

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on March 10, 1989,
at 10:00 a.m.

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer,
Senator Boylan, Senator Noble, Senator Williams,
Senator Hager, Senator McLane, Senator Weeding, Senator
Lynch

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 683

Presentation and Opening Statement by Sponsor:

Representative Marks, House District 75 said, HB 683 contained the revisions needed in the science and technology act. He stated the act provided the alliance with \$1,500,000 per year, a total of \$750,000,000 over a five year period, for financing new and standing technology based businesses in the state.

He said the bill established procedures by which the science and technology board of directors could operate the seed capital financing program. He stated the seed capital fund source was developed in the 1982 program, by which the in-state investment funds diverted a portion of the coal-severance trust fund. He said the fund had a \$24,000,000 balance right now, and would continue to receive 12 1/2% of the coal tax collected. He said the fund would continue to be used by the board of investments as a source of asset based lending through commercial banks.

Representative Marks said the alliance's use of a portion of the fund would not infringe on the current

lending program. He said the seed capital program was constructed to provide for three types of returns. (1) The expansion of capital availability for new and expanding businesses. (2) Principal of the in-state investment fund would be maintained through the return of investment through the alliance. (3) The monetary return would be earned from the in-state investment fund and the state general fund through the return on investments through the alliance. He said earnings were expected to amount to at least \$6,200,000 to the general fund, and \$1,000,000 to the in-state investment fund for the period.

Representative Marks said HB 683 was needed, because the Supreme Court had found the existing seed capital bond act was unconstitutional. He said this act specifically addressed the problems identified by the court, when it ruled the seed capital bond act was unconstitutional. He stated the court had said it was not permissible to sell bonds guaranteed by the credit of the state. He said, previously, the bond proceeds were used for the seed capital to finance the programs of private businesses, and this act did not use bond proceeds. He said the court had found that the previous act was too vague in the authority it delegated the board for compliance with the seed capital and research and development program. He said the new act was very specific, regarding criteria for establishing financing and the amount of financing.

List of Testifying Proponents and What Group They Represent:

Steve Huntington - Director of Science & Tech Alliance
D. A. Baker, MD. - Baker Guardian, Spokane, Washington
Dr. Larry Gianchetta - Dean of the Business
Administration School, University of Montana
David A. Feffer - President of Health Incentives,
Incorporated, Missoula, Montana
Carol Daly - Executive Director, Flathead Economic
Development Corporation
Nancy Keenan - Montana Superintendent of Public
Instruction
Mike Parker - Great Falls Capital Company
Ron Klaphake - President and Chief Executive Officer,
Missoula Economic Development Corporation
Lori Shadoan - Gallatin Economic Development Center
Dave Lewis - Executive Director, State Board of
Investments
John Murphy - Manager, Industrial Marketing and
Economic Development, Montana Power Company
Mona Jamison - Legal Council, Board of Science &
Technology

List of Testifying Opponents and What Group They Represent:

None

Testimony: Steve Huntington said the program had accomplished many things, and there was a demand for the program's services in the future, but he wanted to concentrate on specific comparisons of the previous legislation and HB 683. He said the seed capital program was established to provide financing for early stage technology based businesses that were developing in Montana. He said the Science and Technology Alliance provided funding and working capital for start-up and expansion based businesses. He said they concentrated on putting together a package that didn't create a debt service requirement which burdened a company in the early years, and reflected poorly on their financial statements so that future investors would not come into the company. He said the alliance made sure that they did not become involved in the ownership of corporate capital stock. He stated many of their financing projects entailed risk, so they looked for an up-side gain for a successful deal. He said these were all things that HB 700, passed last session, dealt with. He said the facet of the bill struck down by the Supreme Court was that the legislature actually appropriated full debt service on the bonds. Mr. Huntington said that HB 683 was asking for much less because they were asking for the ability to direct investments with funds they already had. He said the Supreme Court had said you couldn't pledge the future credit of the state against financing done today.

The White Decision also dealt with the reciprocity of the 1987 act. They said the legislature granted authority which was too vague in its' policy making decisions, and how they were going to finance private companies. Mr. Huntington said HB 683 was quite specific in regard to the board's authority to act under legislative power. He said HB 683 did not involve bond proceeds, but dealt with the in-state industrial fund, which was created by Initiative 95 in 1982. That initiative allowed 25% of all new revenue from the coal tax trust fund to be used for financing new and expanding existing Montana businesses. He said the Board of Investments had previously used those funds to do actual case lending, through the Coal Tax Loan Program and other programs. He said the Alliance was filling a valuable need in Montana's financial market. He stated the fund currently had a balance of .4 million dollars, and would continue to receive funds as time went along.

Mr. Huntington said the act provided the board with exact instruction on how to provide financing, and direction for debt provisions with private companies. He said contracts usually involved an unsecured debt, so the criteria for using the in-state investment fund had to assure the legislature of two things. 1. The alliance had to reserve the principal of the fund, and couldn't loose any money. 2. The alliance also had to attain economic development benefits.

Mr. Huntington said the alliance was very careful not to become involved in the constitutional prohibition against equity holding. He said their board was prohibited from holding equity in a private company, however this legislation specifically allows us to hold warrants, and convertible indentures they could sell to third parties. He said the idea was for those third parties would pay based on the company's stock value, for the instrument we have with the company. He stated the advantage to the company was its' being relieved of their debt to us, and they gained a stockholder from the third party, who actually bought the instrument from us. He said this provide the alliance the ability to act similar to a private sector bank investor. He said this provided the ability to present the company's balance sheet in a way that didn't discourage or prohibit potential investors in the future.

Mr. Huntington said the had been using appropriated funds to help finance the seed capital program, and had extended approximately \$615,000 of seed capital financing in circulation, to date. He said they fully expect the \$615,000 to be worth \$850,000 to \$1,000,000 by the end of this fiscal year. He said they had made some very good deals in the past and believed they had made good returns for the state, while helping the cost of economic development.

Dr. D.A. Baker's written testimony was presented by Mr. Huntington. Mr. Bakers's testimony stated they would like to manufacture their product in Montana. (See Exhibit #1)

Dr. Larry Gianchetta's written testimony was presented by Mr. Huntington. (See Exhibit #2)

David A. Feffer's written testimony was presented by Mr. Huntington, with the comment that his company had been helped by the Alliance. (See Exhibit #3)

Carol Daly presented written testimony to the committee. (See Exhibit #4) She stated that during the last six months, she had seen several enterprises started in other states or Alberta, when they had been loaned starting capital. She urged support of HB 683.

Nancy Keenan said the Montana Science and Tech Board had demonstrated success in forming a partnership among those in the private sector, as well as with the university system and government. She said she thought legislature should continue their commitment to this project, on the strength that it diversified the economy and facilitated a partnership with the private sector. She said this was a very good proposal, and encouraged its passage.

Mike Parker said his task was to search for and evaluate business investment opportunities. (See Exhibit #5) He said that search had lead him to all fifty states and throughout Montana, to seek more mature businesses. He stated he had discovered many new Montana businesses seeking early stage investment capital, which seemed to be generally lacking in the state. He said other states had private or state seed capital sources available to businesses. He said the Montana Science and Technology Financing Program was providing vital seed capital for businesses, and encouraged favorable consideration of HB 683.

Ron Klaphake said, that as a member of a committee who was attempting formation of a \$10,000,000 Montana venture fund, he supported HB 683. He said the committee consisted of representatives from Glendive, Bozeman, Billings, Butte, Great Falls, Missoula, and Port of U.S. West. He said he knew of business who had benefited from this program. He stated capital was essential to expanding and growing businesses. He further stated, the due diligent process the Science and Technology Alliance utilized, helped evaluate those worthy of the investment. He said the need for public and private partnership in the start-up process had become more and more apparent.

Lori Shadoan said Alliance operations were especially significant to their area, and the nucleus of existing high tech companies. She read information regarding several new businesses in the area, and cited their growth. She said all of the companies had received direct or indirect assistance from the Science and Technology Alliance. (See Exhibit #6)

Dave Lewis said HB 683 directed the Board of Investments to allow the Science and Technology people to manage \$7,500,000 of the coal trust fund. He said the Investment Board had access to the entire fund for the types of asset based loans they made. He said the use of a portion of the in-state funds was not going to hamper the program managed by the Board of Investments. He said the last loan they had granted, was for \$8,000,000; with about \$1,000,000 coming from the in-state fund, and about \$7,000,000 from the coal trust fund. He said they were responsible for, and had access to the entire trust fund, and the Board of Investments supported this legislation.

