

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on March 7, 1991,
at 8:00 a.m.

ROLL CALL

Members Present:

Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Scott McCulloch (D)
John Scott (D)
Don Stepler (D)
Rolph Tunby (R)
Norm Wallin (R)

Members Excused:

Don Larson (D)
Bob Pavlovich (D)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

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

Announcements/Discussion: HB 740, HB 651, HB 566, HB 629 were
heard, and executive action taken on HB 629, HB 651, HB 827.

HEARING ON HOUSE BILL 740

Presentation and Opening Statement by Sponsor:

REP. ED GRADY, HD 47, Canyon Creek, said HB 740 will create a new
group of brew pub licenses. He presented amendments. **EXHIBIT 1**
This bill will allow a small Montana brewery producing less than
60,000 barrels per year to sell beer at retail within the
premises of the brewery. Montana wineries are allowed by law to

sell their own wine by the glass. This bill would not allow other beer or wine to be sold at the brewery and would not allow gambling. It will not create an additional beer or wine license. Thirty other states allow brew pubs. There is interest in several communities for small Montana breweries to have brew pubs on their premises.

Proponents' Testimony:

Bruce DeRosier, President, Kessler Brewery, Helena, presented written testimony. EXHIBIT 2

The following people sent letters to urge the support of HB 740: **Juergen Knoeller, Bayern Brewing, Missoula; Elayne Connor, Billings; Noel Seeburg, Bozeman; Mary Certo, Kinko's Copies, Billings; Bruce DeRosier, Montana Beverages Ltd. EXHIBIT 3**

Opponents' Testimony:

Mark Staples, Attorney and Lobbyist for the Montana Tavern Association, stated his opposition despite the amendments. When Kessler Brewery started he was a stockholder. It was given a great deal of free press, exciting coverage, and international good favor. The product was sold by word-of-mouth in the Flathead area. The demand was very high. Unfortunately, because of distribution problems people said they didn't want it so it never got to many areas. The people who supported it in its toughest times were the taverns in Helena. They are still among the biggest supporters of Kessler Beer. The taverns have enhanced that brewery's wholesale capacity many times over. It is unreasonable for the wholesaler to now go into competition with those retailers.

After people have toured his place and sampled his wares, the wholesaler should send the tourists to the taverns to support them because the taverns have supported him. It was said that the wine wholesalers have always been able to do this. Taverns don't sell 60% of their business in wine as they do in beer. He contacted almost every tavern in Helena. They were all incensed by this and thought they were being double crossed. Miles City is mentioned in a letter of which the Committee has copies.

There are a couple people who started brewing their own beer. If people want to brew and sell beer and compete against retailers in Montana, then they should have to do what the retailers have had to do for 40 years, which is to buy a very expensive beer and wine license. To say that it isn't an assault on the quota system is to say that this beer doesn't sell anywhere else. It is the very taverns in Montana that have made sure that the beer sells in other places. It is misleading to say that it isn't a quota buster. Taverns have invested hundreds of millions of dollars for licenses under the quota system. In those states that do allow this, the majority of them don't have our quota system. It is a direct attack on those investments.

Don Larson, Owner/Operator Jorgensons, Lobbyist for the Montana Tavern Association, stockholder in the Kessler Brewery, said Kessler was and has been allocated several advantages over the present beer distributors. They can sell their product off the dock, which no other beer distributor can do. They can provide sampling of their product, they have that privilege. He promoted the product when it came on the market. If they want to promote their product in the way that it should be promoted, through the local taverns, HB 740 is not the way to do it.

Lynn Miller, Owner/Operator, Miller's Cave, said Miller's Cave carries Kessler Beer and sells about a keg a week. They have supported Kessler Brewery when it started because it is a local industry. It is a travesty that the owner of Kessler Brewery now wants to go into competition against people who have promoted Kessler beer. As a microbusiness Kessler Brewery has had every advantage.

Don Lytle, Owner, Hap's Bar, said Kessler Brewery would be in direct competition with him if HB 740 is passed. As the brewer, Kessler Brewery can sell Kessler beer for \$.25, but he has to sell it for a \$1.00 to make a living. Kessler Brewery is in the wholesale business, and he is in the retail business. A federal tax came into effect on January 1, 1990. If Kessler wants to sell a keg, they will let him, but they strongly oppose HB 740.

