

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on March 19, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. John Brenden (R)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Bill Wilson (D)

Members Excused: Senator Hager

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

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

Committee Business Summary:

Hearing: HB 581, HB 596, HB 619
Executive Action: HB 433, HB 581, HB 449, HB 594, HB 441

HEARING ON HB 596

Opening Statement by Sponsor:

Representative Bill Wiseman, House District 33, stated HB 596 was drafted at the request of Trustcorp. He stated HB 596 would allow trust companies from out of state to come into the state and would also allow for reciprocity. He concluded HB 596 is supported by the entire banking industry because it would bring business into the state.

Proponents' Testimony:

Robert Bragg, President, Trustcorp, stated they are affiliated with D.A. Davidson as a subsidiary (DADCo). He stated HB 596 is a reciprocity bill with nine other states which have the same legislation. He stated HB 596 would allow for fiduciary and trust services to be reciprocated with the nine states and Montana. He stated HB 596 would only apply to trust companies and not to banks because of the core services of banks which are not services of trust companies. He stated there would be no adverse impacts on business in the state.

Bruce McKenzie, Trustcorp, read from prepared testimony in support of HB 596 (Exhibit #1).

Roger Tippy, Montana Independent Bankers, stated his support of HB 596 with the amendments from the House. He supplied a copy of his testimony (Exhibit #2).

Bill Leary, Montana Bankers Association, stated his support of HB 596 as amended in the House.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Christiaens asked Mr. McKenzie if HB 596 would increase competition in Montana. Mr. McKenzie stated the increase in competition would be good for the consumer because it would cause the rates to be more competitive.

Senator Christiaens asked Mr. McKenzie if there would be changes in fees paid by the trust companies. Mr. McKenzie stated the fees were determined by the Department of Commerce. He stated the DOC would still have some control over which companies would be coming into the state.

Senator Christiaens asked Mr. Tippy if the statement of intent, which covers the states within the Ninth Federal Reserve District (NFRD), would fit within the interstate banking bill which was before the Committee. Mr. Tippy stated it would fit within the scope of the interstate banking bill.

Referring to line 24, page 1, Senator Gage asked Mr. Bragg why it includes each banking and trust association or corporation and each national banking association. Mr. Bragg stated there may be foreign companies which act as banks and would have trust powers within a state. He stated HB 596 would imply a bank with trust powers would be included under the statute. He stated HB 596 would only apply to trust activities.

Senator Gage asked Mr. Bragg why the statement of intent included the NFRD, and why there was no language in the body of HB 596 which reinforced the statement of intent. Mr. Bragg stated the NFRD language was in the statement of intent because it provided a global definition of the rule making authority of the Department of Commerce. He stated the intent is clear and does not need to be added to the bill. He stated the reciprocity would occur with any state which had the same legislation, and not all of those states would be in the NFRD.

Senator Gage asked Mr. Tippy to respond to his previous question. Mr. Tippy stated the rules indicate the statement of intent may be used as an example to narrow a broad delegation of rule making authority.

Senator Klampe asked Mr. Tippy if any of the NFRD lies outside of the banking district. Mr. Tippy stated the state of Michigan is not in the banking district.

Senator Klampe asked if banks outside of the NFRD would be able to conduct business in Montana. Mr. Tippy stated the NFRD is only used as a guide for rule making. He stated the reciprocity in the bill is nationwide.

Senator Klampe asked Bruce McKenzie to clarify the question he asked Mr. Tippy. Bruce McKenzie stated the NFRD exists for the purpose of promulgating rules. He stated the banks in any state may reciprocate services if they have similar legislation. He stated the statement of intent would restrict the rules the department would promulgate to only the states in the NFRD.

Closing by Sponsor:

Representative Wiseman closed on HB 596, stating an agreement exists between the banking industry and the trust corporations.

HEARING ON HB 581

Opening Statement by Sponsor:

Representative Sheila Rice, House District 36 stated HB 581 would create a statewide crisis housing task force. She stated there would be no compensation or reimbursement from state funds for the task force. She stated there is a housing crisis in the state with over 8,000 people on public housing waiting lists. She stated HB 581 would bring together the people in the housing industry including the home builders, the savings and loans and the public housing authority to create a "blueprint for action". She stated the people named in HB 581 would make the system work.

Proponents' Testimony:

Judith Carlson, Director. Human Resource Development Counsel (HRDC), stated her support of HB 581. She stated HRDC works on problems with poverty and helps people become self-sufficient. She stated one of the major obstacles the HRDC has had to face has been the housing shortage. She stated HB 581 would be the cause for some solutions to the problems.

Lance Clark, Montana Association of Realtor, stated his support of HB 581.