John Murphy said Montana Power Company required him to seek job creation and economic development in the state. He said Montana Power was often contacted by entrepreneurs seeking expansion of their existing businesses, or businesses planning to relocate in Montana. He stated these business were often technology based with innovative projects or processes, and there was a critical need for seed capital to get through the start-up and early development stage. He said capital was not readily available through conventional sources, and this program was desperately needed in Montana.

Mona Jamison said she had drafted the majority of the provisions in this act, and said she felt this piece of legislation probably had more legislative direction for a state agency than any other legislation before the legislature. She said there were many Sections of the bill containing criteria the Board had to meet before making any loans or investments. She said she was totally comfortable the bill would meet any terms of constitutionality. She urged the committee's support.

Questions From Committee Members: Senator Lynch said the Governor of Montana should be complemented on this bill. He said he felt it was absolutely the right way to go.

Closing by Sponsor: Representative Marks summarized by stating the House committee had passed the bill before he had finished closing.

DISPOSITION OF HOUSE BILL 683

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch made a motion HB 683 BE CONCURRED IN. Senator Noble seconded the motion. The motion Carried Unanimously. Chairman Thayer carried the bill on the Senate floor.

HEARING ON HOUSE BILL 258

Presentation and Opening Statement by Sponsor:

Representative Gary Spaeth, House District 84, said HB 258 was being introduced at the request of the Department of Commerce and the ski operators in Montana. He said the bill was an act to create a board for passenger tramway safety, and transfer powers, duties, and functions the Department of Commerce provided in relation to tramways. He said the act was primarily designed to answer tramway safety concerns in the operation of lifts and other public equipment. Representative Spaeth said the reason for making the change was because the Department of Commerce had multiple responsibilities, and there was a arising need to delegate regulation, to a board with more expertise in the specific area.

Representative Spaeth asked the committee to amend Section 2, page 2, line 22 which dealt with liability limits. He said the bill stated section 2-9-108 MCA, asked that be amended to read 2-9-305. He said 2-9-108 was the general governmental immunity section, and had limited immunity. He said he felt that section would be of very little use. He stated section 2-9-305 provided immunization and defense for public offices and employees sued for their actions taken within the course and scope of their employment. He said section 2-9-305 more accurately provided for the needs of the board.

List of Testifying Proponents and What Group They Represent:

Pat Melby - Montana Ski Areas Association

List of Testifying Opponents and What Group They Represent:

None

Testimony: Pat Melby said that when tramway safety was first established, it was administered by a board of tramway safety. He said that during the early 70's, most of the boards were eliminated, and advisory councils were created, and the Department of Commerce had been handling those responsibilities since that time. He stated HB 258 would bring this program into

compliance with the other boards, and would place the responsibility for regulating ski lifts with people who had the expertise.

Questions From Committee Members: Senator Boylan asked if the sunrise provision required the \$6400 fee, when they created a new board? Representative Spaeth stated the program was already in existence, and only responsibility was being transferred, so the sunrise law did not apply.

Senator Boylan stated they had just encountered similar situations that had needed attention to the sunrise provision. Mary McCue said the statutes that talked about the sunrise requirement talked about the licensing of an occupational or profession, in other words, people. She stated this was regulation of a business, and did not apply.

Closing by Sponsor: Representative Spaeth asked the committee to support the bill, because he felt it was the right direction for the ski industry to take. He said it provided the ultimate in safety for the ski areas.

DISPOSITION OF HOUSE BILL 258

Discussion: Mary McCue responded that she concurred. Representative Spaeth's amendment was a good one.

Amendments and Votes: Senator Hager made a motion line 22, page 2, be amended to read 2-9-305. Senator McLane seconded the motion. The motion Carried Unanimously.

Recommendation and Vote: Senator Hager made a motion HB 258 BE CONCURRED IN AS AMENDED. Senator Boylan seconded the motion. The motion Carried Unanimously. Senator McLane carried HB 258 on the Senate Floor.

HEARING ON HOUSE BILL 734

Presentation and Opening Statement by Sponsor:

Representative Fred Thomas, House District 62, said HB 734 established single licensure for insurance agents in Montana. He said there was a companion bill being carried by Representative Brown. He said the bill changed the name of an insurance agent to an insurance producer, which was a new model name and industry term. He stated the license would be renewed annually, instead of the current perpetual license. The bill set up a definition for a consumer service representative,

and that was a person who helped a licensed insurance producer. He said appointments from an insurance company were needed before an individual could take the insurance test, and every company who made an appointment had to file that appointment with the insurance commissioner's office and pay a \$10.00 fee.

Representative Thomas asked the committee to strip the House floor amendments. He said there was a set of amendments which would reinstate the current appointment process in the bill, and another would set up model language for perpetual versus annual licensing. He said he had made one written change to the amendments he was passing out. (See Exhibit #7)

List of Testifying Proponents and What Group They Represent:

Andrea Bennett - State Auditor & Insurance Commissioner
Susan Witte - Staff Attorney, State Auditor's Office
Rick Hill - Insurance Agency Owner, Helena, Montana
Roger McGlenn - Executive Director, Independent
Insurance Agents of Montana
Larry Akey - Montana Life Underwriters Association

List of Testifying Opponents and What Group They Represent:

None

Testimony: Andrea Bennett presented the history of HB 734. She said that Representative Thomas had called and told her the NAIC was working on a model act called the single license procedure model act. She stated that Representative Thomas had suggested the Insurance Commissioner find out about the act, and how it would work for Montana. She said she had told him Montana had been on the committee working on the bill.

Commissioner Bennett said the purpose of the single license procedure model act was to put legislation in place, so there would be a blueprint for Montana established to begin a multi-state licensing system. She said there were two parts to the multi-state system. One part was a uniform application system to be adopted by all states that wanted to be part of the multi-state licensing system. The other part was passing this act and keeping it uniform, without changes. She said that if a non-resident agent was licensed to do business in Montana, and their license had been revoked in another state, the other states had no way of knowing that individual was a licensed agent in Montana. She said the other state did not care about the revocation, because it was in

Montana's licensing jurisdiction. Ms. Bennett said she thought Montana should know, because Montana should revoke that agent's non-resident license on the same grounds as the other state had. She said that could not be done now, because they didn't always find out about a non-resident agent having their license revoked or suspended.

Ms. Bennett said this system was patterned after language the Central Registration Depository system used within the securities industry. She said the NASD licensed all salesmen, and broker dealers, for the securities industry, and registered all securities sold in the United States and North America. She cited HB 734 as a move to nationalize insurance regulation, and as the first step toward preemption of federal regulation. She stated that to be a part of the multistate licensing system, they were actually going to have a computer system, through the NAIC, for handling all the information. She said the states needed to begin passing some uniform regulations, or federal regulation would be implemented.

She said that presently the federal government regulated securities, and as a very large federal level bureaucracy, they were not doing a very good job. She also cited their own system of insurance regulation as inefficient. She said there was a big frustration over insurance regulation, because there wasn't enough money or uniformity.

Ms. Bennett said HB 734 was absolutely a major change to licensing laws. She said the bill was written to provide for an agent to be called a producer, and required them to hold their own license. She said that presently, an agent must have a company appointment to become a licensed agent in Montana, and she felt an individual should be able to be an agent without company appointment. She said it provided for a single license, prohibited the granting or the extension of controlled business license, provided that misappropriation of insurance premiums constituted theft, and allowed for the State Insurance Commissioner to revoke an insurance producers license for up to five years. She said the bill also allowed for the automatic suspension, revocation, or termination of a non-resident insurance producer's license, if that same thing happened in the domicile state.

Commissioner Bennett said that unfortunately HB 734 had been amended on the House floor, and the appointment process had been added back in. She said

it was a very poor amendment, and if appointments were kept in, the language needed to be cleaned up. She stated the Insurance Department opposed appointments, because it resulted in their office currently collecting about 17,000 pieces of paper she felt were next to useless. She said opponents were going to say that appointments were extremely important to preventing creation of a broker's state in Montana. She said brokering was currently not allowed in Montana, but people had admitted having a brokering business anyway. She stated the new law allowed them to broker business and also to be an agent, but they would all be called producers. She said they would have a contract with a company for whatever kind of business they were doing.