Questions From Committee Members:

REP. BENEDICT asked Mr. Staples if micro-breweries would have to buy a restaurant license to be covered under the sanitary and health provisions in order to sell their products. Mr. Staples said the sanitation provisions would apply; he didn't see where the restaurant provisions would apply. REP. BENEDICT asked if tavern owners come under health provisions and are inspected. Mr. Staples said yes. He didn't mean to center on just the Kessler Brewery. New tavern owners have to come under some health provisions. The people in Missoula and Miles City were upset with the idea of brew pubs in their areas. People have made vast investments in taverns. There is overhead, and they have employees. Wholesale is wholesale, and retail is retail in every other market. This would apply to anybody who is going to open one of these brew pubs in Montana, not just Kessler Brewery.

Closing by Sponsor:

REP. GRADY said he supports the Montana Tavern Association 100%. When he agreed to carry the bill, he said he hoped HB 740 wouldn't compete with the taverns because he wouldn't want to carry it then. When the bill was drafted it would have competed with the taverns so Mr. DeRosier agreed that the bill needed to be amended. Thirty other states have such legislation. If anything, this bill would help another Montana business to start up. There used to be quite a few breweries in Montana. The fiscal note shows that the license would cost \$200 per year. Because

there are three licensed breweries in the State there would be a \$600 revenue income for the State which would cover the cost of issuing the licenses. He hoped the amendments would be adopted as that makes the bill. He doesn't see any problem with someone wanting to sell their own product on their own business premises.

HEARING ON HOUSE BILL 651

Presentation and Opening Statement by Sponsor:

REP. DAN HARRINGTON, HD 68, Butte, said HB 651 is a bill that has generally revised the laws relating to fraternal benefit societies. It amends many sections; and provides for an effective date. Fraternal benefit societies are non-profit organizations with certain characteristics, such as the lodge systems. Membership in fraternal societies is usually based on common religious, ethnic, and vocational backgrounds. There is a total of about 38 fraternal benefit societies in Montana, 26 of which are licensed under present law. Some of the more familiar organizations are: The Knights of Columbus, Lutheran Brotherhood, Sons of Norway, and the Royal Neighbors of America. Fraternal benefit societies are regulated by the Insurance Commissioner because they offer life insurance and annuities to their members.

HB 651 comes from the 1983 Model Fraternal Code drafted by the National Fraternal Congress which is an association of fraternal benefit societies. Twenty-two other states have enacted this model legislation. The Legislative Council did an excellent job in drafting this from the Model Code in conjunction with the Montana Legislative Format of Drafting Rules; however, changes were made that could be viewed as substantive. The amendments that will be offered by Pat Melby will restore some of the language from the original Model Code. There will be an amendment offered by the Insurance Commissioner. He supports all the amendments.

Proponents' Testimony:

Pat Melby, National Fraternal Congress, distributed a list of the members of the National Fraternal Congress that are licensed to do business in Montana. EXHIBIT 4. A copy of the Model Code was provided to the Legislative Council. They worked very hard to adapt that Code to Montana's own unique requirements and rules for bill drafting. During the process, there were some changes made that are viewed as substantive. He proposed amendments to restore portions of the bill to its original form. EXHIBIT 5. Susan Witte, Chief Legal Council of the Insurance Commissioner's Office, informed him that a couple of amendments needed to be included and one of his amendments is wrong. The Insurance Commissioner has proposed some amendments as well. Amendment #2. from the Insurance Commissioner's Office will be substituted for #15. on his list of amendments.

Joe Peel, Consulting Counsel to the National Fraternal Congress of America (NFCA), described what fraternal benefit societies are and summarized reasons why they feel this bill is important to Montana residents, the Insurance Department, and to members of fraternal benefit societies in Montana. EXHIBIT 6. He presented two pamphlets to explain what fraternalism is about and the Fraternal Code. They are basically self-help organizations. EXHIBITS 7 & 8.

