

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on February 13, 1989, at 9:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

DISPOSITION OF HOUSE BILL 536

Motion: None

Amendments, Discussion, and Votes: Rep. Thomas said there is a companion bill to this what we call the single licensure bill. A lot of it fits together with this bill. It is a very lengthy bill and will take time getting up here. It fits right to this bill. We intended to get them in here together but have not been able to get the other bill up here. I would like to hold this bill for a couple of days.

Rep. Bachini asked if the bills fit together. Rep. Thomas said they do not fit into the same bill. It deals with single licensure, rather than being licensed several times in the state, you are licensed only once. Rep. Bachini asked if the education and all was in it. Rep. Thomas said the education was not in it. Rep. Thomas said they should be looked at together, pass both not just one or the other. This is why I would like to hold HB 536.

Recommendation and Vote: None

DISPOSITION OF HOUSE BILL 559

Motion: Rep. Bachini moved DO PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 559 DO PASS.

DISPOSITION OF HOUSE BILL 577

Motion: Rep. Simon moved DO PASS and moved the amendment.

Amendments, Discussion, and Votes: On page 7, line 2, strike out federal. The amendment DO PASS.

Recommendation and Vote: HB 577 DO PASS as amended.

DISPOSITION OF HOUSE BILL 355

Motion: Rep. Kilpatrick moved DO PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 355 DO PASS.

DISPOSITION OF HOUSE BILL 539

Motion: Rep. Nelson moved to table HB 539.

Amendments, Discussion, and Votes: Rep. Blotkamp wanted to know how we would enforce putting a carbon monoxide monitor around in rental units. The enforcement seems to be the biggest problem. I think something should be done but as far as this bill goes it makes a statement that an inspection was made but it can't guarantee that inspection for any length of time after that initial inspection and I would like to see it as a do not pass.

Rep. Bachini said he had a good friend that was an inspector, he said he would put his name on the slip for that day only, it does not guarantee the safety of the furnace one year later or several months later. I see a big problem, the inspector will be at high risk for putting his name on that paper. There needs to be something done, but I'm not sure just what.

Rep. Kilpatrick agreed that this will be difficult to enforce. If you can just get it started and going even if it is just once a year, at least they get checked that once a year. Some of these old places have probably never been looked at by an inspector.

Rep. Nelson thinks this will create more problems than it will solve and I move to table the bill.

Recommendation and Vote: HB 539 was tabled on a 10-6 vote.

DISPOSITION OF HOUSE BILL 287

Motion: Rep. McCormick moved DO NOT PASS.

Amendments, Discussion, and Votes: Rep. Simon moved the statement of intent into the bill. The statement of intent DO PASS. Rep. McCormick moved DO NOT PASS as amended.

Recommendation and Vote: HB 287 DO NOT PASS as amended 15-1 vote.

DISPOSITION OF HOUSE BILL 521

Motion: Rep. Thomas moved DO PASS and moved the amendments.

Amendments, Discussion, and Votes: With the permission of the committee Tom Hopgood explained the amendments. He explained that this was a bill that came from the Great Falls Realty. Rep. Simon questioned whether this would constitute newspapers and other periodicals as brokers of real estate since it says you can't advertise unless you are a broker. After discussions after the meeting and after speaking with Rep. Simon and Chuck Walk of the Montana Newspaper Association and Rep. Good we come up with these amendments which we think will solve the problem of having a newspaper being licensed in order to run real estate advertising. We also cleaned up other language that the board of realtors wanted cleaned up.

Rep. Simon stated that he approved of most of the amendments being offered, but I think we still have a problem on page one of the amendments in subsection 3(b). Rep. Simon would like to segregate this subsection (b) and deal with it separately and would like to amend this part out. Rep. Pavlovich said we will take subsection 3(b) on page one out and just consider the rest of the amendments.

The rest of the amendments DO PASS. Now, Rep. Pavlovich said we will consider subsection 3(b). Rep. Simon asked if we voted no if subsection 3(b) if it would be out of the bill completely. Rep. Thomas said this was all new language and wants to know if we revert to the old bill. Rep. Thomas withdrew his motion to amend subsection 3(b). New language 3(b) is out of the bill. Rep. Simon moved to strike 3(b) of the bill and renumber subsequent sections.