Craig Young, Montana Low Income Coalition, stated his support of HB 581.

George Marble, Montana Chapter of the National Association of Housing and Redevelopment Officials, read from prepared testimony in support of HB 581 (Exhibit #3).

Rhonda Carpenter, Montana Landlords Association, Income Property Owners and Managers Association, stated her support of HB 581.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked Representative Rice if there needs to be a change in the deadline for the report for the 54th legislature. Representative Rice stated the date needed to be changed to December 1, 1994, rather than 1995. Senator Gage asked Representative Rice who was going to staff the task force. Representative Rice stated the Department of Commerce (DOC) has funds available for report printing and other expenses. She stated the staffing issue is unresolved, but the DOC will help with the staffing problem if HB 581 passes.

Closing by Sponsor:

Representative Rice closed on HB 581, stating it was good legislation.

EXECUTIVE ACTION ON HB 581**Motion/Vote:**

Senator Gage moved HB 581 BE AMENDED (621800SC.Sma). The motion CARRIED UNANIMOUSLY

Motion/Vote:

Senator Christiaens moved HB 581 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 596**Discussion:**

Senator Gage stated the statement of intent states that "a trust company may establish branches or offices or to solicit business...and the reciprocity has to permit such solicitation." Senator Gage stated HB 581 states the reciprocity only has to allow the businesses to solicit and does not allow for the businesses to establish offices.

Senator Christiaens stated the intent of HB 596 was to allow for any state to conduct business in Montana, while the NFRD was to be used as a basis for the rules regarding the business.

Senator Klampe asked that HB 596 be considered for executive action at a later date. Senator Lynch concurred with Senator Klampe.

EXECUTIVE ACTION ON HB 433**Motion:**

Senator Rea asked HB 433 be amended as follows:

Page 1, line 15, after "mules" insert "or dogs".

Discussion:

Senator Lynch asked if there was any regulation on the simulcast productions of dog and horse racing.

Senator Gage asked if Senator Rea's amendment should be included in the title of HB 433. Bart Campbell stated it should be included in the title.

Senator Christiaens asked Sam Murkett, Board of Horse Racing, if HB 433 was trying to limit the Board's authority. Mr. Murkett stated the primary concern of the Board is that HB 433 would strike "an animal" in the current statute and replace it with "one or more registered horses or mules". He stated the Board has always had jurisdiction over all animal racing and has not

had any problem. He stated the Board is trying to keep the ability to administer and control both dog and horse racing. Mr. Murkett stated without the amendment by Senator Rea, legislative action would need to be taken to allow for any other form of racing.

Senator Christiaens stated he felt there needed to be a clarification of other animals besides hamsters, gerbils, and pigs. He stated some small towns also hold chicken races.

Senator Lynch stated bills will come in when the issues arise. He stated the reason HB 433 came before the Committee was to clarify the law to allow for pig racing at the one place in Bear Creek.

Vote:

The motion CARRIED 9 to 3, with Senator Harding, Senator Klampe and Senator Christiaens voting NO.

Motion/Vote:

Senator Mesaros moved HB 433 BE CONCURRED IN AS AMENDED. The motion FAILED on Roll Call Vote.

Motion:

Senator Harding moved HB 433 BE NOT CONCURRED IN AS AMENDED.

Motion/Vote:

Senator Christiaens made a SUBSTITUTE MOTION that HB 433 BE TABLED. The motion FAILED by voice vote.

Motion/Vote:

Senator Harding moved HB 433 BE NOT CONCURRED IN AS AMENDED. The motion CARRIED by Roll Call Vote.

HEARING ON HB 619

Opening Statement by Sponsor:

Representative Tim Whalen, House District 93, stated HB 619 would allow for any money received in the settlement of a case to go to any outstanding medical bills. He stated HB 619 would make sure there are funds available for services provided by health care facilities, or other providers in the diagnosis and treatment of individuals. He stated HB 619 would protect the funds from being charged for collection costs and attorney's costs. He stated HB

619 would clarify that any lien is attached only to the items listed in the statute. He stated he would like to propose an amendment to substitute "medical" and insert the word "health" throughout HB 619 (Exhibit #4)

Proponents' Testimony:

Jerry Loendorf, Montana Medical Association, stated he supported HB 619 with the proposed amendment. He also supplied the Committee with some proposed amendments to HB 619 (Exhibit #5).

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Christiaens asked Representative Whalen how a professional who participated in a medical case would be paid. Representative Whalen stated the attorney makes the arrangements with the witnesses. He stated sometimes it is necessary to develop testimony from someone who is not a favorable witness. He added that under those circumstances, the attorney has the right to have a subpoena issued to obtain the information. He stated rather than issuing the subpoena, the depositions are taken in the office of the witness.

