manning, Legislative Audit Division

Opponents: None

Opening Statement by Sponsor:

REP. ROGER DEBRUYCKER, HD 89, FLOWEREE. HB 35 was brought to me
by the Department of Commerce. It eliminates 11 statutes in our

laws pertaining to paint labeling and coal invoices which have not been used since the late 40's and early 50's. The federal government has taken over. With that, I will let the Department speak.

Proponents' Testimony:

Peter Blouke, Director, Department of Commerce. This is a housekeeping bill. It deals with issues that we have not been involved in for the last 15-20 years. We urge your support of this bill.

Don Chance, MT Building Industry Assoc. We have three or four major paint manufacturers in our association. We were not even aware that the paint labeling provisions were in statute because we have been operating under federal regulations for so many years. We are in support of HB 35.

Jim Manning, Audit Manager, Legislative Audit Division. As the director said, we noted in our financial compliance audit two years ending June 30, 1995, the Dept. was not enforcing or monitoring these laws and there did not appear to be any necessary need for these laws. We support this bill.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. DEBRUYCKER closed. I hope you find favorably on this bill. I will need someone to carry this to the Senate. SEN. STEVE BENEDICT offered to carry HB 35 to the Senate.

EXECUTIVE ACTION ON HB 35

Motion/Vote: SEN. STEVE BENEDICT MOVED DO CONCUR ON HB 35.

Vote: The motion DO CONCUR on HB 35 CARRIED UNANIMOUSLY.

{Tape: 1; Side: A; Approx. Time Count: 9:10 AM; Comments: AN 8 MINUTE BREAK WAS TAKEN. THEN EXECUTIVE ACTION WAS STARTED AT 9:18 AM BUT CAME TO NO ACTION; THEREFORE THE NEXT HEARING STARTED AT 9:40 AM.}

HEARING ON HB 58

Sponsor: REP. DAVID EWER, HD 53, HELENA

Proponents: Peter Blouke, Director, Department of Commerce
LeRoy Schramm, Legal Council, Commissioner of
Higher Education
Frank Cote, Deputy Insurance Commissioner

Opponents: None

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, HELENA. I do bring before you HB 58 by the request of the Department of Commerce. It is a repealer. It is a bill similar in format to a bill brought to the House in the last session which did not pass, but this time it passed very easily. This bill would eliminate the state's role in licensing and overview in post secondary schools such as About Travel, Alamon Telephone Training Center, Asten Center of Natural Therapeutics, Big Sky Guide and Outfitters, etc. The current law expects the state to maintain minimum standards for these schools and other requirements. In reality, the Dept. is not doing any of this. The reason we are not doing any of this is because there is no funding, no staff, etc. We do accept the schools checks and the Dept. still maintains the transcripts. I believe we either need to fund it or get out of it. This is the time to take action one way or the other.

Proponents' Testimony:

Peter Blouke, Director, Department of Commerce. **REP. EWER** has given a good description of what this bill does. We feel the concept is good but we do not have the staff and there may be a liability that the state is assuming if this legislation is on the books saying the Dept. will do the accrediting and if something happens we may have a liability. I would also add that there is an alternative. There is a number of national trade associations that do accredit many of these schools and perhaps that is an alternative. If it is the Legislatures desire that this function be continued, then it should be continued at OPI or through the Commissioner's office. The Dept. of Commerce is not the appropriate agency to handle this issue.

LeRoy Schramm, Legal Counsel for Commissioner of Higher Education. We rise in support of this bill. We think it is the lesser of evil to not have the regulations on the books than to have them and not doing anything about them. This way is more honest and straight forward. It does remove some potential liability from the state. We do get sued periodically by students who feel we have not been doing what we said we were going to do. We urge your support.

Frank Cote, Deputy Insurance Commissioner. I rise not necessarily as a proponent but come forward with a technical amendment (**EXHIBIT 1**) which **REP. EWER** will produce in his closing. When the bill was drafted, the intent was clear to make sure that the insurance continuing education aspect of this bill would be in place because they left on page 2, first sentence, "subject to Title 33, chapter 17." which is in the insurance code. Unfortunately they scratched out the words "providing prelicensing or continuing educational courses" and effectively

what that did was that if we now wanted to provide a list of insurance agents, we can't provide them to the providers of continuing education courses, we would only be able to provide them to other insurance agents. That is something we need to fix because the idea was for our department to provide a list of agents to the continuing education providers so that they can notify the agents of the courses that would be available. I also have some letters (**EXHIBITS 2A, 2B, 2C**) from members of our continuing education advisory council urging that amendment.

{Tape: 1; Side: A; Approx. Time Count: 9:51 AM; Comments: N/A.}

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. BEA MCCARTHY asked if, in the list of schools that had been discussed, these schools would be licensed but not regulated? **REP. EWER** replied that the license would no longer be required and they would not be regulated. **Ms. Annie Bartos, Chief Counsel, Department of Commerce** responded that the previous answer was correct--there will be no licensure of the schools. The schools will be able to continue to operate but with no state oversight or regulation.