Rep. Pavlovich asked for any further discussion, question called for. The amendments DO PASS.

Rep. Bachini asked what happens now to the people that are in business By Owner? Rep. Simon said as I understand this bill now, if you are strictly in the advertising business where you take information about somebody's house and put it

in a booklet and make it available to other buyers, you are exempt from this bill. But, if you say we will help you with the financing, counselling about how to sell you home, all that sort of thing, you have stepped over the line by this bill and you have to have a broker's license. This bill allows advertising you to be in the business of saying contact Rep. Bachini, he has a house you would be interested in, that contact comes from the magazine only. Rep. Bachini also wanted to know how many people were in this business and would be affected by the bill when it goes into effect on October 1, 1989. Mr. Hopgood said they are in the larger cities of Montana. What they are doing is performing the services that are rendered by licensed real estate brokers who are regulated by the state.

Recommendation and Vote: HB 521 DO PASS as amended
unanimously.

HEARING ON HOUSE BILL 535

Presentation and Opening Statement by Sponsor:

Rep. Brown stated that this bill will revise medicare supplement insurance minimum standards to comply with the federal medicare catastrophic coverage act of 1988; provides a penalty for violation of medicare supplement insurance minimum standards' appropriates money to the state auditor to monitor compliance; amends sections 33-16-103 and 33-22-903 through 33-22-908, MCA; and provides an immediate effective date for the extension of rulemaking authority.

Testifying Proponents and Who They Represent:

Tanya Ask, State Auditor's Office
Judith Carlson, Montana Senior Citizens Assoc.

Proponent Testimony:

See exhibit 1 for Ms. Ask's written testimony.

Ms. Carlson stated that her association very much supports HB 535. Three things in this bill they find particularly helpful are: the requirement of non duplication of medicare benefits; 30 days to renew policy; and the printing of the medicare supplemental guide.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Wallin asked Ms. Ask if a person could buy a policy to cover the deductible? She said yes.

Rep. Nelson asked Ms. Ask if when talking about entity or representative I see a redundancy. Every contract I have with insurance companies requires me to have all of my advertising approved by that insurance company before I join them. If I read this right I would have to get my advertising approved again as an agent which means a double approval. Do you read it that way? Ms. Ask said you are correct in the fact that it is redundant.

Closing by Sponsor: Rep. Brown stated that she did close.

HEARING ON HOUSE BILL 611

Presentation and Opening Statement by Sponsor:

Rep. Connelly stated that HB 611 will provide that protests against the issuance or transfer of an alcoholic beverage license may be made only by residents of the county from which the application for a license comes; and amends section 16-4-207, MCA.

Testifying Proponents and Who They Represent:

Paul Derrow
Roger Tippy
Sen. Pete Story

Proponent Testimony:

Mr. Derrow said that he and his wife bought the Stanton Creek Bar from the owner. The state had taken the liquor license away from the owner so we bought the place without any license at all. We managed to get a beer and wine license and applied to get an all-beverage license. We were accepted but a friend of the previous owner, in Canada, decided he would file a protest against us getting a license. He felt that we should not be allowed to get a license until the court decided if the previous owner would get his license back. Then at that time we would have the option to buy this license. I feel that it is unfair that a person living in another country could have the right to oppose me getting a license in Flathead County, when he was not a resident of the county or country.

Sen. Story said his involvement was that he handled a project that took him around the state last summer. He stopped in this place and heard about the problems of the new owner. Since then the new owner has received his license. It points out that if any fundamentalist religious group anywhere in the country heard about our laws, they

could protest every liquor license transfer in the state and cause all sorts of problems and a bad situation for our residents. If the bill is passed I will carry it in the Senate.

Mr. Tippy stated that he was neither an opponent or proponent. He had some amendments to the bill and passed copies out to the committee. He went over the amendments.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Kilpatrick asked if a person who previously had the license and didn't pay his bill and he skips out and they want to sell or transfer the license, the next guy can't get the license until the old bill is paid for. Looks like he is being punished. Mr. Tippy said the reason to protest, nothing is going to change hands from the buyer who wants the license to the seller, is that the distributor who has money coming, can intercept some of that before it all goes in the seller's pocket. The buyer can just deduct the amount of the bill from what he pays the seller.