Senator Klampe asked Representative Whalen if he was an attorney. Representative Whalen answered he was.

Senator Klampe asked Mr. Loendorf why he supported HB 619. Mr. Loendorf stated the liens would only apply to health care services. He stated HB 619 would deal with isolated instances.

Closing by Sponsor:

Representative Whalen stated the purpose of HB 619 would be to protect the provider of medical services and to save the consumers from losses from disputes over medical bills. He stated the purpose of the health care lien law does not strip the provider of the right to bill for their services which are not health care related.

EXECUTIVE ACTION ON HB 449

Discussion:

Senator Lynch stated there was an amendment which changed "bottled honey" to "honey in the comb".

Senator Kennedy stated he talked to his constituents in Kalispell who opposed HB 449 because they had never been required to get a license before and saw no need for the legislation.

Senator Kennedy asked Senator Lynch if there was a law which stated they were supposed to have a license. Senator Lynch replied vendors, by law, are required to have a license, however, the law had never been enforced. He stated HB 449 would make sure the people who ran farmers market did not have to pay a licensing fee.

Senator Christiaens stated his constituents still opposed HB 449 because of the sales of baked bread and other types of processed goods.

Senator Klampe stated he felt the constituents had the issues backwards. He stated HB 449 would exempt them from having a license. He stated the people need to be educated.

Senator Kennedy stated his constituents had voiced the same opposition as Senator Christiaens' constituents.

Senator Mesaros stated HB 449 would clarify the law.

Senator Harding stated she had talked to the health department and they wanted everything which can be sold to be specified.

Senator Lynch stated the health department should specify and enforce what should and should not be sold at the markets.

Senator Bruski-Maus asked what effect HB 449 would have on church bazaars which sell bread and desserts.

Senator Lynch stated the state requires vendors to purchase a \$60 license but does not enforce the regulation.

Senator Gage stated church bazaars would not be subject to licensing or to HB 449 because churches are non-profit.

Senator Klampe stated he felt it was unfair that anyone who wanted to sell their goods through a grocery store was subject to regulation yet farmer's markets were not subject to regulation.

Senator Gage asked if HB 449 would affect a market which buys produce from outside of the state and operates all year.

Senator Lynch stated if markets operated all year, they could afford the \$60 fee.

Motion/Vote:

Senator Mesaros moved HB 449 BE CONCURRED IN AS AMENDED. The motion CARRIED 11 to 1 with Senator Christiaens voting NO.

EXECUTIVE ACTION ON HB 594

Motion/Vote:

Senator Gage moved HB 594 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

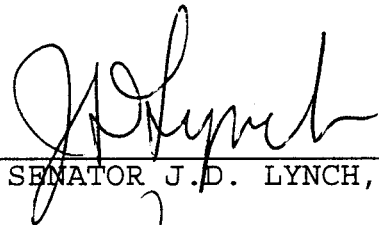
EXECUTIVE ACTION ON HB 441

Motion:

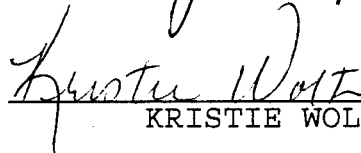
Senator Gage moved HB 441 BE CONCURRED IN. The motion CARRIED 11 to 1 with Senator Brenden voting NO.

ADJOURNMENT

Adjournment: 11:25 a.m.



SENATOR J.D. LYNCH, Chair



KRISTIE WOLTER, Secretary

JDL/klw


ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 19, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 433 (first reading copy -- blue), respectfully report that House Bill No. 433 be amended as follows and as so amended be not concurred in.

Signed: 

Senator John "J.D." Lynch, Chair

That such amendments read:

1. Title, line 9.

Following: "AND"

Insert: "TO"

Following: "MULES"

Insert: "AND DOGS"

2. Page 1, lines 18 and 19.

Following: "horses or" on line 18

Insert: "of"

Following: "mules" on line 19

Insert: "or dogs"

3. Page 3, line 18.

Following: "premises"

Insert: "but outside of interior areas of the establishment where food and beverages are usually stored, prepared, or served"

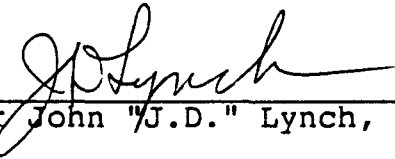
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 19, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 581 (first reading copy -- blue), respectfully report that House Bill No. 581 be amended as follows and as so amended be concurred in.