Robert Walton, a member of the Law Committee, NFCA, and General Counsel of Royal Neighbors of America, explained fraternal benefit societies currently operate under Chapter 7 of the Montana Insurance Laws. He urged approval of HB 651. EXHIBIT 9.

Susan Witte, Chief Legal Counsel to the State Auditor/Commissioner of Insurance, presented amendments. EXHIBIT 10. The State Auditor/Commissioner of Insurance supports HB 651 with the amendments proposed by Pat Melby and these amendments. In the drafting of this bill the first amendment in the Title, Line 15, the last two sections under the repealer, Section 33-7-525 and 33-7-526 contain licensing provisions under which their agents are to be licensed. This might have been an oversight. The sponsor and proponents agree that their agents should be licensed. This reinstates a 1959 Code provision requiring their agents to be licensed.

The second amendment as Mr. Melby mentioned is in lieu of his amendment #15. This amendment codifies an existing provision of the law, Section 33-7-101, which also has been codified since 1959. It makes other portions of the insurance code applicable to fraternal benefit societies just as they have been since 1959. Amendment #2 contains the following: licensing provisions, supervision and rehabilitation provisions, the Unfair Trade Practices Act, and the life and disability provisions of the Montana Insurance Code.

Opponents' Testimony: None

Questions From Committee Members:

REP. KNOX asked what type of contractual benefits can the companies offer in Section 16 on Page 20. Mr. Walton said life and disability. Subsection (g) says "other benefits authorized for life insurers that are not inconsistent with this chapter." Subsections (a) through (f) are in current law, (g) is an addition.

REP. WALLIN asked if a lodge ceases to exist, does it have reserves to pay off the face value of the policies that are issued when members join a lodge? Do they assess all the other existing policy holders to pay for debts as they occur? Mr. Walton explained the benefits are provided by the National organization, the central organization, and the fraternal benefits society. When that ceases to exist, they transfer the

obligations to another organization. They could mutualize and become a mutual life insurance company. The local lodges do not provide the contractual benefits. If the local lodge ceases to exist, there is nothing lost to the individual member. **REP. WALLIN** asked what happened to the policy holders of, for example, the Knights of Pythias when it ceased to exist? **Mr. Walton** stated the assets would be transferred to another insurer who would fulfill the contractual obligations.

REP. CROMLEY said he had a concern with the lack of personal liability in Section 8, Page 7. Subsection (1) says the members of the governing body are not personally liable for any benefits provided by a society. There could be a situation where a member sells insurance and doesn't turn the money in. He asked **Ms. Witte** if the member would be personally liable for insurance for which he had collected a premium? Is there another section of the Code that covers this liability? **Ms. Witte** said the amendments would make the licensing provision in Chapter 17 applicable to fraternal benefit societies. If a member who was a licensed agent absconded with those funds, his license could be revoked. There is also a theft provision in Chapter 17. **Mr. Melby** said this bill would include the licensing provision for people selling benefits provided by the fraternal benefits society. Section 8 only says these people are not liable for benefits if they were to abscond with the funds; they would certainly be liable for any money collected and not turned in. A member of the board of directors would not be personally liable.

REP. BENEDICT said to **Ms. Witte** he understood that she didn't have any problems with the other amendments, but she wanted to substitute her second amendment for **Mr. Melby's** fifteenth amendment. **Ms. Witte** said that he was correct.

REP. TUNBY asked how he felt about the amendment by the State Auditor's Office. **Mr. Melby** said he agreed completely with it. The references left out in his amendment were inadvertent. He supports the amendment.

REP. STEPPLER asked if the lodges that offer different insurance have to file the same reports and pay the same fees as the other insurance companies providing the same benefits. **Ms. Witte** said they have to file their forms with the Insurance Department just as they've done since 1959. Their fees are a great deal less than a Certificate of Authority for an insurance company. There is a \$100 annual renewal fee as opposed to \$600 for a Certificate of Authority for a regular insurance company.

Closing by Sponsor:

REP. HARRINGTON said these fraternal organizations are updating and modernizing their basic Codes, and that is what they are doing here. It is great that they are doing that. He urged support for HB 651.