Ms. Bennett said she didn't believe it was important for her department to know which company the producer sold for, because her department did not settle disputes between agents and their companies. She stated she was a strong consumer advocate when it came to insurance, and this law had worked well for the state of Illinois, and she felt it would work well for Montana. She said she hoped the committee would concur with the amendments Representative Thomas had suggested, as they would help cut red tape and allow her department to be part of multi-state licensing.

Susan Witte said HB 734 was based on a NAIC model, and was a major bill. She gave a section by section analysis of the bill, and urged passage. (See Exhibit #8)

Rick Hill said he owned an insurance agency in Helena, and served on the legislative committee for the Independent Insurance Agents of Montana, and the Professional Insurance Agents of Montana. He said he served on the task force representing the various insurance groups in the Insurance Department, and helped develop the language for this bill and the companion bill. He stated his groups supported the single licensing concept, however, there was controversy concerning appointments. The model bill, that the NAIC developed, for redefining insurance agents as producers, removed the requirement that an insurance producer have an established relationship with an insurance company. He said the significance was that currently, in Montana, an individual could only be licensed if they had a formal relationship with a company. He stated the Insurance Department had to be formally notified of that relationship, and that was done through the appointment process. He said the existing process

absolutely assured the consumer, buying insurance from a licensed agent in Montana, that person was operating on behalf of the insurance company. He said the model law removed the requirement for appointment, and removed the requirement that the insurance producer have any formal relationship with an insurance company.

Mr. Hill stated that if the appointment process was removed, the burden of proof was shifted from the insurance company to the consumer. He said that today, if a consumer bought insurance from an agent, they knew that agent was contracted to a certain company, and the company was bound by his actions. He said, that if the action was beyond the terms of the agent's contractual relationship, the consumer still had the ability to seek recovery from the company. He stated that under the new producer concept, the consumer no longer had assurance that the agent was operating on behalf of that company, and the consumer would have to prove a relationship existed, before he would be allowed to go after the insurance company. He said there was dissention in the insurance industry over that particular provision, but a majority supported appointments.

Mr Hill said another existing provision of the appointment process stated that if an insurance agent's company terminated the agent's relationship for violation of a Montana law, they were required to notify the Insurance Commissioner with documentation. He said the model act's removal of appointments, obviously removed that provision.

Mr. Hill said the present appointment process was burdensome, because every year insurance companies had to confirm, or reaffirm appointment of every agent in the state. He said the process included a requirement to pay a \$10.00 fee, which raised about one half million dollars annually. Mr. Hill said he was proposing an amendment with language suggesting perpetual appointments to be made one time only, without a requirement for reaffirmation. He said the bill provided for raising the revenue, by increasing the annual fee for the insurance companies. He said the language they proposed for optional appointments, was the language from the National Association of Insurance Commissioners. He stated other states had passed language modifying the broker agency concept to the single producer, and had retained the agency appointment process.

Roger McGlenn said he would like to direct the committee's attention to page 25, lines 3 - 8, and page 27, lines 2 - 9. He said this was the language the task force had developed, and he felt it was extremely important to the companion nature to HB 536. He said the language provided a clear and concise definition of who must be licensed and when they must be licensed. He stated that if HB 734 passed with this language in tact, his group continued in strong support of HB 536. However, if this language or HB 734 did not pass, then they needed to oppose HB 536.

Mr. McGlenn said the Independent Insurance Agents also supported the amendments proposed by Mr. Hill. He said they felt appointments were a valuable consumer information resource that should be available through the Insurance Department. He stated the Insurance Department was responsible and received valuable information pertaining to the solvency or insolvency of insurance companies, and they thought that financial information would be valuable to the agents and their consumers. Therefore, if appointments were on file in the Insurance Department, the department could inform agents and prevent further business transactions between consumers and those companies. He said they would like the opportunity to review the appointment process and the effect to the consumer.

Larry Akey said his association supported HB 734, and they believed the appointment process provided important consumer protection. He also stated they supported Representative Thomas' amendment.

Me. Akey said, as the Commissioner's staff had indicated, there was a provision of the bill that was not in the NAIC model language. He said that provision gave the Commissioner's office the ability to suspend or revoke a license for a five year period. He said his group believed the industry and the agents in particular, desired to become more self-policing, and believed the five year revocation authority was a good provision even though it was not model language.

Mr. Akey said they were opposed to the provisions which changed knowing or willful misrepresentation from a misdemeanor to a felony. He said the language appeared in section 58, and suggested that if the five year suspension or revocation was retained, section 58 substantially changed penalties for agents. He asked the committee to strike section 58 from the bill.

Questions From Committee Members: Senator Williams asked Representative Thomas how he felt about striking section 58?

Representative Thomas stated he would defer to the committee's wisdom on that, but Commissioner Bennett had testified to her reasons for wanting that in the bill.

Chairman Thayer asked Larry Akey what he had meant when he testified to supporting the sponsors amendments? He said the sponsor's amendments took out the language regarding appointments.

Mr. Akey said the original bill deleted the appointment process, and the House had amended the bill to reinstate appointments. He said they favored the intent of the amendment, but language in the House amendment was inadequate and probably did harm to the original intent of the bill. He said they supported the appointment process, with the model NAIC language Representative Thomas had offered.

Chairman Thayer asked Representative Thomas if the amendments he had passed out were the ones he wanted to introduce?

Representative Thomas said the amendments before them reinstated the current appointment process. He said that he favored the NAIC model language that would make the appointments perpetual. He said a lot of the interest was to eliminate as much paperwork as they could, and free up some people to do other things.

Chairman Thayer asked Representative Thomas if he could be recorded as preferring the McClure amendments as opposed to the Thomas amendments?

Representative Thomas said that would be correct.

Senator Hager asked Representative Thomas if there was an error in amendment #1.

Representative Thomas said there was a typo, and it should say lines 18 through 23, not lines 21 through 23.

Representative Thomas said, the amendments stripped the House amendments from the bill, and he had also asked Mary McCue to work on another set of amendments containing the proper language regarding the appointment process. He said he was sorry he had not clarified that fact well enough.

Chairman Thayer asked Representative Thomas why it was so important to have model language changes in our current law? He asked why model language changed the insurance agent language to read insurance producer, and why that change was so important?

Representative Thomas said the industry wanted the changes. He said that currently, anyone who handled insurance had to be licensed. He said that what they had done was draw a distinction between the person selling the coverage, that was the producer, and the person who was helping.

Senator Noble asked why they couldn't call the people who didn't sell insurance non-producers, and leave the other people as agents? He said he was concerned about the large number of changes this implied for the industry. He asked who had decided on the model language?

Rick Hill said the industry was not going to change what they said or did, so this would only pertain to the law. He said that in most cases you wouldn't change the signs or stationary or whatever.

Senator Noble asked Larry Akey if he had any explanation for the language change?

Larry Akey said NAIC was the National Association of Insurance Commissioners, and like many elected officials or appointed officials, there was a national body that developed model language. He said the intent of that model language was to try achieving as much uniformity from state to state as possible. He said the National Association of Life Underwriters, which represented independent agents, had worked with the NAIC in developing the model language. He stated that a national compromise between companies, agents, and regulators was reflected in the NAIC model language. He said that was why they appeared before the committee and said they approved of the model language, because the compromise had already been struck at the national level. He said that was also why it was important for them to retain as much model language as possible.

Senator Noble asked Andrea Bennett why they had used model language except for the one section? He asked, if they were trying to switch to the model language, why would they add other language?

Andrea Bennett said that portion of the bill was "housekeeping", and that bill had this kind of language

in it. She said the language in this bill was only to avoid having two separate parts of the law that were different.

Senator Weeding asked if the NAIC language had different appointment language than was suggested here?

Andrea Bennett said there was a model passed many years ago, and that was the language the committee was being asked to amend into this bill. She said the NAIC had passed, more recently, a model which did away with the appointment process altogether, and that was the first set of amendments Representative Thomas gave you. She said that if the committee decided they wanted to include appointments in the law, then they wanted to use the second amendment. She stated The Insurance Department was supporting the first amendment, but not the second one.

Senator Weeding asked if the latest recommendation of NAIC was for no appointments?