Rep. Bachini asked Mr. Tippy how long does a wholesaler extend their credit? Mr. Tippy said they are limited to 7 days. What does a wholesaler do at the end of 7 days if he isn't paid. Mr. Tippy said the wholesaler will stop delivering beer to that account.

Rep. Pavlovich asked Mr. Tippy asked if we amend it to residents of the state of Montana instead of just by county? Mr. Tippy said if there were a problem it would solve it.

Rep. Blotkamp asked Rep. Connelly asked if there were other problems like this one. She said there might have been in the past, but she just knows of this particular case.

Closing by Sponsor: Rep. Connelly said she closed.

DISPOSITION OF HOUSE BILL 535

Motion: Rep. Thomas moved DO PASS.

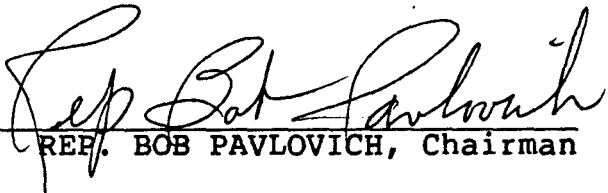
Amendments, Discussion, and Votes: Rep. Nelson said he wanted to make an amendment to the bill in section 8, page 12, line 22, strike the two words "or representative". The amendment DO PASS. Rep. Nelson moved an amendment to page 8,

line 12 to strike "once" and insert "twice". The amendment
DO PASS.

Recommendation and Vote: HB 535 DO PASS as amended unanimously.

ADJOURNMENT

Adjournment At: 11:05 a.m.


REP. BOB PAVLOVICH, Chairman

BP/sp

3703.min

DAILY ROLL CALL
BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 2 13 89

NAME	PRESENT	ABSENT	EXCUSED
PAVLOVICH, BOB	✓		
DeMARS, GENE	✓		
BACHINI, BOB	✓		
BLOTKAMP, ROB	✓		
HANSEN, STELLA JEAN	✓		
JOHNSON, JOHN	✓		
KILPATRICK, TOM	✓		
MCCORMICK, LLOYD "MAC"	✓		
STEPPLER, DON	✓		
GLASER, BILL	✓ Late		
KELLER, VERNON	✓		
NELSON, THOMAS	✓		
SIMON, BRUCE	✓		
SMITH, CLYDE	✓		
THOMAS, FRED	✓		
WALLIN, NORM	✓		
PAUL VERDON	✓		

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 535 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Stepler		
Fred Thomas		
Norm Wallin		

TALLY

16

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass as amended

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 521 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Steppler		
Fred Thomas		
Norm Wallin	✓	

TALLY

16

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass as amended

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 577 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Stepler		
Fred Thomas		
Norm Wallin		

TALLY

15

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass as amended

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 355 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Stepler		
Fred Thomas		
Norm Wallin		

TALLY

15

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass by Rep. Kilpatrick

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/18/89 BILL NO. 559 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Stepler		
Fred Thomas		
Norm Wallin		

TALLY

15

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 287 NUMBER

NAME	AYE	NAY
Bob Pavlovich		X
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Stepler		
Fred Thomas		
Norm Wallin		

TALLY

15 1

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do not pass as amended

2/14/89
2:30 pm
[initials]

STANDING COMMITTEE REPORT

February 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 535 (first reading copy -- white) do pass as amended .

Signed: Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 8, line 12.

Strike: "once"

Insert: "twice"

2. Page 12, line 22.

Strike: "or representative"

STANDING COMMITTEE REPORT

February 14, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 521 (first reading copy -- white) do pass as amended .

Signed: Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 1, line 19.

