

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on February 21, 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: SB 379; 2/18/97  
Executive Action: SB 379; SB 270; SB 378;  
SB 381; HB 117  
SB 376 DO NOT PASS

*{Tape: 1; Side: A; Approx. Time Count: 9:01 AM; Comments: N/A.}*

#### HEARING ON SB 379

**Sponsor:** SENATOR J. D. LYNCH, HD 19, BUTTE

**Proponents:** Jerry Loendorf, MT Consumer Finance Assoc.  
Donald Hutchinson, Department of Commerce, Banking  
& Financial

**Opponents:** None

Opening Statement by Sponsor:

SENATOR J. D. LYNCH, HD 19, BUTTE. SB 379 generally revises and updates certain provisions of the Montana Consumer Loan Act. The Montana Consumer Loan has never previously defined in the law and this bill now provides a definition. It would also allow certain loans to be repaid in other than equal installments and by the mortgager shall be released within 30 days after payment. There was an amendment that I hope you will consider. Thank you.

Proponents' Testimony:

Jerry Loendorf, MT Consumer Finance Assoc. The bill does what the sponsor just explained. I have a couple of amendments (EXHIBIT 1) that I will run through with you. They are very simple.

Don Hutchinson, Department of Commerce, Banking & Financial. I speak in support of the bill and the amendments. We request your support. Thank you.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SEN. LYNCH closed.

EXECUTIVE ACTION ON SB 379

Motion: SEN. DEBBIE SHEA MOVED DO PASS SB 379.

Amendments: SEN. SHEA MOVED to Amend SB 379 (EXHIBIT 1) sb037901.abc.

Vote: The motion TO AMEND SB 379 CARRIED UNANIMOUSLY: 6-0

Motion/Vote: SEN. SHEA MOVED DO PASS AS AMENDED SB 379. The motion CARRIED UNANIMOUSLY: 6-0.

{Tape: 1; Side: A; Approx. Time Count: 9:09 AM; Comments: N/A.}

EXECUTIVE ACTION ON SB 378

Motion: SEN. STEVE BENEDICT MOVED DO PASS SB 378.

Amendments: SEN. BENEDICT MOVED to AMEND SB 378 (EXHIBIT 2) sb037801.abc.

**Discussion:** SEN. BENEDICT stated the amendments are for the purpose of catching something that had not been put into the original bill in its proper form. SEN. MCCARTHY asked if the amendments that Claudia Clifford, State Auditor's Office, proposed were considered and added? SEN. BENEDICT and Mr. Campbell explained that her amendments were part of (EXHIBIT 2).

**Vote:** The motion to AMEND SB 378 CARRIED UNANIMOUSLY: 6-0.

**Discussion:** SEN. DEBBIE SHEA asked in talking about the COBRA law, once you leave your insurance you have to exhaust the COBRA (18 months) before you go into the Montana Comprehensive Health Assoc. Is this correct and if is, is there any way it could be made optional? Ms. Clifford stated that you could make that optional. That would be a portability statement to say that once you have left a group you would not have to exhaust your COBRA before you were eligible for MCHA coverage. SEN. BENEDICT said he would like to see what the industry people felt about this suggestion. Mr. Chuck Butler, Blue Cross and Blue Shield, answered that he agrees with what Ms. Clifford says although COBRA is in place for a specific reason to give people that benefit to continue their coverage for a certain period of time. I would err on the side of staying as close as possible to the Kennedy-Kassebaum Act. A great deal of thought was given to the "K-K" and there must be some reason for their not putting something like this into the Act.

SEN. MCCARTHY asked about the two amendments that were proposed for handicapped people and for children? SEN. BENEDICT replied that he has always taken a stance against mandated benefits.

**Motion/Vote:** SEN. BENEDICT MOVED DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY: 6-0

{Tape: 1; Side: A; Approx. Time Count: 9:19 AM; Comments: N/A.}

#### EXECUTIVE ACTION ON SB 381

**Motion:** SEN. BENEDICT MOVED DO PASS SB 381.

**Discussion:** SEN. BENEDICT explained that this bill was not intended to open up old policy decisions. SB 381 was to recodify a section from one part of the bill to another part of the bill. As far as he was concerned no other issues were pertinent in this discussion.