HEARING ON HOUSE BILL 566Presentation and Opening Statement by Sponsor:

REP. TOM NELSON, House District 95, Billings, said that he is a licensed life and health insurance agent and a licensed security agent in the State of Montana. This bill deals with the regulation of insurance agents and companies. HB 566 is an Act granting the Commissioner of Insurance the authority to establish fees necessary to operate the Insurance Department, and amends several sections of present law. The fees are already established and set by statute.

The Statement of Intent outlines that this change would allow a sliding rate of fees to go up or down to be set by rule rather than set by statute. The Statement of Intent is required for this bill because it directs the Commissioner of Insurance to adopt administrative rules establishing fees for filing documents, issuing and renewing licenses, reviewing education courses, and miscellaneous charges. In establishing fees, the Commissioner shall base each fee on the cost of service being performed and the revenue necessary to operate the Insurance Department.

Minor changes are on Page 2, lines 2 and 3. The amendments to the law that are of substance begin on Page 8, Section 5. Strong regulation is in the interest of the consuming public and of the agent. The industry needs to be clean and be perceived to be clean. They desire to be strongly regulated in a forthright and honest manner. Agents and companies pay a large sum of money for this regulation.

The Commissioner's office is not funded adequately enough to operate and regulate correctly because \$.30 out of every dollar is not appropriated back to the Insurance Department; it stays in the General Fund for running the general business of the State of Montana. The fees could justifiably be set by the Insurance Commissioner. Budgets still would have to be established by the Appropriations Committee, but what is needed to regulate correctly could be charged according to that budget.

Proponents' Testimony:

Dave Barnhill, Deputy Insurance Commissioner, testified as a proponent of this bill. Fees are a recompense for services and should be commensurate to the value of the service. Under current law, fees paid are much less than the cost of regulation provided by the State. **EXHIBIT 11.**

Larry Akey, Montana Association of Life Underwriters, said HB 566 allows the State Auditor to establish fees for services performed for insurance agents and companies by rule. In 1987 the agents and companies supported an increase in fees that passed the Legislature. It was done with the understanding that the monies raised in fees would be used for regulation and enforcement of

the Insurance Code. Only about \$.70 on the dollar goes for that purpose. The balance goes straight to the General Fund for other State expenses. It is a form of double taxation on people who just happen to be in the business of selling insurance. The Legislature would still have complete control over the budget of the Insurance Commissioner's Office through the appropriations process. He served as Chief Deputy to the Secretary of State and that office had language which was adopted in 1983 very similar to the language in HB 566.

There was some concern from the constituencies that the Office served principally attorneys and banks; shifting to this type of language could result in unbridled growth in fees. That did not happen. The Legislature keeps tight control on the budget of all state offices through the appropriations process. The case of the State Auditor's Office wouldn't be any different. Almost all other regulatory bodies set fees for regulatory purposes by rule. There are very few regulatory functions where the fees are set in statute because the cost of regulation slides up and down. Instead of coming to the Legislature time after time looking for changes in the fee structure, the Legislature granted other regulatory bodies the ability to establish their fees by rule. This seeks the same thing for the Insurance Commissioner. He asked HB 566 be given a Do Pass recommendation.

Roger McGlenn, Executive Director, Independent Insurance Agents' Association of Montana, said the Independent Agents support adequate staffing and funding of the Montana Insurance Department. The Independent Agents also supported the increases in fees in 1987 for additional regulatory services provided by the Insurance Department for the Montana insurance consumer and the insurance industry. The Independent Agents are willing to pay their share of necessary expenses to regulate the insurance industry in Montana for the benefit of all. They are not looking to reduce the fees they pay. They support it not because of any anticipated reduced fees; they are looking for \$1 worth of regulation for \$1 worth paid. Because of the lack of staffing and funding today, the Insurance Department is often placed in a position of crisis management by simply handling the issue or problem that is the most critical at the time, and other services have to be delayed until the staff can get to it.