Following: "~~same~~"

Insert: "valuable"

2. Page 1, line 20.

Strike: "advertising,"

3. Page 1, line 24, through page 2, line 4.

Strike: subsections (b) and (c) in their entirety

Renumber: subsequent subsections

4. Page 2, line 6.

Strike: "advertising,"

5. Page 2, line 14.

Strike: "advertising,"

6. Page 2, line 18.

Strike: "or"

7. Page 2, line 23.

Following: "lease"

Insert: ";

(e) aids, attempts, or offers to aid for a fee any person in locating or obtaining any real estate for purchase or lease; or

(f) advertises or holds himself out as engaged in any of the activities referred to in subsections (3) (a) through (3) (f) "

8. Page 4, line 8.

Following: "~~single~~"

Insert: "(1)"

9. Page 4, line 16.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections on page 4, line 22, and page 5,
lines 2, 5, 8, 16, 18, and 24

10. Page 6, line 4.

Following: line 3

Insert: "(2) The provisions of this chapter do not apply to a
newspaper or other publication of general circulation or to
a radio or television station engaged in the normal course
of business."

2/14/89
2:20 pm
jal

STANDING COMMITTEE REPORT

February 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 577 (first reading copy -- white) do pass as amended.

Signed: 

Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 7, line 2.
Strike: "federal,"

STANDING COMMITTEE REPORT

2/12/89
11:20 AM
ja
February 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 355 (first reading copy -- white) do pass.

Signed: Robert Pavlovich
Robert Pavlovich, Chairman

2/13/89
11:58 am
ja

STANDING COMMITTEE REPORT

February 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 559 (first reading copy -- white) do pass.

Signed: _____

Robert Pavlovich, Chairman

2-13-89
12:30p
7.0

STANDING COMMITTEE REPORT

February 13, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 287 (first reading copy -- white), with statement of intent attached, do not pass as amended .

Signed: _____
Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 1, line 11.

Following: line 10

Insert:

"

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 5] grants rulemaking authority to the department of commerce to adopt rules governing the administration of the Massage Therapy Licensing Act. It is intended that the rules address at least the following:

(1) requirements of any contract entered with a licensed massage therapist or professional massage therapy association for the purposes contemplated in [section 5 (2) (a)];

(2) approval of programs of continuing education required under [section 5 (2) (b)]. It is intended that such programs require, at a minimum, attendance at two seminars or workshops within a 3-year period. The rules may also address the

2-13-89
12.00p.
X. 9.
February 13, 1989
Page 2 of 2

possibility of requiring reexamination of licensees after a 5-year period of licensure, in the interests of continuing education.

(3) the form and manner of application required for licensure of massage therapists;

(4) establishment of an annual expiration date of licenses as contemplated in [section 10]; and

(5) establishment of appropriate fees for application, examination, reexamination, license issuance, and license renewal, as outlined in [section 11].

HOUSE BILL NO. 521

Section 1. Section 37-51-102, MCA, is amended to read:

"37-51-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Account" means the real estate recovery account established in 37-51-501.

(2) "Board" means the board of realty regulation provided for in 2-15-1867.

(3) "Broker" includes an individual who:

(a) for another or for a fee, commission, or other valuable consideration or who with the intent or expectation of receiving the same VALUABLE consideration negotiates or attempts to negotiate the advertising, listing, sale, purchase, rental, exchange, or lease of real estate or of the improvements thereon on real estate or collects rents or attempts to collect rents;

(b) FOR ANOTHER OR FOR VALUABLE CONSIDERATION OR WITH THE INTENT OR EXPECTATION OF RECEIVING VALUABLE CONSIDERATION obtains and organizes information from a potential seller OR LESSOR of real estate or refers the name of a potential buyer of real estate; or AND MAKES SUCH INFORMATION AVAILABLE TO POTENTIAL BUYERS OR LESSEES OF REAL ESTATE;

(c) FOR ANOTHER OR FOR VALUABLE CONSIDERATION OR WITH THE EXPECTATION OF RECEIVING VALUABLE CONSIDERATION REFERS THE NAME OF A POTENTIAL BUYER, SELLER OR LESSOR OR LESSEE OF REAL ESTATE TO A PERSON LICENSED UNDER THIS CHAPTER.

(d) is employed by or on behalf of the owner or lessor of real estate to conduct the advertising, sale, leasing, subleasing, or other disposition thereof at a salary or of real estate for a fee, commission, or any other consideration; The term "broker" also includes an individual

(e) who engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract by which he undertakes primarily to promote the advertising, sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for referral of information concerning real estate to brokers; or

(f) makes the advertising, sale, lease, or other real estate information available by public display to potential buyers or both; and any person who aids, attempts, or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease.