CHAIRMAN JOHN HERTEL asked Ms. Clifford to make a statement concerning this bill. Ms. Clifford said that she would like to correct one factual statement that was offered in testimony yesterday by a proponent of the bill. The uniform plan is a current law and can be offered by carriers. A statement yesterday said that without this bill uniform plans could not be

offered by carriers. Over the last two years, we were confused by an issue related to the uniform plan. We asked the Attorney General's opinion. We expressed to companies that they did not need to issue the uniform plan until we cleared up a confusion of whether or not the mandated benefits applied. Without this bill companies could still offer uniform plans. The issue before you is whether or not the uniform plans will contain the mandated benefits and whether the "freedom of choice" of provider act will also apply to the plans.

**SEN. BENEDICT** stated that he had no quarrel with those statements, but in the process over the last two years, the uniform plan was held up as being the vehicle this Legislature intended by the Auditor's Office because of the confusion and then was sent to the Attorney General and he ruled that the uniform plan could not be offered without the mandated benefits. Is that correct, **Ms. Clifford**? **Ms. Clifford** replied that is correct. When we read the law, policy decision by the last Legislature as it was in the law was that the mandated benefits would apply. **SEN. BENEDICT** then said that the reason for this bill was to implement a policy of the last Legislative session that we wanted a bare-bones plan that would go along with medical savings accounts and be more of a catastrophic plan that did not include the benefits. That is where the confusion came in. The language was not in the right section. I asked **Mr. Cote** to get me language that would put the intent of that policy into the proper section of law.

**SEN. MCCARTHY** asked **Mr. Cote** if this bill is just recodifying the contents of the last bill. **Mr. Cote** said that the bill doesn't really address codification; it does what the sponsor wants it to do. The bill does not simply say we recodify a section of code. The bill eliminates the mandated benefits from the uniform plan. It doesn't eliminate the mandated benefits by recodifying a section of code.

**Mr. Cote** said that in the 1995 session, the intent of the committee was that the uniform plan was not to have mandated benefits in it. Everyone on that committee knew full well what that meant. What I don't recall is whether or not if the people who then voted on the bill, later knew that. The decision in 1995 was in theory to include the mandated benefits, but I do not remember if that was brought out on the floor and whether everyone understood and knew that. When you and I spoke, you and I were under the thought that the intent was what the committee had done. The bill was not drafted in such a way as to effectuate that. I then used the language that drafted this bill to accomplish what you wanted.

**SEN. BENEDICT** made a statement: I am very deeply troubled and disappointed with **Deputy Insurance Commissioner Cote's** remarks. The committee looked at this piece of legislation in 1995 was a bi-partisan, joint committee between the House and Senate for about eight weeks and all of those committee meeting minutes are

available for everyone's, including the Deputy Insurance Commissioner's, perusal. I believe that to stretch the truth to the point where it becomes a reflection on my character to say that maybe people didn't understand what they were voting for when we went through eight weeks of hearings and testimonies on these bills and the bills were moved forward as a package on the Floor of the House and the Floor of the Senate and were treated as a delicate compromise between a lot of individuals is something that I am very disturbed with.

**Mr. Cote** responded that he did not intend to imply that the committee did not know what they were voting for. And I apologize for that. There is no doubt in my mind as you know that you and I and various other people in this room were very involved in the process. There is no doubt in my mind that the people on the committee knew exactly what was happening with that piece of legislation. What I was trying to address, I don't recall if on either Floor that it was made clear that the uniform plan did not have the mandated benefits. It may have been that both chambers did or did not discuss if it would not have mandated benefits.

Vote: The motion DO PASS SB 381 CARRIED UNANIMOUSLY: 6-0.

{Tape: 1; Side: A; Approx. Time Count: 9:34 AM; Comments: N/A.}

#### EXECUTIVE ACTION ON HB 117

Motion: SEN. BEA MCCARTHY MOVED HB 117 BE CONCURRED IN.

Amendments: SEN. MCCARTHY MOVED to Amend HB 117 (EXHIBIT 3)  
hb011701.abc.

Vote: The motion TO AMEND HB 117 CARRIED UNANIMOUSLY: 6-0

Motion/Vote: SEN. MCCARTHY MOVED HB 117 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY: 6-0. SEN. MCCARTHY will carry the bill.

#### EXECUTIVE ACTION ON SB 270

Motion: SEN. STEVE BENEDICT MOVED DO PASS SB 270.

Amendments: SEN. BENEDICT MOVED to Amend SB 270 (EXHIBIT 4)  
sb027001.abc.

Discussion: SEN. BENEDICT explained that the bill was turned into a three page bill from a one page bill. However, **Mr. Hopgood** and **Mr. Clyde Dailey** have both come to agreement on this bill. **Mr. Dailey** from the Insurance Commissioner's Office explained the amendments. The bill now brings in the restitution piece which we felt is very important. It brings in the

potential for the education piece. It defines fraud in a fashion that was agreeable to both industry and the Dept.

Vote: The motion to AMEND SB 270 CARRIED UNANIMOUSLY: 6-0.

Motion/Vote: SEN. BENEDICT MOVED SB 270 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY: 6-0.

{Tape: 1; Side: B; Approx. Time Count: 9:44 AM; Comments: N/A.}

#### EXECUTIVE ACTION ON SB 376

Motion: SEN. WILLIAM CRISMORE MOVED DO PASS SB 376.

Discussion: SEN. CASEY EMERSON stated that yesterday he wanted to know how many people were going to be affected by this bill. The answer would be between 40 and 60 from **Mr. Gordon Vance**. The answer from the Dept. of Commerce said that more would be included in this bill; it would be more like 130 to 150 people affected. He believed that more time should be given to the people who would be affected and that was not done with the timing of this bill.

**SEN. DEBBIE SHEA** asked that the bill could be heard again in the House and those people would have the opportunity then. This bill won't be able to be heard for another two years.

**SEN. STEVE BENEDICT** asked what any member of the committee felt to be the overriding need for this bill wanting more government, more regulation and more intrusion in their lives?

**SEN. SHEA** said that as in anything, you are talking economics and fairness. In the case of one gentleman who was here yesterday, he is feeling pressure. They are open to competitive businesses coming, but they don't have any regulation or laws that protect them. It can be dealt with on the House side.

**SEN. WILLIAM CRISMORE** said that he had tried to speak to some dealers in his area but was not able to do so. It does bother him that no one has contacted him with problems and therefore it is more likely to backfire on some dealers who are unaware of this bill.

**CHAIRMAN JOHN HERTEL** asked **Mr. Dean Roberts** to speak about the fiscal note. This is his big concern if he has to explain it to the Floor of the Senate. **Mr. Roberts, Dept. of Justice**, explained that under the "lemon law" all snowmobiles, off-highway vehicles and watercraft would fall under the "lemon law". There would be no question in my mind that there would be a lot more action against the "lemon law" for those kinds of vehicles than

there are against automobiles. He is sure that is why the fiscal note is so high.

**Mr. Ken Hoovestall** was asked to speak to the bill as he worked very hard on the amendments. (EXHIBIT 5) **Mr. Hoovestall** replied that he agreed with **SEN. SHEA**. There are problems with the bill and amendments as is. For a number of years we have tried to get the dealers together and work with us. They have finally done this. I have talked with **Mr. Turkiewicz** and there are certainly some merits to the concept that they are trying to accomplish with this bill. It would be good though if you could pass this bill along.

**SEN. CRISMORE** stated that the committee could pass this bill out, but can we defend this bill on the Floor of the Senate? What will it really do with this being a new group just organizing?

**SEN. JOHN HERTEL** echoed the previous sentiments. **SEN. EMERSON** said that he heard from three people against this bill through a letter.

**SEN. MCCARTHY** said that the group that had come forward with the bill are the kind of people who felt they had a problem and came forward to the Legislature to see if it could be addressed. She would like to see it go over to the House. It may be a hard defense on the Floor of the Senate because of the fiscal note. But let us send it to them and see what they do with it.

Motion/Vote: **SEN. EMERSON** MOVED TO TABLE SB 376. The motion FAILED with SENATORS EMERSON, CRISMORE and BENEDICT voting YES and SENATORS HERTEL, MCCARTHY and SHEA voting NO.

Motion/Vote: **SEN. SHEA** MOVED DO PASS SB 376. The motion FAILED with SENATORS HERTEL, MCCARTHY and SHEA voting YES and Senators EMERSON, CRISMORE and BENEDICT voting NO.

ADJOURNMENT

Adjournment: 10:05 A.M.

  
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SEN. JOHN R. HERTEL, Chairman

  
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MARY GAY WELLS, Secretary

JH/MGW