Andrea Bennett said yes, that was a brand new national law, and Montana was the chairman of the agent licensing committee for the NAIC and that was why it was being presented. She said the industry was supporting the new legislation, and she knew there would probably be opposition on the local level. She stated it was their intent to nationalize licensing in the United States, so the federal government didn't have to.

Chairman Thayer asked how many states had adopted similar language at this time?

Andrea Bennett answered that no other state had, except Illinois, and they were the model state.

Senator Weeding asked Roger McGlenn why he thought NAIC language, regarding appointments, should be stricken from the law?

Roger McGlenn said the industry had been discussing this issue for four or five months, and it was his understanding that the NAIC had allowed optional language to include appointments if the state so desired. He said that to his knowledge, this was the language that the task force of agents had prepared and offered to the committee. He expressed a concern that there was no certainty consumers would enjoy the same protection they had in the past, with appointments. He said they wanted the opportunity to maintain that protection. He stated they supported the language for

the time being, and they believed it was optional language provided by the NAIC.

Senator Weeding asked what type of thing might happen, which would required that protection?

Roger McGlenn said their concern was over an individual no longer being required to have and appointment to represent an insurance company, and they understood this law did not provide any regulation prohibiting representation of any company. Mr. McGlenn said he was particularly concerned about life and health insurance, because he frequently received mailings from companies he had never heard of. He said he checked on those companies with the Insurance Department to make sure their licenses were admitted. He said that without required company appointments, he could go out and write policies for any company, and the consumer had no way of checking on his validity or the financial status of the company. He said they wanted to study their concern, on behalf of the consumers and the agents, before it was adopted as Montana law.

Chairman Thayer asked, if Montana was on the committee that was helping write and adopt this law, why did the Insurance Department want to eliminate the appointment requirement?

Andrea Bennett said she didn't want to do away with the licensing requirement, and a person would still be able to call the Insurance Department and find out who was a licensed agent. She said she wanted to do away with the appointment process, because she didn't feel it served any useful purpose. She said that an insurance producer still needed to have a contract with each company they did business with. She stated that if the appointment process was eliminated, the agent would still be able to bind coverage for a company, and the contractual law was going to prevail.

Senator Meyer asked Rick Hill if he would like to respond?

Rick Hill said there was nothing in the model act that required a contract to exist between an agent and the producer, as it was now presented. He said that as the law now stood, he was appointed to represent a company as their agent, and he did not have a contract with those companies. He said he might have a contract with the managing general agent, who interceded between the agent and the company, but none existed with the company. He said that if the model act was passed without appointments, he would not be appointed by that

company, and he would not have a company contract. He said he thought that broke the chain between the consumer and the company, and that was the concern he had.

He said the concept of brokering in brokerage states was entirely different than how the term broker was used in Montana. He said that if an agent arranged to have an occasional piece of business for a customer placed through another agent, Montana called it brokering, but it really wasn't. If an individual didn't represent himself as the agent, and explained that he was arranging another contracted agent to handle that insurance, and they were going to share the commission, that was not brokering. He said brokerage occurred when an agent went directly to a company, and arranged the insurance coverage without a formal relationship in existence.

He said that with an appointment system, if a company wanted to do business in Montana they had to make a commitment to that agent and to the state, and under a brokerage arrangement that would not happen. He said that if a company went through the process of appointing people, they wanted a contractual relationship, so they could limit what that person was going to do. He said that under a brokerage arrangement, the insurance companies could come and go as they pleased, with no contractual obligation, and he felt the insurance companies would be quick to take advantage of the situation.

Senator Weeding asked Mr. Hill if he was actually contracted?

Mr. Hill said they are appointed by the companies, not contracted, because there was an intervening managing general agent. He said there were a number of insurance companies that wrote specialized lines of insurance in Montana, and if he sold any insurance those companies carried, there was a managing general agent for that company, not an individual contract with each separate company.

Closing by Sponsor: Representative Thomas said there were many reasons to pass the bill, and they included the single licensure, and the definition of what a consumer service representative was. He said he would have the amendments ready next week. He said he thought the bill was important and they needed the committee's help in its passage.

DISPOSITION OF HOUSE BILL 734

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

DISPOSITION OF HOUSE BILL 247

Discussion: Senator Lynch presented his proposed amendments, and briefly explained them. (See Exhibit #10)

Amendments and Votes: Senator Lynch moved to Amend HB 247, with the amendments contained in exhibit #10. Senator Weeding seconded the motion. The motion Carried Unanimously.

Amendments and Votes: Senator Meyer moved to Amend HB 247 with the amendments prepared by Mary McCue, and requested by Senator Thayer. (See Exhibit #11) Senator Lynch seconded the motion.

Discussion: Mary McCue explained that as the bill was presently written, the statement of intent referred to the obstetrics crisis and the bill itself talked about lines of insurance, and there were a couple of references to policy. She said that what these amendments did was limit the scope of the bill, so that it now referred only to the line of obstetrical liability insurance in this state. She clarified it as a single kind of insurance. She stated that in each place where it said 'policy', she had changed it to 'this line' and where it said 'line' she inserted the descriptive words 'obstetrical liability'.

Mrs. McCue said section 4 was the definition portion, and amendment #10 inserted the definition Mr. Browning had brought to the hearing, which defined non-competitive. She stated the language was what had been enacted in Wyoming. She said that for the word "volatile", she had inserted "a line is considered "volatile" if rates for the line of obstetrical liability insurance have increased more than 50% during the previous year."

Mary McCue said the other significant amendment was on page 4, line 22, following the word "states", we're inserting the language "similar to Montana geographically and demographically".

Senator Lynch spoke in opposition to the amendments, and handed out a letter from the Tavern Association which supported the bill without the amendments. (See Exhibit #12) He said that if you limited it to "noncompetitive", he thought they would find other instances that were equally as "noncompetitive" as the O.B. crisis.

Senator Weeding asked what the intent of amendment #15 was?

Chairman Thayer answered that the original bill talked of it being regional, so the amendment was a clarification of the word regional. He said the language had been suggested, and was taken from a Wyoming law. Chairman Thayer said demographically could refer to any state, but geographically would probably be related states. He stated that in defense of the amendments, he had tried to analyze the hearing and the objections that people had. He said it seemed the bill was speaking to one thing, but was trying to include everything else, and he thought bills should say what they meant. He cited the statement of intent as saying it was just dealing with the O.B. problem, then the bill said something else. He said he thought the bill, as written, was confusing and needed to be amended to clean up the language.

Senator Noble said he understood that 80% of medical malpractice insurance was written by an organization composed of doctors who pool the money and pay the claims. He said, you would think that would be the least expensive insurance they could get, and any other insurance companies would have to be competitive with that. Senator Noble wanted to know how the committee was going to solve that? He asked Jackie Terrell if it was correct that 80% of medical malpractice insurance was written by a doctors organization?

Jackie Terrell said she was not certain the percentage was accurate, but she could say that the majority of malpractice medical insurance written in Montana was written by doctor owned companies. She stated there was only one major private company writing this type of insurance in Montana. Mr. Aarel from the St. Paul company is here this morning, and may be able to answer your question.

Senator Noble asked Mr. Aarel if his company wrote medical malpractice insurance in Montana?

Mr. Aarel said they did.

Senator Noble asked him what percentage of this type of insurance was written through a doctors' organization versus a private company?

Mr. Aarel stated that it was a clear majority. He said that in Montana, he thought somewhere between 70% and 80% was written by doctor owned companies.

Senator Lynch asked Mr. Aarel what percent of profit his your company made, last year, on medical malpractice insurance?

Senator Meyer asked Mr. McGlenn to answer the same question on Aetna.

Mr. McGlenn said he didn't think he could answer the specific percentages but he gave some statistical data compiled by their association. He said it listed the top ten writers per line, and medical malpractice number one and number three were doctor owned companies. He stated number two was Saint Paul and it had the premiums written, premiums earned, and the premium losses. He said that as Representative Whalen had pointed out, it included reserves, but did not include operating expense and overhead.

THE question was called for on the motion to adopt the amendments presented in exhibit 11. A Roll Call Vote was taken. Three Senators voted in favor of the amendments, and five opposed the motion. Those opposing the motion were Senator Boylan, Senator Williams, Senator Hager, Senator Weeding, and Senator Lynch. The Motion Failed.