Signed: 

Senator John "J.D." Lynch, Chair

That such amendments read:

1. Page 4, lines 9 and 11.
Strike: "1995"
Insert: "1994"

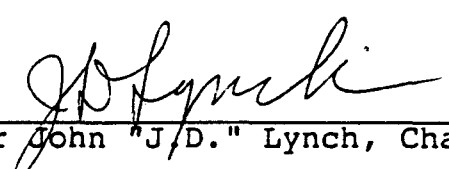
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 19, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 449 (first reading copy -- blue), respectfully report that House Bill No. 449 be amended as follows and as so amended be concurred in.

Signed: 

Senator John "J.D." Lynch, Chair

That such amendments read:

1. Page 4, line 10.
Following: "honey"
Strike: ", bottled or"
Following: "comb"
Strike: ","

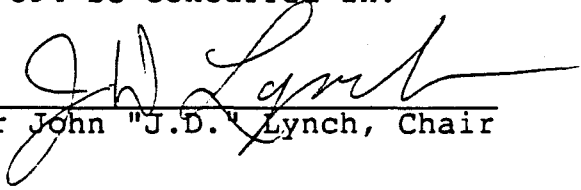
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 19, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 594 (first reading copy -- blue), respectfully report that House Bill No. 594 be concurred in.

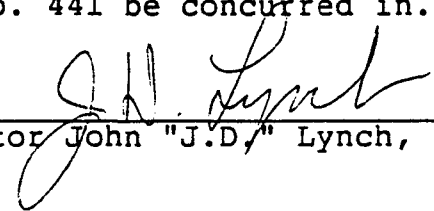
Signed: 
Senator John "J.D." Lynch, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 19, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 441 (first reading copy -- blue), respectfully report that House Bill No. 441 be concurred in.

Signed: 

Senator John "J.D." Lynch, Chair

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry BILL NO. HB423

DATE 3/19/93 TIME 10:00 A.M. P.M.

NAME	YES	NO
Senator Gage		✓
Senator Hager		
Senator Harding	✓	
Senator Mesaros		✓
Senator Brenden		✓
Senator Wilson	✓	
Senator Rea	✓	
Senator Klampe	✓	
Senator Koehnke	✓	
Senator Bruski-Maus	✓	
Senator Kennedy	✓	
Senator Christiaens	✓	
Senator Lynch		✓

Kristen Walt
SECRETARY

P. Lynch
CHAIR

MOTION: ~~Failed~~ Be Not Concurred In As Amended

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry BILL NO. HB 433

DATE 3/19/93 TIME 10:00 (A.M.) P.M.

NAME YES NO

NAME	YES	NO
Senator Gage	✓	
Senator Hager		✓
Senator Harding		✓
Senator Mesaros	✓	
Senator Brenden	✓	
Senator Wilson		✓
Senator Rea		✓
Senator Klampe		✓
Senator Koehnke		✓
Senator Bruski-Maus	✓	
Senator Kennedy	✓	
Senator Christiaens		✓
Senator Lynch	✓	

Lynette Wolk
SECRETARY

J. Dhyach
CHAIR

MOTION: Be Concurred In As Amended

MEMORANDUM

TO: Senator J.D. Lynch
Chairman, Senate Business & Industry Committee

Re: House Bill 596: Trust Company Reciprocity Legislation

From: Bruce A. MacKenzie
Lobbyist for TrustCorp

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3/19/93
BILL NO. HB 596

At the present time Montana law effectively prevents Montana Trust Companies from doing business in a number of its neighboring states. House Bill 596 opens the borders of Montana for Trust companies domiciled within this state to do business in possibly nine other states. The legislation would produce increased competition within Montana from out of state trust companies domiciled within states that have similar legislation.

Trust companies generally are restricted from acting as a trustee in another state unless the state law allows such activity. The law of each state controls whether and under what conditions a trust company from another state may act as a trustee within the state. Corporations qualified as trust companies in one state are frequently handicapped or disqualified from accepting and administering trusts in another state by reason of these statutory restrictions.

The states have little uniformity regarding the ability of a trust company to do business in another state. Although the laws vary from state to state, the statutes regulating trust companies can be categorized into three different methods of governing the ability to do business in a state other than the state of the company's organization:

1. Permitted to do business only if they qualify under the states banking laws.
2. Permitted only if the trust company's state of organization provides corresponding privileges to local trust companies. (Reciprocal privileges states)
3. Special licensing provisions.