(g) AIDS, ATTEMPTS, OR OFFERS TO AID FOR A FEE, ANY PERSON IN LOCATING OR OBTAINING ANY REAL ESTATE FOR PURCHASE OR LEASE; OR

(h) (h) advertises or holds himself out as engaged in any of the foregoing activities;--The term "broker" also includes an individual referred to in subsections (3)(a) or THROUGH (3)(b) (h).

(4) "Broker associate" means a broker who associates with a broker owner and does not own an interest in a real estate firm.

(5) "Broker owner" means a broker who owns or has a financial interest in a real estate firm.

(6) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(7) "Franchise agreement" means a contract or agreement by which:

(a) a franchisee is granted the right to engage in business under a marketing plan prescribed in substantial part by the franchisor;

(b) the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, logotype, or other commercial symbol or advertising designating the franchisor; and

(c) the franchisee is required to pay, directly or indirectly, a fee for the right to operate under the agreement.

(8) "Person" includes individuals, partnerships, associations, and corporations, foreign and domestic, except that when referring to a person licensed under this chapter, it means an individual.

(9) "Real estate" includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether the real estate is situated in this state or elsewhere.

(10) "Salesman" includes an individual who for a salary, commission, or compensation of any kind is associated, either directly, indirectly, regularly, or occasionally, with a real estate broker to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate."

Section 2. Section 37-51-103, MCA, is amended to read:

"37-51-103. Exemptions. A single (1) An act performed for ~~a-commission-or~~ compensation of any kind in the buying, selling, exchanging, leasing, or renting of real estate or in negotiating therefor for others, except as ~~hereinafter~~ specified in this section, shall constitute the person performing any of such the acts a real estate broker or real estate salesman. The provisions of this chapter, ~~however, shall may~~ SHALL not:

(a) ~~{1}~~ apply to any person who, as owner or lessor, shall perform any ~~of-the-aforesaid~~ acts listed in subsection (1) with reference to property owned or leased by himself or to an auctioneer employed by the owner or lessor to aid and assist in conducting a public sale held by such the owner or lessor;

(b) ~~{2}~~ apply to any person acting as attorney-in-fact under the duly executed power of attorney from the owner of any real estate authorizing the final consummation of any contract for the purchase, sale, exchange, renting, or leasing of any real estate;

(c) ~~{3}~~ be construed to include in any way the services rendered by any attorney at law in the performance of his duty as such an attorney at law;

(d) ~~(4)~~ apply to any person duly appointed by a court for purpose of evaluation or appraising an estate in a probate matter;

(e) ~~(5)~~ be held to include, while acting as such, a receiver, a trustee in bankruptcy, an administrator or executor, any person selling real estate under order of any court, a trustee under a trust agreement, deed of trust, or will, or an auctioneer employed by a receiver, trustee in bankruptcy, administrator, executor, or trustee to aid and assist in conducting a public sale held by any such the officer;

(f) ~~(6)~~ apply to public officials in the conduct of their official duties;

(g) ~~(7)~~ apply to any person, partnership, association, or corporation, foreign or domestic, performing any act with respect to prospecting, leasing, drilling, or operating land for hydrocarbons and hard minerals or disposing of any hydrocarbons, hard minerals, or mining rights therein, whether upon a royalty basis or otherwise; or

(h) ~~(8)~~ apply to persons acting as managers of housing complexes for low-income persons, which are subsidized, directly or indirectly, by this state or an agency or subdivision thereof or by the government of the United States or an agency thereof.

(2) THE PROVISIONS OF THIS CHAPTER SHALL NOT APPLY TO ANY NEWSPAPER OR OTHER PUBLICATION OF GENERAL CIRCULATION OR TO ANY RADIO OR TELEVISION STATION ENGAGED IN THE NORMAL COURSE OF BUSINESS."