Recommendation and Vote: Senator Lynch made a motion that
HB 247 BE CONCURRED IN AS AMENDED.

Chairman Thayer said that in the examination and hearing process, the committee was told that this bill was not mandatory. He asked Mr. Aarel if, in his estimation, the bill was mandatory?

Mr. Aarel said that once a line has been declared non-competitive, the next step will be the Commissioner asking for certain data. He said she had to ask for it, and the Commission would hold a hearing, and the data that has been collected would be analyzed by an actuary. He said all of this language as it was now written was mandatory. He stated the final step in the process, after the data was analyzed, involved section 6, (3) where it stated the commissioner shall adopt by rule reasonable development factors and trend

adjustments. He said he believed the language indicated the Insurance Commissioner would have to decide what the trend and development factor should be for insurance companies. He said he had talked to Representative Whalen, and he hadn't understood it to be that way, but Mr. Aarel said he looked at it to be mandatory.

Chairman Thayer asked if insurance companies would pay all actuarial fees?

Mr. Aarel said yes.

Chairman Thayer asked if that was regardless of whether they were excessive or not?

Mr. Aarel said there was no provision in the bill about whether there were any allegations that were excessive.

Chairman Thayer asked, if the purpose of this bill was to drive down the rates, for people seeking this type of insurance, was the bill going to accomplish that?

Mr. Aarel said that was doubtful. He said he thought the problem was that there were a low number of O.B.'s in the state. He said the bottom line would be that private carriers, looking at this legislation, would think twice before becoming involved in this kind of process. He said he felt the bill was not going to increase competition, and it could it.

Senator Noble asked if, regarding section 6, companies presently submitted data to the Insurance Department?

Mr. Aarel said they submitted that information whenever they filed for a rate increase or decrease in Montana, and they filed their results in Montana, as well as country wide.

Chairman Thayer asked for the status of the other bills dealing with this subject?

Bonnie Tippy said Representative Addy's HB 699, was being worked on extensively. She said that one of the things the bill did was fund the whole program with an extra premium tax on private insurance companies. She said it was her feeling that the bill was going to pass.

Senator Noble asked what other states we could get figures from in regard to regional rate making?

Jim Borchardt of the Auditor's office said that word regional had been amended, so that the word regional did not have to be a surrounding state. He said the intent was to select and combine the data from states that had loss characteristics similar to Montana, and create a data base from which to work.

Senator Noble asked why the Montana Tavern Association was supporting this bill, and asked if the bill was going to impact the liquor liability laws?

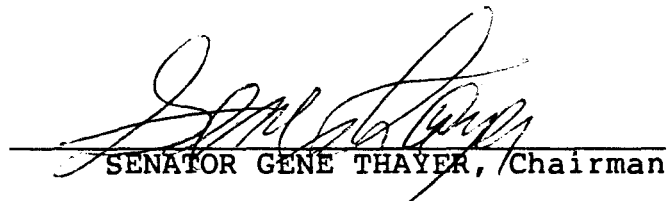
Jim Borchardt said he was not sure. He said that before they knew how it would work for any particular line, a decision would have to be made as to whether it was competitive or non-competitive. He said he thought the bill originally cited obstetrics as a prime example, but not as the only example where this could be used.

Chairman Thayer said the bill was currently written to deal with any non-competitive line of insurance.

The question was called for on the motion HB 247 BE CONCURRED IN AS AMENDED. A Roll Call Vote was taken, with five Senators favoring the motion and four opposing. Those opposed were Senator Meyer, Senator Noble, Senator McLane, and Senator Thayer. The motion Carried. Senator Hager carried HB 247 on the Senate floor.

ADJOURNMENT

Adjournment At: 12:17 p.m.



SENATOR GENE THAYER, Chairman

GT/ct

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 3/10/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
<u>SENATOR DARRYL MEYER</u>	✓		
<u>SENATOR PAUL BOYLAN</u>	✓		
<u>SENATOR JERRY NOBLE</u>	✓		
<u>SENATOR BOB WILLIAMS</u>	✓		
<u>SENATOR TOM HAGER</u>	✓		
<u>SENATOR HARRY MC LANE</u>	✓		
<u>SENATOR CECIL WEEDING</u>	✓		
<u>SENATOR JOHN "J.D." LYNCH</u>	✓		
<u>SENATOR GENE THAYER</u>	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 683 (third reading copy -- blue), respectfully report that HB 683 be concurred in.

Sponsor: Marks (Thayer)

BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

scrhb683.310

3- P-89
2/10

SENATE STANDING COMMITTEE REPORT

March 10, 1989

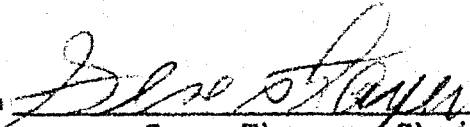
MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 258 (third reading copy -- blue), respectfully report that HB 258 be amended and as so amended be concurred in:

Sponsor: Spaeth (McLane)

1. Page 2, line 22.
Strike: "2-9-108"
Insert: "2-9-305"

AND AS AMENDED BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 247 (third reading copy -- blue), respectfully report that HB 247 be amended and as so amended be concurred in:

Sponsor: Whalen (Hager)

1. Title, line 4.

Strike: "REGIONAL"

2. Title, line 10.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

3. Page 1, line 15.

Strike: "regional"

4. Page 3, line 8.

Strike: "Regional"

5. Page 6, line 15.

Strike: "regional"

6. Page 7.

Following: line 20

Insert: "NEW SECTION. Section 13. Termination. [This act] terminates October 1, 1991."

AND AS AMENDED BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

scrhb247.310

3-10-89
2-10



D. A. Baker, M.D.

*Baker Guardian
Holy Family Medical Clinic
E. 235 Rowan - Suite 109
Spokane, WA 99207
(509) 483-0158*

February 9, 1989

*Representative Bob Pavlovich
Chairman of the House Business & Economics Development Committee
Capitol Station
Helena, Montana 59620*

I would like to encourage your support of the Montana Science & Technology Alliance Program. From 1984 - 1988 M.S. & T.A. evaluated my high tech developmental project and felt it and its' associated industry would be good for Montana's business and commerce. My development centers on miniaturizing and automating the fetal monitoring equipment currently being used by hospitals throughout the world. Converting this diagnostic equipment into a portable form has had the firm support of leading health agencies interested in cutting their medical diagnostic overhead expenses. It's technical development has had financial and promotional support from NASA and the National Institute of Health. Unfortunately the M.S. & T.A.'s support of the project was curtailed in a recent decision of the Montana Supreme Court.

If Montana hopes to maintain its' economic stability, investments for the future have to be made and institutions such as M.S. & T.A. must have your support. A number of other states have encouraged high tech development quite profitably in creating jobs and establishing the seeds for maintaining a technically trained work force which is so necessary for the economic health of its' state.

The State of Montana needs its Science and Technology Alliance office if jobs and industry are to be encouraged in Montana.

Sincerely,

D.A. Baker, M.D.

Intra-campus MEMORANDUM

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2DATE 3/10/89BILL NO. HB 683

UNIVERSITY OF MONTANA
School of Business Administration

DATE: March 6, 1989
TO: Senate Business and Industry Committee
c/o Gene Thayer
FROM: Larry Gianchetta, ^{LD}Dean
RE: Montana Science and Technology Financing Act

For the record, my name is Larry Gianchetta and I am Dean of the School of Business Administration at the University of Montana. Also, it should be noted that I was a member of the Financial Advisory Committee to the Montana Science and Technology Alliance when it was still in the seed capital business. This is a committee which looks at businesses in the early stages of development for possible seed capital funding.

Being a Professor of Management and Dean of the School of Business Administration, I am often engaged in working with businesses in the early stages of their development. There is plenty of statistical data to support that many well-managed businesses with an excellent product ultimately end in failure due to the lack of working capital. Most financial institutions are willing to make loans to businesses with their assets as collateral. Businesses in the early stages of their development have not had the opportunity to develop the necessary assets to qualify for loans at most loaning institutions. It is critical that the State of Montana provide a vehicle for capital infusion into these businesses in their early stages and I think the seed capital program provided by the Montana Science and Technology Alliance was working well. In fact I must say, having been involved in many similar processes, that there are none as streamlined and sophisticated as the seed capital program that existed within MSTTA. When one considers the staff, the board of directors, and the members of the financial advisory committee, the people resource base there is outstanding. Coupled with the process that was in place, the seed capital made available to early stage companies was "well-invested." Two particular examples in the Missoula area I have worked with from almost day one are Health Incentives and ChromatoChem.