Montana currently falls within the first category. In Montana foreign trust companies may not do business within the state without qualifying under the banking laws. Such a provision prohibits trust companies organized within Montana from expanding their market area to states which have reciprocity legislation. There are nine states bordering or west of the Mississippi that have a form of reciprocity legislation: Minnesota, Wisconsin, Illinois, North Dakota, South

Dakota, Nebraska, Missouri, Oklahoma and Oregon. By opening the borders of Montana to permit trust companies to solicit business and accept trusts, HB 596 allows Montana trust companies to solicit and accept trusts in states with similar reciprocity provisions.

While out of state firms domiciled in states with reciprocity legislation would be permitted to solicit business within the state, the legislation requires the firms to either provide bonding or maintain capital equal to the capital requirements of Montana firms. Further, out of state trust companies would be required to comply with rules to be promulgated by the Department of Commerce.

The legislation is patterned after the Minnesota statute. The Minnesota authorities have indicated this provision has not resulted in any added regulatory burden to the office charged with the responsibility for enforcing Minnesota's trust laws.

BAM 3-17-93

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2DATE 3/19/93BILL NO. HB 441NAME Roger TippyADDRESS Box 543, Helena 59624HOME PHONE 443-6342 WORK PHONE 442-4448REPRESENTING Montana Independent BankersAPPEARING ON WHICH PROPOSAL? HB 596DO YOU: SUPPORT OPPOSE AMEND

COMMENTS:

The independent bankers opposed this bill in the House because of the wording of original sec. 7. It appears to be the law that domestic trust companies cannot set up a type of branch office called a remote service location--an Attorney General's opinion to the Department of Commerce is pending on this question. It would not be proper for a Minnesota-based trust company to have remote service locations if a Montana trust company could not.

The amendment we offered takes care of our concerns and was accepted by Trust Co. of Montana. It says no remote service locations or branch offices unless that's the general pattern in 9th District states. It isn't now. Minnesota allows it--~~South~~^{North} Dakota and Wisconsin prohibit it--and South Dakota's law is unclear. We would consider "generally" to be something like 3 out of 4 or 4 out of 5 other states.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

March 19, 1993

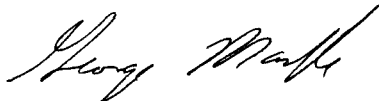
HB0581

On behalf of Montana State chapter of NAHRO, the National Association of Housing and Redevelopment Officials, I would like to speak in favor of House Bill 581.

House Bill 581 would create a state wide housing task force which could review and monitor the housing needs of the State. Indicators like public housing authority and Section 8 program waiting lists show that a housing shortage indeed exists in major areas of the State.

A housing task force comprised of legislators, members of the local communities, and those of us involved in providing subsidized housing would be beneficial in gathering data and reporting to the legislature with recommendations in order to form a comprehensive plan to alleviate the housing shortage in Montana.

Thank You



SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 3/19/93
BILL NO. HB 581

PROPOSED AMENDMENTS TO HOUSE BILL # 619
Prepared by Mary McCue, Lobbyist
Montana Clinical Mental Health Counselors Ass'n

1. Title, line 6.
Strike: "MEDICAL"
Insert: "health"

2. Page 1, line 16.
Following: "treatment of"
Strike: "medical"
Insert: "health"

3. Page 1, line 17.
Strike: "medical"

4. Page 2, lines 3 and 4.
Following: "treatment of a"
Strike: "medical"
Insert: "health"

5. Page 2, line 24.
Following: "treatment of a"
Strike: "medical"
Insert: "health"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3/19/93
BILL NO. HB 619

PROPOSED AMENDMENTS TO HOUSE BILL 619

(Third Reading Copy (BLUE))

Amend Section 1 as follows:

1. Page 1, line 16
Following: "rendered"
Insert: "AND PRODUCTS PROVIDED"

Amend Section 2 as follows:

2. Page 2, Line 3
Following: "services"
Insert: "OR PROVIDE PRODUCTS"
3. Page 2, line 8
Following: "services"
Insert: "AND PRODUCTS"
4. Page 2, line 23
Following: "rendered"
Insert: "OR PRODUCTS PROVIDED"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 3/19/93
BILL NO. H³ 619

DATE 3/19/93

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 581, HB 596, HB 619

Name	Representing	Bill No.	Check One	
			Support	Oppose
JUDITH H CARLSON	HRDC DIR ASSN	581	X	
Greg Van Housen	IPWA/MLA	581	X	
ROBERT B. BRAGG	TRUST CORP	596	X	
Bruce MacKenzie	TRUST CORP	596	X	
Craig Young	MLIC	581		X
George MacIntyre	NAHRO	581	X	
J. Loendorf	MT Med Assn	619 amend		
Robba Carpenter	Income Top Mng + Owners Assoc MT Landlord Assoc	581	X	
Lance Clark	MT Assn Realtors	581	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY