

1 SENATE JOINT RESOLUTION NO. 35

2 INTRODUCED BY COCCHIARELLA, JOE BALYEAT, GRIMES, LEWIS, ROUSH, SMITH, SQUIRES,
3 STEINBEISSER, TASH, TROPILA

4 BY REQUEST OF THE SENATE BUSINESS, LABOR, AND ECONOMIC AFFAIRS STANDING
5 COMMITTEE
6

7 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
8 MONTANA REQUESTING THE LEGISLATIVE COUNCIL TO DESIGNATE AN APPROPRIATE INTERIM
9 COMMITTEE OR DIRECT SUFFICIENT STAFF RESOURCES TO STUDY METHODS TO INCREASE THE
10 RESPONSIVENESS, EFFECTIVENESS, AND EFFICIENCIES OF PROFESSIONAL AND OCCUPATIONAL
11 BOARDS AND PROGRAMS DEDICATED TO PUBLIC SERVICE IN MONTANA AND TO PROVIDE
12 RECOMMENDED POLICIES FOR CREATION OF NEW BOARDS, BOARD RULEMAKING, AND BOARD
13 ACCOUNTABILITY.
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15 WHEREAS, Montana has 32 professional and occupational licensing boards administratively attached
16 to the Department of Labor and Industry and other regulatory boards attached to other departments, some of
17 which have similar areas of jurisdiction, which occasionally results in jurisdictional conflicts and lack of mission
18 clarity; and

19 WHEREAS, the 58th Montana Legislature called for limited-scope performance audits of the operations
20 of professional and occupational licensing boards, which resulted in legislation in the 59th Legislature to clarify
21 jurisdiction between the boards and the department to which they are attached but which did not address policies
22 related to both board and department accountability to legislative intent, especially as accountability relates to
23 public safety and protection; and

24 WHEREAS, the continuing growth of the service industry in Montana has resulted in requests for
25 recognition of professional and occupational status through licensing programs with a resulting expansion of
26 state regulatory authority funded primarily through costs assessed to those being licensed and regulated; and

27 WHEREAS, the Legislature may assign rulemaking authority to boards that operate autonomously in
28 implementing legislative directives, with limited, inconsistent oversight by legislative committees and limited
29 oversight by the department to which the board is assigned, sometimes resulting in rules that appear contrary
30 to legislative intent; and

1 WHEREAS, tension may exist between the role of board members who are knowledgeable about their
2 profession or occupation, which is necessary for rulemaking and regulation of the profession or occupation, and
3 the role of board members in licensing new members who may increase competition within the profession or
4 occupation; and

5 WHEREAS, appropriate consolidation of boards and revised oversight responsibilities may result in
6 increased efficiencies, effectiveness, and oversight.

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8 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
9 THE STATE OF MONTANA:

10 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
11 section 5-5-217, MCA, or direct sufficient staff resources to examine the appropriate role of boards in
12 implementing professional and occupational licensing and oversight with the goal of protecting public safety and
13 to study whether consolidating boards and providing subgroups within boards would increase cost efficiencies
14 and governance efficiencies while protecting the public safety.

15 BE IT FURTHER RESOLVED, that the study address the tensions created by jurisdictional disputes
16 between boards and seek ways to resolve these disputes through consolidation, more specific delineation of
17 authority, or other alternatives.

18 BE IT FURTHER RESOLVED, that the study address for each board created by the Legislature the
19 balance of professional and occupational membership to public interest membership and whether changing the
20 board membership would improve public protection, which is the basic rationale for the state's regulation of
21 boards.

22 BE IT FURTHER RESOLVED, that the study address the role of a board's rulemaking authority and the
23 oversight of a board's rulemaking to determine what policies may be necessary to improve implementation of
24 legislative intent and the degree and the extent of the delegation of rulemaking authority to boards rather than
25 to a department.

26 BE IT FURTHER RESOLVED, that the study provide policy considerations for the Legislature to use in
27 reviewing creation of new boards.

28 BE IT FURTHER RESOLVED, that the appropriate interim committee or staff work with board members,
29 interested parties, and the affiliated departments to include the broadest perspectives during the implementation
30 of this study.

1 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
2 presented to and reviewed by an appropriate committee designated by the Legislative Council.

3 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
4 requirements, be concluded prior to September 15, 2006.

5 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
6 comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

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