Statistics provided by our Bureau of Business and Economic Research regarding the out-migration in our state over the last decade indicate we should all be concerned. The Montana Science and Technology Financing Act is exactly "what the doctor ordered"

ex #2

3/10/89

to reverse that trend. I encourage you to support the
aforementioned act and let the Montana Science and Technology
Alliance go back to providing seed capital to early stage
businesses. It has an excellent, and proven, track record.

LG:CD

Health Incentives, Inc.

Containing Costs and Promoting Health.

March 7, 1989

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 3/10/89
BILL NO. HB 683

Gene Thayer
Chairman
Montana Senate
Business and Industry Committee
Helena, MT

Dear Mr. Thayer:

I am David Feffer, President of Health Incentives, Inc. and am writing in support of the proposed Montana Science and Technology Financing Act.

Expanding the business base in Montana is of critical importance to the positive economic and social future of the state. One of the keys to expanding this base, through the creativity and hard work of people willing to take an idea and grow it into a functioning business, is the availability of capital. Montana, is sadly lacking in capital for business development and expansion; and I feel that the proposed Montana Science and Technology Financing Act is a extremely important step in filling this capital void.

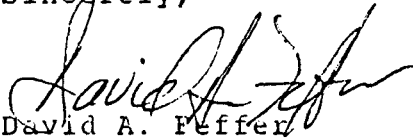
From a personal point of view, Michael Wood and I founded Health Incentives in 1983 with limited capital that we raised from family and friends. There was no other source available. With this we built a small successful business. Our business showed significant potential and after four years we required additional capital to expand. We sought financing from the Montana Science and Technology Alliance and we were successful in receiving \$100,000 to match monies that were invested by private individuals. This financing along with the technical assistance that we received from the Alliance staff and board were invaluable in helping Health Incentives achieve business success. Without the Alliance financing our expansion would have been seriously affected if not stopped altogether.

ex. #3

3/10/89

As an entrepreneur, I have been continually frustrated with the unavailability of capital for business development in Montana. There are hundreds of people in the state with good business ideas and the energy to make them a reality. This act will provide what I believe is an important source and catalyst for broad based and needed economic expansion in Montana.

Sincerely,



David A. Feffer
President and CEO by JAK

DAF/lg

TESTIMONY OF
Carol Daly, Executive Director
Flathead Economic Development Corporation

PREPARED FOR THE
Senate Business and Industry Committee
March 10, 1989

on

HB683

"The Montana Science and Technology Financing Act"

Mr. Chairman, members of the Committee, for the record my name is Carol Daly. I am executive director of the Flathead Economic Development Corporation, a private non-profit organization working to stimulate and support new and expanded business opportunities in the Flathead Valley.

I also am wearing two other hats today -- as one of the original board members of the Montana Science and Technology Alliance, and as the co-owner (with my husband) of a precision machine shop in Kalispell specializing in defense and aerospace component manufacturing.

As an economic developer, I try to help businesses and entrepreneurs with high technology products they are seeking to commercialize. Most of these people have exhausted their personal resources in bringing their ideas to the commercialization stage. They have little left to offer for collateral. They are facing heavy start-up expenses with, in the early months, low cash flows. Their ability to access conventional financing sources is almost nil. What they need is equity or near-equity (patient) financing. They cannot start paying back the debt the day after they incur it, BUT they have the potential to generate many, many times the payback amount in the future.

When the Montana Science and Technology Alliance was making seed capital investments, these businesses and entrepreneurs had an opportunity to develop in Montana, if their products and processes were sound. The rigorous due diligence review of MSTTA was designed to filter out unsound deals, and to help good deals develop into better ones. Not only the money, but the technical assistance provided were badly needed, and gratefully received.

Without the MSTTA seed capital program, however, I -- and other economic developers -- have no place to send the technologically and commercially exciting deals I find. I have tried to find private individuals willing to invest their funds in such projects, but unless they have some due diligence capability themselves, such investors are very reluctant to expose themselves to the higher risk of new technology projects. In six months of trying, I have placed only one high tech project in Montana with private investors.

ex. #4
3/10/89

Currently I am working with several entrepreneurs with good business plans, well developed prototypes, identified markets, and lots of potential. One of them was working closely with MSTTA just before it was forced to cease its investment activities, and he felt very optimistic about his chances of obtaining financial support from the Alliance. I have been trying to help him fill that gap, but last week he received an offer from an Idaho investment group. If he accepts their offer, the project will be commercialized in Boise.

Another company which I was unable to finance in the Flathead will be setting up manufacturing facilities in Alberta, partially capitalized by a grant from that province's equivalent of our MSTTA program.

Meanwhile, back at our machine shop, entrepreneurs come to us to have prototype and pre-commercialization work done. Frankly, undercapitalized as they are, many of these customers represent a real risk to us. Even if we get material costs paid up front, labor charges may remain unpaid for months -- or forever. We are a small firm ourselves, and cannot afford to provide this type of supplier financing to new businesses, when we are ourselves paying market rate interest on our own borrowed funds. Thus it is not only new firms that are hampered by the lack of adequate seed capital resources in Montana, but existing manufacturers and suppliers as well. All of us would be healthier if the current seed capital financing gap were filled.

The Flathead Economic Development Corporation urges your support for passage of House Bill 683.

GREAT FALLS CAPITAL CORPORATION 3/10/89
BUSINESS ACQUISITIONS & INVESTMENTS HB 683

March 10, 1989

Gene Thayer
Chairman
Montana Senate
Business and Industry Committee

Greetings:

My name is Mike Parker and I represent the interests of the Great Falls Capital Corporation of Great Falls. I am writing in support of House Bill # 683 which provides for revision of the Montana Science and Technology Act.

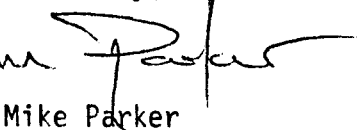
Great Falls Capital was formed in response to the Montana Capital Company Act for the purpose of investing in or acquiring qualified Montana businesses. Our search for qualified candidates has led us to all corners of the state of Montana and throughout the entire U.S. in search of profitable existing businesses that fit our investment criteria.

In the course of our search, I have been contacted by or have contacted many early-stage Montana businesses who are seeking financing. While their youth places them outside the parameters of the GFCC acquisition criteria, they, none the less, represent a potential for growth and a contribution to economic development in their communities and for the state of Montana.

Funding for companies at this stage of their development is generally not available from commercial sources, and judging from the current state of the saving and loan industry, we should not, in fact, look to conventional lenders as a source of venture and development capital. We must be able, instead, to look to an organization like the Science and Technology Alliance as a source of vital seed and early stage capital. It is my opinion that the Science and Technology Alliance is an important member of the Montana Financial Community and can contribute significantly to economic growth and development in Montana.

Again, I urge your support and the support of your entire committee for House Bill # 683. Thank you.

Sincerely,



Mike Parker

GALLATIN DEVELOPMENT CORPORATION
P.O. BOX 1114
BOZEMAN, MONTANA 59771-1114
(406) 587-3113

March 8, 1989

MEMO

TO: Gene Thayer, Chairman
Senate Business and Industry Committee

FR: Linda Wyckoff, Executive Director *fw*

RE: House Bill #683

The following is a written testimonial to be presented by Laurie Shadoan on behalf of the Gallatin Development Corporation in Bozeman to the House Business and Economic Development Committee on Friday, March 10.

The Gallatin Development Corporation fully supports the bill and asks the committee to consider the economic impact on our state.

As a local nonprofit economic development organization working with 300 plus contacts annually, the Science and Technology Alliance (STA) has been a great resource.

Many of the firms who contact the Gallatin Development Corporation for assistance are start-up firms which need access to seed capital. In many cases, particularly where capital resource needs are relatively small (\$50,000 - \$250,000), the STA represents the only viable funding source for the firms. Any actions which limit STA's funding capacity directly limit the state's ability to move forward in economic development efforts.

We plan to launch a proactive marketing program this year which will create an even greater need for STA. It was very unfortunate to have lost this source of funding and expertise.

The Alliance serves the state in several ways:

1. As a source of funding,
2. As a source of expertise,
3. As a network for venture capital and additional expertise for the state,
4. As an enhancer for technology transfer and research and development at MSU, and
5. As a participant with the private sector to encourage growth of this industry in our state.

Alliance operations are especially significant in our region due to our nucleus of existing high tech companies, the number of high tech companies considering doing business in our region, the Advanced Technology Park, and MSU.

ex #6
3/10/89

Gene Thayer
March 8, 1989
Page 2

Cases in point:

ILX Lightwave moved from Minnesota with two employees, now has 35, projects continued growth for the next three years.

Toomay, Mathis & Associates started with three employees, now have 25 and are growing.

Skyland Scientific had 35 employees in 1985, now has 65.

Lattice, Inc. moved to Bozeman February, 1989. Plans to have five employees initially and will grow to 15.

Electromet, Inc. planned to open with 60 employees and projected 200 in five years. Had received approval from STA but did not get funded due to Supreme Court decision.

All of the above companies have received direct or indirect assistance from STA.

Two of our local companies were approached by other states and offered money to move. This is an obvious concern for our area.

The Gallatin Development Corporation has worked with Montana Power and representatives from MSU, among others, to coordinate meetings with high tech companies in Gallatin County. The purpose of this is to seek ways to enhance local growth and recruitment of like companies. Access to capital is a major requirement for both existing local firms and high tech firms considering relocation to Montana.

In the age of information, our access to the university, state of the art telecommunications, and advances in the technological fields, Montana can certainly be competitive with the support of a program such as the Science and Technology Alliance. Please give this bill your support. Thank you!

LW/jb

CC: Steve Huntington

Amendments to House Bill 734
Representative Thomas
March 10, 1989

1. Page 19, line 18 through 23.
Strike: page 19, line 21 through 23 in their entirety.
2. Page 19, line 24.
Strike: "(3)"
3. Page 19, line 24.
Following: "(2)"
Strike: "(3)"
Insert: "(2)"
4. Page 29, line 8 through 13.
Strike: page 29, line 8 through 13 in their entirety.
5. Page 29, line 14.
Following: "(Z)"
Strike: "(3)"
Insert: "(2)"
6. Page 29, line 18.
Following: "(Z)"
Strike: "(4)"
Insert: "(3)"
7. Page 30, line 10.
Following: "(A)"
Strike: "(5)"
Insert: "(4)"
8. Page 30, line 13.
Following: "(Z)"
Strike: "(6)"
Insert: "(5)"
8. Page 32, line 10 through 15.
Strike: page 32, line 10 through 15 in their entirety.
9. Page 32, line 16.
Following: "(Z)"
Strike: "(3)"
Insert: "(2)"
10. Page 32, line 20.
Following: "(Z)"
Strike: "(4)"
Insert: "(3)"
11. Page 33, line 12.
Following: "(A)"
Strike: "(5)"
Insert: "(4)"
12. Page 33, line 15.
Following: "(Z)"
Strike: "(6)"
Insert: "(5)"

House Bill 734

Insurance Single License Bill

Section by section analysis

Montana Insurance Department

The Single License Bill originated from the National Association of Insurance Commissioners' (NAIC) model act and suggested changes to the existing licensing section made by agents, agent associations and the Insurance Department.

Section 1 is a short form amendment which allows all references to "agent" or "solicitor" in the Insurance Code to be changed to "insurance producer".

Section 2 is a short form amendment changing "surplus lines agent" to "surplus lines producer".

Section 3 does the same as Sections 1 & 2 for "title insurance agents".

Section 4 is a new section adding back in a prohibition against holding a producer's license for the purpose of writing insurance only on one's own risks or the risks of one's employer. The controlled business prohibition previously in our agent's licensing laws was deleted last session. (It should not have been.)

Sections 5 through 11 are sections where a short form amendment was not sufficient, so changes have been made both to grammar and reflecting the general shift to "insurance producer".

Section 12 amends the fees section deleting a fee for appointment and solicitor. Where "insurance producers" were inserted both under resident and nonresident, a provision for annual renewal of license fees was added. This section also amends existing law to recognize the administration of licensing exams by private testing services, and the charging for those exams by the private firms.

Sections 13 through 14 are again general revisions reflecting the shift to "insurance producers" and grammatical changes. The first section was intended to recognize the producer licensing requirements apply to fraternal benefit societies. NOTE: We need to take a look at this change to see how it complies with 33-7-525 and 526, MCA.

Section 15 through 57 amend insurance licensing law, generally changing all references from "agent" and "solicitor" to "insurance producer". In addition other changes are made in these sections, so it is necessary to go through them item by item.

3/10/87

Section 15 is amended to include a purpose for licensing. Current law only addresses the scope of licensing.

Section 16 amends definitions. All definitions contained in Chapter 17 have been moved to the beginning of the chapter, a housekeeping measure. "Public adjuster" is moved to put the phrase in alphabetical order. Definitions for "consultant" and "administrator" are moved to the beginning of the section as opposed to the individual parts dealing with those specialized licensees. (Note these two types of licensees, as well as adjusters, are not incorporated in the single producer license because they do not produce insurance business.) Definitions for "consultant license", "administrator license", "individual", "insurance producer", "license", "person" and "controlled business" have been added. Customer service representative is included under the definition of "insurance producer", (9)(c). NOTE: the last portion of the customer service representative was amended out in House Business executive session 2/17. Deleted language is found on page 25, lines 1&2 beginning with "but who is...".

Section 17 amends the exceptions and exemptions from definition section. This clarifies that individuals working purely in a clerical capacity need not be licensed; salaried employees incidentally taking application; a person forwarding information with respect to an existing group contract; an employer or his employees engaged in the administration of the employer's employee benefit plans; an employee of an insurer who inspects, classifies or rates risks or trains insurance producers, or customer service representatives.

Section 18 amends the general license requirement section, including a representative of a fraternal benefit society.

Section 19 amends the general qualifications and applications for licensure. The allowance for insurance producer organizations to be licensed and sell coverage to governmental entities is contained in this part. It was previously contained in 33-17-205, MCA, a section which will be repealed by this bill.

Section 20 amends the examination requirements. Recognition is given for a license applicant moving here from another state in which the individual was licensed. With a letter from the previous state, the individual would only be required to take the Montana specific portion of the licensing exam and any portion for a line of authority not held in the previous state. NOTE: a change in how exams will be given to individuals previously licensed in another state who left the other state in good standing.

Section 21 amends the conduct of exams requirement. Old section 2 has been deleted and is now included in revised 33-17-212 (6), MCA.

Section 22 amends the issuance and content of licenses. This section provides for the annual renewal of licenses, and lays out the renewal mechanism. NOTE: Procedures will need to be developed.

ex. #8
3/10/87

Section 23 amends temporary license authority.

Sections 24 and 25 contain grammatical changes and "insurance producer" only.

Section 26 amends the adjuster licensing section. It clarifies the annual renewal date.

Section 27 amends nonresident licensing section and includes a provision that, if the state of residence suspends, revokes, or terminates the license, Montana can do the same for the nonresident license. The argument behind this is a nonresident license is based on the resident license. If the resident license expires, the nonresident should not be allowed to continue. NOTE: important change with respect to nonresident regulation.

Sections 28 and 30 are grammatical and "insurance producer" language changes only.

Section 29 appoint the commissioner as agent to receive service of process for nonresident agents. Basic procedure is laid out for service.

Section 31 addresses nonresident tax payment, requiring that if income earned is subject to Montana tax law, the licensed nonresident agent shall file a return in compliance with Montana tax law. NOTE: This change was made to comply with the original intent of the business written in Montana law. A nonresident license could be suspended or revoked for failure to file a tax return on Montana business written which is subject to Montana income tax law. The problems with the old section were:

- 1) reporting requirements did not yield information which could be used by the Department of Revenue; and
- 2) no recognition was given to the fact that the tax laws only apply to income earned within the borders.

Section 32 reflects general grammatical changes and "insurance producer" language.

Sections 33 through 46 make grammatical changes to the consultant's and administrator's licensing law.

Section 47 amends the suspension, revocation or refusal of license section.

Section 48, procedures following suspension or revocation is amended to include the allowance for license refusal up to five years in the event of license revocation.

Sections 49 through 51 make changes in phraseology and "insurance producer".

Section 52 amends the reporting and accounting of premium section to clarify that misappropriation of funds is theft.

ex. #8
3/10/89

Section 53 amends the exchange of business section removing the requirement that one individual hold an appointment, and clarify that both parties to an exchange need to be properly licensed. This section applies to insurance companies as well.

Section 54 limits controlled business. The old controlled business section was taken out in 1987 inadvertently.

The rest of the bill draft made grammatical changes in compliance with Montana bill drafting procedures and changed "agent" and "solicitor" to "insurance producer."

INS 509 (8-11)

3/10/89

EXHIBITS WERE MISNUMBERED. THERE IS NO EXHIBIT NO. 9 FOR THIS DAY.

Amendments to House Bill No. 247
Third Reading Copy
For the Committee on Business and Industry
Prepared by Mary McCue
February 28, 1989

1. Title, line 4.

Strike: "REGIONAL"

2. Title, line 10.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

3. Page 1, line 15.

Strike: "regional"

4. Page 3, line 8.

Strike: "Regional"

5. Page 6, line 15.

Strike: "regional"

6. Page 7.

Following: line 20

Insert: "NEW SECTION. Section 13. Termination. [This act]
terminates October 1, 1991."

Amendments to House Bill No. 247
Third Reading Copy
Requested by Sen. Gene Thayer
For the Committee on Business and Industry
Prepared by Mary McCue
March 9, 1989

1. Title, line 5.
Strike: "CERTAIN LINES OF"
Insert: "THE LINE OF OBSTETRICAL LIABILITY"
Strike: "THAT ARE"
Insert: "IF IT IS"
2. Title, line 7.
Following: "NONCOMPETITIVE"
Insert: "OBSTETRICAL LIABILITY"
3. Page 2, lines 5 and 6.
Following: "designating" on line
Strike: remainder of line 5 through "are" on line 6
Insert: "the line of obstetrical liability insurance if it is"
4. Page 2, line 8.
Strike: "lines"
Insert: "line"
5. Page 3, line 12.
Strike: "policies insuring exposures"
Insert: "the line of obstetrical liability insurance"
6. Page 3, line 17.
Strike: "a particular policy"
Insert: "this line"
7. Page 3, lines 18 and 19.
Strike: "policies elsewhere in Montana or"
Insert: "lines"
8. Page 3, line 21.
Strike: "Definition"
Insert: "Definitions"
9. Page 3, line 22.
Strike: ", a"
Insert: ": (1) the"
Following: "of"
Insert: "obstetrical liability"
10. Page 3, line 23 through page 4, line 1.
Following: "'noncompetitive'" on line 23
Strike: remainder of line 23 through page 4, line 1
Insert: "in any one of the following circumstances:
(a) there are fewer than five insurers actually issuing the
line of insurance in the state, as determined by the

commissioner;

(b) three insurers are transacting more than 90% of the business for that line of insurance in the state;

(c) two insurers are transacting more than 80% of the business for that line of insurance in the state; or

(d) there is reasonable evidence, as determined by the commissioner, of collusion among insurers in setting prices for the line of insurance; and

(2) a line is considered "volatile" if rates for the line of obstetrical liability insurance have increased more than 50% during the previous year."

11. Page 4, lines 6 through 8.

Strike: subsection (a) in its entirety

Re-number: subsequent subsections

12. Page 4, line 9.

Strike: "a"

Insert: "the"

13. Page 4, line 10.

Following: "of"

Insert: "obstetrical liability"

14. Page 4, line 12.

Strike: "a"

Insert: "the"

Following: "of"

Insert: "obstetrical liability"

15. Page 4, line 22.

Following: "states"

Insert: "similar to Montana geographically and demographically"

16. Page 5, line 13.

Strike: "a"

Insert: "the"

Following: "of"

Insert: "obstetrical liability"

Following: "insurance"

Insert: "that has been"

17. Page 6, line 2.

Strike: "a"

Insert: "the"

Following: "of"

Insert: "obstetrical liability"

Following: "insurance"

Insert: "that has been"

MONTANA



Tavern Association

Affiliated and Associated with the NLBA

PROFESSIONAL PLAZA - SUITE AB-2
900 N. MONTANA AVENUE - P.O. BOX 851
Helena, MT 59624 / PHONE 406-442-5040

March 8, 1989

TO: Senator Gene Thayer, Chairman, and
Members of the Senate Business & Industry Committee

RE: HB 247

The subject bill was recently brought to our attention as possibly addressing certain concerns of our members, and since we understand it will be considered in Executive Session by your Committee at an early time, we would like to submit the following statement.

The tavern industry has been seriously affected for several years by its inability to obtain liability insurance, including liquor liability, at affordable rates, if indeed at all. As a result, many of them have been forced to go "bare", which is high risk not only for the tavern but its patrons.

We believe it would be of tremendous help if the rates for our members could be determined on the basis of Montana experience, or at least combined experience with states similar to Montana, rather than the national experience of a particular insurer. We agree with the wording in the Statement of Intent that it is not our experience that is driving up the cost of coverage, but that of the urban states.

We would hope that you would favorably consider HB247, without amendments, so our industry might work with our Insurance Commissioner in an effort to obtain some relief from the very serious problem we have in terms of obtaining adequate and affordable liability coverage.

STEVE WILKEN, President

SW/d

DATE March 10, 1989

COMMITTEE ON

Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dore Ingels	Mr Chamber of Commerce	HB683	X	
MIKE PARKER	LOT FALLS CAPITAL CORP	HB683	X	
Dustin Archer	Mike Parker	HB683	X	
Laurie Shotton	GOLDEN DEV. CORP. BOZEMAN CHAMBER	HB683	X	
Carol Daly	Flathead Econ. Dev. Corp	HB683	X	
ROD KLAPHAKE	Missoula Econ. Dev. Corp.	HB683	X	
JIM KEMBEL	BUSREGDUI DOC	HB258	X	
RICK HILL	PIATIAM	HB734	X	with amendments
John Murphy	Montana Power	HB683	X	
John Hunsby Jr	MSTA	HB683	X	
Pat Melby	Mont. Ski Areas Assn	HB258	X	
Dane Seers	Board of Investment	HB683	X	
Roger McLean	J.I.A. 11	HB-234	X	
Nancy Keenan	OPI	HB683	X	
Rep Tim Whalen	H.D. 93	H.B. 734	X	
CAROL WILLIS		HB734		
BONNIE KIMBALL		HB734	X	
Carol Richard		HB734	X	
Sue O'Neil		HB734		
Connie Perkins		HB734		
Karl Oaro	St. Paul Co.	947HB		X
Jacqueline Powell	Amer. Bus. Assoc.	HB 247		X
Bonnie Lipp	Alliance of Am. Business	HB247		X

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date 3/10/89 Bill No. HB247 Time 12:04

NAME	SEAT NO.	YES	NO
SENATOR DARRYL MEYER	35	✓	
SENATOR PAUL BOYLAN	50		✓
SENATOR JERRY NOBLE	34	✓	
SENATOR BOB WILLIAMS	39		✓
SENATOR TOM HAGER	42		✓
SENATOR HARRY "DOC" MC LANE	33	✓	
SENATOR CECIL WEEDING	28		✓
SENATOR JOHN "J.D." LYNCH	5		✓
SENATOR GENE THAYER	23		

Carla M. Turk
Secretary, CARLA TURK

Gene Thayer
Chairman, GENE THAYER

Motion: Senator Thayer made a motion to amend
HB 247 with the amendments in exhibit #11.
Senator Lynch seconded the Motion.
Failed

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date 3/10/89 Bill No. HB 247 Time 12:15

NAME	SEAT NO.	YES	NO
SENATOR DARRYL MEYER	35		✓
SENATOR PAUL BOYLAN	50	✓	
SENATOR JERRY NOBLE	34		✓
SENATOR BOB WILLIAMS	39	✓	
SENATOR TOM HAGER	42	✓	
SENATOR HARRY "DOC" MC LANE	33		✓
SENATOR CECIL WEEDING	28	✓	
SENATOR JOHN "J.D." LYNCH	5	✓	
SENATOR GENE THAYER	23		✓

Carla M. Turk
Secretary, CARLA TURK

Gene Thayer
Chairman, GENE THAYER

Motion: *Senator Lynch made a motion HB 247*
Be Concurred in As Amended.
passed