NEW SECTION. Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Amendments to House Bill No. 535
First Reading Copy

For the Committee on House Business and Economic Development

Prepared by Paul Verdon
February 13, 1989

1. Page 8, line 12.

Strike: "once"

Insert: "twice"

2. Page 12, line 22.

Strike: "or representative"

Amendments to House Bill No. 521
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 13, 1989

1. Page 1, line 19.

Following: "~~same~~"

Insert: "valuable"

2. Page 1, line 20.

Strike: "advertising,"

3. Page 1, line 24, through page 2, line 4.

Strike: subsections (b) and (c) in their entirety

Renumber: subsequent subsections

4. Page 2, line 6.

Strike: "advertising,"

5. Page 2, line 14.

Strike: "advertising,"

6. Page 2, line 18.

Strike: "or"

7. Page 2, line 23.

Following: "lease"

Insert: ";

(e) aids, attempts, or offers to aid for a fee any person in locating or obtaining any real estate for purchase or lease; or

(f) advertises or holds himself out as engaged in any of the activities referred to in subsections (3)(a) through (3)(f)"

8. Page 4, line 8.

Following: "~~single~~"

Insert: "(1)"

9. Page 4, line 16.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections on page 4, line 22, and page 5, lines 2, 5, 8, 16, 18, and 24

10. Page 6, line 4.

Following: line 3

Insert: "(2) The provisions of this chapter do not apply to a newspaper or other publication of general circulation or to a radio or television station engaged in the normal course of business."

Amendments to House Bill No. 577
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 13, 1989

1. Page 7, line 2.
Strike: "federal,"

#1
2/13/89

House Bill 535

Testimony
Submitted by Tanya Ask
Montana Insurance Department
February 13, 1989

This bill represents an overhaul of Montana's current Medicare Supplement Minimum Standards Act. Medicare supplement policies are those purchased by individuals eligible for the federal medicare program who wish to supplement the disability insurance coverage they receive through the federal program.

Congress passed the federal Medicare Catastrophic Coverage Act last year, and with that act's changes to medicare, it becomes necessary for Montana to amend its minimum standards. I will go through this bill section by section.

Section 1 amends our rate filing requirements. Currently disability insurance, health insurance encompassing medicare supplement, is exempt from any type of rate filing requirement. Medicare supplement insurance will be an exception to the rule. The reason--there must be a "reasonable return" on policies sold--reasonable return meaning there shall now be minimum standards not only for benefits provided under a policy, but also claims payments under the policy. Benefits returned to consumers must be reasonable in relation to the premium charged.

Section 2 amends the definitional section of our current minimum standards act. Several definitions have either been added or amended. Those are:

(2) Certificate--under the proposed bill, the definition of certificate is expanded from a certificate issued under a policy "delivered or issued for delivery" in Montana to any certificate delivered or issued for delivery in this state. The difference is important because it recognizes many Montanans are covered under contracts issued in another state, but they have purchased the individual certificate, their coverage, here.

(3) Health care expenses--a new definition which recognizes the advent of health maintenance organizations (HMO's) in providing health benefits to senior citizens covered by Medicare.

(4) Entity--a new definition which incorporates any type of organization offering medicare supplement insurance coverage to Montana residents. The three types of organizations are traditional commercial insurers, health service corporations and health maintenance organizations.

Subsequent definitions were renumbered.

Section 3 amends existing law, "Standards for policy provisions". Additions or changes to current law are as follows:

(1) A new section which prohibits any product offered as medicare supplement from duplicating benefits provided by the federal medicare program.

(2) this section requires rules to specify medicare supplement insurance policy or certificate provisions. The term "certificate" is added by this bill, again recognizing many individuals are covered by a policy issued in another state, but the individual purchased their insurance here.

Subsequent sections again are renumbered.

Section 4 amends existing law, "Minimum standards for benefits and payment of claims". The bill will require the commissioner to not only adopt rules specifying minimum policy benefits, but also minimum standards for claims payments under the insurance coverage.

Section 5 adds quite a bit to "Loss ratio standards and filing requirements--limits on compensation".

(1) This section requires the filing of group policies with the commissioner's office 60 days in advance of any coverage marketing to residents of this state. Under current law, there is no requirement that policies issued outside Montana must be filed in Montana, even if coverage is going to be marketed here. (The commissioner does have the authority to request copies of the out of state group policy, but the request is made after coverage has been sold to Montana residents.) This section requires filing only, not prior approval of the forms, which is required if the policy itself is to be sold in Montana.