SEN. MCCARTHY stated that there is an outfitter and guide school, but there is the Connole Morton School which provides college credit for their real estate courses and if the state has no control over them, what will happen? **Ms. Bartos** said that the state would have no control over the program. If the school wanted to offer any course or curriculum they would have the opportunity to do that. There is the opportunity that the schools may be accredited through a national accrediting association and there are about 4 or 5 different accrediting associations.

SEN. STEVE BENEDICT asked that in a nut shell with no further licensing and no control they cannot say they are licensed by the State of Montana and use that as a way to give their business some credibility. But as far as **SEN. MCCARTHY'S** question goes, he would see that as something between the university system and the school. The university system could refuse to accredit them as far as education credits to be used at universities. **Ms. Bartos** said that was correct. There is an exemption that currently exists under the law. **(The next sentence was garbled on the tape.)**

SEN. DEBBIE SHEA said that the repealer repealing sections 20-30-105, the preservation of records, is of great concern. Is no one going to take care of these records for the students as far as transfer of credits, etc.? **Ms. Bartos** stated that if this law is repealed it would also repeal the provision that the Dept. of Commerce had the duty to preserve the records. But the Dept. has made a commitment to continue to maintain those records from

those schools that are closed up until the law states otherwise. It would be incumbent upon the student to obtain the records when they graduate from the program or leave the school if this bill is passed into law.

CHAIRMAN JOHN HERTEL asked if this were turned over to the national level, how would this work? **REP. EWER** stated that this would not be the most satisfactory. Accreditation people are just as shrewd as any other business people and what they say is we will not accredit you until you have been in business two years, but then you cannot get a license until you are accredited and you can't get accredited until you have been in business two years. **CHAIRMAN HERTEL** then asked that if we did want to move to the national level, who would be in authority to cause that particular action to take place. **REP. EWER** stated that there is not an accrediting agency for the entire universe. It may be true for the travel agency business, but we have a number of businesses. He had no idea that there will indeed be a national accrediting agency for any post secondary proprietary school that wants to open up shop. He would ask for a comment from **Ms. Bartos**. **Ms. Bartos** replied that there are four schools that are accredited presently by a national accrediting agency in addition to being licensed by the State of Montana.

Closing by Sponsor:

REP. EWER closes. This is not an easy issue. I like this bill because it challenges us to make some tough decisions. If nothing else we must repeal the law or we must support the law and maintain the law. I will hand out a statistical report on proprietary schools (**EXHIBIT 3**). I do support the amendment (**EXHIBIT 1**). Thank you.

{Tape: 1; Side: B; Approx. Time Count: 10:02 AM; Comments: 16 MINUTE BREAK}

EXECUTIVE ACTION ON SB 148

{Tape: 1; Side: B; Approx. Time Count: 10:18 AM;; Comments: N/A.}

Motion: SEN. WILLIAM CRISMORE MOVED DO PASS ON SB 148.

Amendment Motion: SEN. STEVE BENEDICT MOVED DO PASS ON AMENDMENT (**EXHIBIT 4**).

Discussion: Mr. Bart Campbell explained that all the amendments had been merged and the final form is in (**EXHIBIT 4**).

Amendment Vote : The motion DO PASS on AMENDMENT CARRIED UNANIMOUSLY.

Motion/Vote: SEN. DEBBIE SHEA MOVED DO PASS AS AMENDED SB 148. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 78

Motion: SEN. BENEDICT MOVED DO PASS ON SB 78.

Discussion: SEN. CASEY EMERSON stated: There are some things that are good and some bad. Is there some way we can amend it? I would like to see the transportation section left in, 7 through 13. I have talked to the sponsor about this and he seemed amenable to having the council be appointed, but that for voting purposes the legislators only would have a vote.

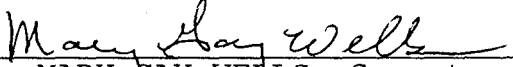
SEN. BENEDICT said that he would withdraw his Do Pass motion in order to let these amendments be presented. Mr. Campbell said that other conceptual amendments had been presented and that he would sit down with SEN. EMERSON and go over the fine points. CHAIRMAN HERTEL stated that Mr. Campbell and he had discussed the bill in detail and it is a gray bill, but it has been altered so much that there is not much point in even considering it. He felt that the whole section of 21 should be thrown out. The makeup of the council is totally unacceptable. SEN. MCCARTHY said she would wait as a courtesy to SEN. EMERSON, but that she would prefer to table the bill. CHAIRMAN HERTEL concurred, but felt that some action is necessary and the sooner the better. The leadership has indicated that this Committee must do something. SEN. BENEDICT suggested leaving the bill as ugly as it is right now and the better for killing it on the floor.

Motion/Vote: SEN. SHEA MOVED TO TABLE SB 78. The motion TO TABLE SB 78 CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 10:31 A.M.


SEN. JOHN R. HERTEL, Chairman


MARY GAY WELLS, Secretary

JH/MGW