

Unofficial Draft Copy

As of: July 21, 2006 (5:49pm)

LC9832

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing review criteria for licensing boards or programs; assigning review to interim committee with responsibility to monitor licensing boards; providing for legislation to terminate or combine boards; requiring cooperation from department to which licensing boards or programs are administratively attached; limiting collection of fees for a licensing board or program that is to be terminated; specifying how fees are to be deposited; and amending section 2-8-101, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-8-101, MCA, is amended to read:

"2-8-101. Purpose. (1) The legislature finds state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules. The legislature ~~questions whether~~ affirms that conditions causing the establishment of these agencies, programs, and rules ~~have not changed~~ may periodically change to such an extent as to remove the need for some or all of the agencies, programs, and rules.

(2) It is the intent of the legislature, ~~by establishing a system of periodic evaluation of~~ to periodically evaluate the

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need for and the performance of agencies or programs preparatory to termination, modification, or reestablishment, to be in a better position to ensure as follows:

(a) ~~The responsiveness by the executive department is responsive branch to the needs of all of the people of the state.;~~

(b) ~~No termination of any agency, program, or rule exists which that is not responsive to those needs.;~~

(c) ~~No use of the state's regulatory power over a profession, occupation, business, industry, or other endeavor is subject to the state's regulatory power unless only when the exercise of such power is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage. The For the purposes of this subsection:~~

~~(i) exercise of the state's police power shall be done only is limited to the extent necessary for that purpose. protection of public health, safety or welfare; and~~

~~(d) The (ii) regulation by the state may not regulate of a profession, occupation, industry, business, or other endeavor may not be undertaken in a manner which will that unreasonably adversely affect affects the competitive market.~~

~~(e) There exists a systematic legislative review of the need for and public benefits derived from a program or function by a periodic review and termination, modification, or reestablishment of such programs and functions."~~

{ Internal References to 2-8-101: None. }

NEW SECTION. **Section 2. Interim committee review of**

licensing boards. (1) (a) Before January 1 of each even-numbered year, a legislative interim committee responsible for monitoring licensing boards shall notify the department to which licensing boards are administratively attached if the committee plans to review one or more licensing board or program to determine the need for the board or program.

(b) A review under subsection (1)(a) is separate from a performance audit conducted by the legislative audit committee.

(2) The focus of a review under subsection (1)(a) is:

(a) to assess the financial solvency of the board or program and the impact on consumers and on licensees if higher fees are projected for the next biennium; and

(b) to determine whether a board or program continues to be needed to protect public health, welfare, safety, or the common good by obtaining answers to the following questions:

(i) does the improper practice of the occupation pose a physical, financial, or emotional threat to public health, safety, or welfare and is there evidence of harm from improper practice; and

(ii) does the practice of the occupation require specific training or skills that make evaluation of competency difficult for the consumer.

(3) After the review the committee may draft legislation to:

(a) terminate the board or program if the board or program is no longer needed for public health, welfare, safety, or the common good; or

(b) combine a board with other licensing boards if a board meets the criteria in subsection (2)(b) of this section but faces higher fees than if the board operated in combination with another board with similar interests.

(4) The department to which the board is administratively attached shall assist the interim committee by providing information on budgets, complaints, licensing fees, and other information requested by the committee.

NEW SECTION. **Section 3. Termination of licensing board, program -- deposit of fees.** (1) If the legislature terminates a licensing board or program, the department of labor and industry may collect only delinquent licensing fees on behalf of the terminated licensing board or program. Continuing education and other requirements for maintaining a license lapse with the effective date of termination.

(2) (a) Fees collected on behalf of a board or program that is to be terminated must be deposited in the state special revenue fund for the use of the board or program.

(b) Fees that are not needed for satisfying debt obligations of the board or program may be used by the department to offset the costs of the department to all boards and programs.

NEW SECTION. **Section 4. {standard} Codification instruction.** [Sections 2 and 3] are intended to be codified as an integral part of Title 2, chapter 8, and the provisions of Title 2, chapter 8, apply to [sections 2 and 3].

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