(2) This section has been amended to take into account medicare supplement coverage provided by a health maintenance organization. More detailed attention is also paid to loss ratios of medicare supplement insurance. The reason for loss ratio standards is to insure that companies are paying out a certain level of premiums collected in claims payments. Loss ratio standards will be established by rule.

(3) Timing and the manner in which insurers adjust the price of coverage will be set by administrative rule. Price changes are limited to once a year but for changes in federal laws or regulations, such as federal changes in medicare benefits. This will provide some stability to individual insureds if they know they can count on the price not changing more than once a year.

(4) If an agent replaces a policy with another by the same insurer and the benefits are substantially similar, the amount of compensation received for the new policy is not to be greater than the renewal compensation under the replaced policy. This is to avoid agents' rolling insureds from one policy to another simply to gain the first year commission.

Section 6. "Disclosure standards--informational brochure--rules". Three changes have been made to this statutory section by House Bill 535. Those are as follows:

(1) Outlines of coverage must be filed with the commissioner prior to use under the general forms filing law, 33-1-501, MCA. The outlines of what coverage is provided are to be given to the insurance applicant at the time the application is taken.

(4) Subsection 4 is amended to reflect a previous numbering change and "defined" is changed to "excepted".

(6) Adds a requirement that insurers providing medicare supplement coverage provide their insureds with at least 30 days advance notice of any changes made to the insurance policy or contract.

Section 7. "Notice of free examination". This section applies a 30 day free look period to all medicare supplement insurance coverage. Under current law a 10 day free look is required if coverage is sold by an agent, and 30 days if the coverage was directly solicited, such as mail order insurance coverage. The purpose of a free look is to give the applicant time to evaluate what has actually been purchased. The applicant does not get a chance to see the full contract of coverage until it is delivered, so really cannot decide if it is what he or she wants until that time.

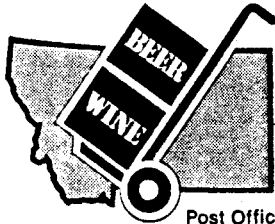
Section 8. "Filing requirements for advertising". This section is new with House Bill 535, and requires advertising material to be filed with the insurance department. It does not require approval or prior approval. This is a section in which Congress was very interested when it passed the Medicare Catastrophic Coverage Act of 1988.

Section 9. "Penalties". This section provides penalties for violation of the rate filing law and the minimum standards provisions.

Section 10. "Appropriations". The bill establishes a statutory appropriation to assist with the additional responsibilities required under this act and the two pieces of federal legislation impacting medicare supplement insurance.

The rest of the bill contains general provisions covering such things as applicability, extension of rulemaking authority and so forth.

INS 511 (7-9)



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#1
2/13/81
HB 611

House Bill 611 by Connelly et al.

Requested Amendments

1. Title, p. 1, line 7
Following: COMES
Insert: "or by certain creditors"
2. Sec. 1, p. 1, line 21
Following: comes
Insert: "or by a wholesaler who has extended credit to the transferor under 16-3-243 or 16-3-406"
3. Sec. 1, p. 2, line 22
Following: comes
Insert: "or by a wholesaler who has extended credit to the transferor under 16-3-243 or 16-3-406"
4. Sec. 1, p. 2, line 11
Following: county,
Insert: "or by a wholesaler who has extended credit to the transferor under 16-3-243 or 16-3-406,"

Directors:

BRIAN CLARK, Kalispell
BOB CLAUSEN, Helena
JOHN DECKER, Billings
JERRY JOHNSON, Lewistown

WAYNE SMITH, CPA, Helena
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KARL REMBE, Great Falls

WITNESS STATEMENT

NAME JUDITH CARLSON BUDGET _____

ADDRESS HELENA

WHOM DO YOU REPRESENT? MT. SR CITIZENS ASSN

SUPPORT HB 535 OPPOSE _____ AMEND _____

COMMENTS: _____

MUCH NEEDED TO INSURE UNIFORM
STANDARDS & TO PROTECT SENIORS.

ESPECIALLY LIKE:

1. - NON-DUPPLICATION
2. - 30 DAYS TO REVIEW POLICY
3. - MEDICARE SUPP GUIDE

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Business

COMMITTEE

BILL NO.

535

611

DATE _____

2/13/89

SPONSOR

SPONSOR J. Brown Connelly

Please put
bill number. 72

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.