His Association is always looking for markets doing business in other areas of the United States which could provide services and products to Montana insurance consumers. When these markets apply for a Certificate of Authority it is important that they be handled in a timely manner. Requests of rulings are often slowed up because the consumer must come first. His Association supports in-field investigation. When there is a complaint by a consumer, someone has to go out and document activities and stop them immediately. The federal government is watching the states, and state regulation of insurance is critical to the Montana insurance consumer. According to statistics, Montana is fourth from the bottom in regard to funding because of the low

population base. That may be appropriate, but it is far behind many other states. He agrees with Mr. Akey that \$.70 out of each \$1 is not enough to fund the Insurance Commissioner's office. He feels it is a form of double taxation on persons in the insurance business. They would like to see the fees that are currently collected be spent for the regulation of the insurance industry and the protection of the Montana insurance consumer.

Opponents' Testimony: None

Questions From Committee Members:

REP. CROMLEY said the language that would set the amount by rule is on Page 11 at the bottom. The fees must be commensurate with the costs of the operation. He asked what the operation costs were in 1991. Mr. Barnhill said the costs of operation in 1991 will be considerably less than what was budgeted because there is a vacancy savings occasioned by personnel not filling particular positions. Vacancy savings by law are reverted to the General Fund. He didn't have an exact amount, but that would be an example of how the Department's actual expenditures could be less than what is appropriated by the Legislature. In that event, the Commissioner could reduce the fees by rule, so the fees collected would be commensurate with the actual costs. REP. CROMLEY said the fees are approximately a little over one-third greater than the costs. Mr. Barnhill said that is correct.

REP. CROMLEY asked if the cost is what is budgeted. Mr. Barnhill said if this bill is passed, the Legislature would appropriate a certain amount of money to the Department for operations. Fees would be set by rule commensurate with that appropriated amount. In the event that over the course of the year the expenditures turned out to be less, those fees could then be reduced at that time so the amount collected would equal the amount actually spent by the Department. In no event could the Department spend more money than was appropriated by the Legislature. This would not give the Commissioner authority to override the appropriated amount to the Insurance Department. REP. CROMLEY said his concern was that there may be costs that are not actually in the budget, for example, rent, heat, etc. Mr. Barnhill said they are in the budget. He has a SBAS (Statewide Budgeting and Accounting System) report which would show that. They pay rent for their space to the Department of Administration. Those costs are part of the budget.

REP. BACHINI asked what the miscellaneous charges are for. Mr. Barnhill said miscellaneous charges would give the Auditor the authority to set fees for items such as providing copies of documents. Right now that is set in statute at \$.25 or \$.50 per page. That is the type of thing miscellaneous charges are.

REP. WALLIN asked if the intent of the bill is to establish a dollar for dollar cost of recovery. Mr. Barnhill said that is correct. REP. WALLIN said in the previous bill pertaining to

fraternal organizations, the members only pay \$100. Of the \$600 that the others pay, there's \$420 that it costs; they are overpaying about \$180. Would the people that are only paying \$100 be raised to \$420? Mr. Barnhill said this bill would give the Commissioner flexibility to adjust the amount of money that various types of companies would pay to the Department to rectify any sort of unequal fee schedule that currently exists.

REP. RICE said she agrees with the theory that regulation should provide services commensurate with the income. The fiscal note shows \$1.3 million was collected in fiscal year 1990, and if only 70% of that was actually expended through the budget of the Insurance Department, subsequent fees will match that expenditure in which we are dropping 30% of this into the General Fund. REP. NELSON said that is exactly what would happen.

REP. RICE said Mr. McGlenn had some concerns about increased regulation and staffing to meet certain requirements for regulation. That is not included in this bill. There are no FTEs (Full Time Equivalent), so there are no problems solved with this bill other than matching expenditures and revenues. REP. NELSON said that is correct. Additional staffing or a computer cost increase would still have to come through the appropriation process like it does now. They are asking for an increase in capacity, so they can do better tracking of agents. Currently, they have a computer system that is an electronic file cabinet, but there is no way for them to match up the information to find a habitual offender, for example.

REP. RICE said to Mr. Barnhill that he had mentioned vacancy savings as an issue of under-expenditure in the budget in Fiscal Year 1991. If there were no vacancy savings and you were staffed up to where you are authorized, what would your fiscal 1991 expenditures approximately have been? Mr. Barnhill said they would have been close to the amount appropriated, but even with that, the fees collected still would have exceeded the appropriation by about \$369,000.

REP. WALLIN asked Mr. McGlenn to address the discrepancy that fraternal members pay \$100, and it costs \$420 to license the agents. Mr. McGlenn said he didn't have any complaints with the way the fees are set at this time. There are no insurance company representatives here concerned about the fees.

REP. STEPLER said under the Assumptions Section in the fiscal note, it says the total license and fee revenues under the fee schedule to be adopted by the Commissioner of Insurance will not vary from total revenues under current law. Under current law the total revenues were \$1,336,000. He asked Mr. Barnhill if the Commissioner would be allowed to keep \$1,336,000 under the new law. Mr. Barnhill said the Assumption in the fiscal note relates to how this law would work in reality. That would suggest the Commissioner has the authority to spend as much money as is collected by the fees, which would not be the case. The

Commissioner would have the authority to spend as much as is appropriated by the Legislature. The Commissioner would have the authority to adjust the fees to then reflect actual expenditures, which could be no more than the amount of the money appropriated by the Legislature. It could be less depending on the level of activity of the Insurance Department throughout the year. The fiscal note, for purposes of simplicity, made some assumptions that could be a little misleading as to the actual way the law would operate.

REP. MCCULLOCH stated Mr. Barnhill said this bill would affect the revenues paid into the General Fund. It could be less, but it would not affect the expenditures that are the appropriation to the Insurance Department. REP. MCCULLOCH asked if there would still be a \$369,000 loss to the General Fund besides what it costs to run the Department. Mr. Barnhill said yes.

REP. RICE asked how long this way of funding the Department has been in effect. Mr. Barnhill said the Department used to have a special revenue account from which money was appropriated by the Legislature to fund the Department. That was eliminated in 1987. If there was money left over in that special revenue account, it would revert to the General Fund. The level of fees that has been collected by the Insurance Department has been relatively static over the past four years. The amount has varied between \$1,320,000 to this year's estimate of \$1,355,000. REP. RICE asked if the Department had ever run a deficit relative to fees collected. Have fees always been over-collected, or has it been necessary to supplement through the General Fund for some years? Mr. Barnhill said more fees have always been collected than what the Department has spent.

REP. CROMLEY referred to Mr. Akey's previous testimony saying the Secretary of State's office apparently has this latitude now. He asked Mr. Akey if there are other agencies that do this also. Mr. Akey said most of the regulatory boards of the Department of Commerce in the Occupational Licensing area have the ability to set fees by rule. That is for the professional and occupational licensing services the Insurance Commissioner performs with respect to the insurance industry.

REP. STELLA JEAN HANSON asked Mr. Barnhill if there was a law that says the fees must be set commensurate with the amount that it costs to regulate. This is just complying with what has already been designed? Mr. Barnhill said the Insurance Code seems to be different from the operation of most agencies because it does set the fee by statute, and thus the disparity develops between what is actually spent and what is collected.

REP. SONNY HANSON thought the fees are set through administrative procedures during which the professions paying the fees have an opportunity to protest. It is not just an agency setting a rate.

Closing by Sponsor:

REP. NELSON stated they would like to get a dollar's worth of regulation for the dollar fee paid. The insurance industry is extremely important to the citizens for economic and social well being and it cannot stay healthy if the regulation isn't totally adequate. It is not the intent of the agents to have the fees reduced. They would like the appropriation process to bring the Department's budget up to the level of the fees paid. He thinks the people in Montana really deserve that.

HEARING ON HOUSE BILL 629

Presentation and Opening Statement by Sponsor:

REP. SCOTT MCCULLOCH, House District 96, Billings, said the goal of HB 629 is to provide for periodic renewal of limited partnerships, to insure timely dissolution of those partnerships that no longer do business in Montana, and to increase the timeliness of partnership information distributed to the public. He was asked to carry the bill by the Secretary of State's Office. The original Limited Partnership Act that instituted centralized filing of limited partnerships with the Secretary of State was passed in 1947. Over the 43 years since that time no periodic reports have been required in order for a limited partnership to retain its good standing in Montana. As a result, there are over 1,500 limited partnerships on file. These periodic reports would allow the Secretary of State to provide the public with accurate information on these businesses.

Currently, much of the information on file is 20 or more years old. A report every five years assists the partnerships in easily changing partnership information, mailing addresses, and other pertinent information, and will provide for a significantly updated file. Currently, any limited partnership filed with the Secretary of State, which has not dissolved on their own accord, is listed as an active business entity and in good standing with the State of Montana. The Secretary of State estimates that 50% of the limited partnerships are no longer active business entities. Failure to file a periodic report would clear many of these businesses from the file. Interested parties could then go into business using a name that had been previously used.

This also provides consistency with other operations of the Secretary of State's Office. All corporations are mandated to file a report by April 15 of each year, and all assumed business names and trademarks are also renewed on a five-year basis. Currently, the plan is to charge a \$15 fee for the filing of a five-year periodic report which would have a positive fiscal impact of \$11,500 to the General Fund in Fiscal Year 1992.

Proponents' Testimony:

Doug Mitchell, Chief Deputy, Secretary of State, said there may be some concern that this would cause bureaucratic red tape for

businesses and some businesses would be taken off the file that didn't want to be removed. A five-year report is a standard type of business function that all businesses in Montana outside of limited partnerships currently conduct. This report will add one periodic report every five years that limited partnerships will need to file. There is a distinct advantage to the business and to the public. Currently, if a person was to call the Secretary of State's Office and ask about a specific limited partnership that was filed in 1949, the Secretary of State's Office would say that it is an active business and in good standing. Then that person would be discouraged to learn that the limited partnership is no longer in existence. However, the records show that the business is still in good standing with the Secretary of State.

Limited partnerships will not be taken from the file indiscriminately. There is a process in removing businesses from a file. It is lengthy, but it protects those businesses. Under HB 629 a form will be mailed to each limited partnership that will list the current information the Secretary of State's Office shows to be accurate. If it is accurate, they can sign it and send it back with the fee. If there have been changes, they can be noted on the form; records will then be current and carried for another five years. If the Office doesn't hear from them, they will be sent a reminder stating they will be dissolved by a certain date if they don't respond. Then two weeks prior to the proposed dissolution date another reminder will be sent. This is done with corporations every year.

A certain amount of people choose not to file a dissolution paper where there is a fee and are dissolved involuntarily. There have been only 400 limited partnerships filed in the last six years. He presented technical amendments and explained them. **EXHIBIT 12.**

John Northey, representing himself, said he requested a certain name with the Secretary of State's Office. He was advised that the name he desired was being used by a limited partnership. The Secretary of State's Office said they had no other information except that the partnership was created in 1950, and it has had no contact with their Office since that time. If the business had been a corporation, it would have been required to file an annual report with the Secretary of State. If the business was an individual proprietorship operating under an assumed business name, it would have been required to file a report every five years. Since the particular entity was a limited partnership, there was no requirement for any filing. He didn't know whether the business was still in existence or if the people were still in existence. This bill would bring the Secretary of State's records current.

It would be totally consistent with the laws relating to corporations and individual proprietorships. The fee would break down to \$3 per year for a limited partnership for the right to protect their business name for use within the State of Montana.

According to the Secretary of State's personnel, this can be done with the existing FTEs and would require no additional cost to the Secretary of State's Office other than a few forms. It would generate an additional amount of revenue.

Opponents' Testimony: None

Closing by Sponsor: REP. MCCULLOCH closed the hearing on HB 629 urging Do Pass.

EXECUTIVE ACTION ON HB 629

Motion: REP. MCCULLOCH MOVED HB 629 be amended - EXHIBIT 13 - and further MOVED HB 629 AS AMENDED DO PASS.

Discussion:

REP. CROMLEY said Subsection (2) is being deleted from Page 2, so the (1) on Line 6 should also be deleted. Mr. Verdon said that is a housekeeping amendment. Items (a) through (e) will be replaced with numbers.

Vote: HB 629 AMENDMENTS were unanimously adopted.

Vote: HB 629 AS AMENDED DO PASS carried unanimously. REPS. LARSON and PAVLOVICH were absent.

EXECUTIVE ACTION ON HB 651

Motion: REP. WALLIN MOVED HB 651 DO PASS.

Motion: REP. STELLA JEAN HANSEN moved to amend HB 651. EXHIBIT 14

Discussion:

REP. STEPPLER said in amendment #12 on Page 2 (EXHIBIT 5) 1941, 1958, and 1980 mortality tables are being used. Do the insurance rates vary depending on what table is used? Do 1980 tables have to be used from now on? Mr. Verdon explained those are the standard rates used in the insurance laws throughout the country. Ms. Witte said those are in existing law and are standard. REP. STEPPLER asked if the insurance companies can use any one of those three tables, or do they have to use the newer table now. Ms. Witte thought most of the insurance companies would use the newer table now, but she believes they can use any one of the three tables. REP. STEPPLER asked if they are required to let a person know what table is being used. Ms. Witte said yes.

Vote: HB 651 AMENDMENTS were unanimously adopted.

Vote: HB 651 DO PASS AS AMENDED motion carried unanimously. REPS. LARSON and PAVLOVICH were absent.

EXECUTIVE ACTION ON HB 827

Motion: REP. SHEILA RICE MOVED HB 827 DO PASS.

Motion/Vote: REP. SHEILA RICE moved to amend HB 827. EXHIBIT 15. Motion carried unanimously. REPS. LARSON and PAVLOVICH were absent.

Discussion:

REP. SONNY HANSON said REP. KADAS' bill which had additional funding for the same group of people was passed. He had a problem going with the additional money.

REP. DOWELL said the Microbusiness Act was to provide funding for businesses. This is to provide assistance to businesses including technical assistance, information, and ground work. He has worked with the Certified Cities Program in Kalispell from 1985-1988. They are gathering information on sites for businesses, and are gathering data so that if a person wanted to open or expand a business, there would be a central source of information where what licenses might be required or what the taxing situation is could be easily learned. It is a help network to provide assistance, not a financing program.

REP. STELLA JEAN HANSEN said in the Microbusiness bill the money comes from the Coal Tax. This is just an appropriation from the General Fund to assist these Certified Community Programs.

REP. BACHINI said the Microbusiness bill provides loans, and HB 827 doesn't provide loans.

REP. BENEDICT said he originally spoke as a proponent for the bill, but he thought it was part of the Governor's package. He is going to vote against it if it is outside of the Governor's budget. There is a decline in the amount of revenue available.

REP. BACHINI said we have to look beyond the Governor's package. We have to listen to the needs and wants of the people. This will have to go through the appropriations process. HB 827 had support from a variety of Certified Community Programs. REP. BENEDICT said this bill could be passed out of committee to be sent to appropriations, but the members know it will be killed. If the money is not there, then he can't vote for the bill. REP. BACHINI thought appropriations might support this bill. There are some of these bills that will come out of appropriations.

REP. SONNY HANSON said to REP. DOWELL that he had talked to REP. KADAS about his bill. There are two sections to Microbusiness: 1. The actual loaning of monies; 2. Receiving monies for the Certified Community organizations for their operations. They are receiving money and loaning money. HB 827 is a supplement to that bill.

March 7, 1991

Page 16 of 16

REP. SCOTT said there has been a great deal of legislation to create business in Montana. Everyone in appropriations and in the Governor's office realizes that legislators have to do all they can to create business and jobs in Montana. This is another tool to do that.

REP. STELLA JEAN HANSEN said there is a provision for some of the interest to go to the cost of the programs. That is different than what is being done here.

REP. WALLIN spoke in favor of the bill..

Vote: HB 827 DO PASS AS AMENDED. Motion carried 10 to 6 with REPS. BARNETT, BENEDICT, ELLIS, SONNY HANSON, KNOX, AND STEPPLER voting NO. REPS. LARSON and PAVLOVICH were absent.

ADJOURNMENT

Adjournment: 10:10 a.m.



REP. BOB BACHINI, CHAIRMAN



JO LAHTI, SECRETARY

BB/jl

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE March 7, 1991

[illegible]

11:35
3-7-91
unc

HOUSE STANDING COMMITTEE REPORT

March 7, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 629 (first reading copy -- white) do pass as amended .

Signed: _____
Bob Bachini, Chairman

And, that such amendments read:

1. Page 1, line 17.

Page 1, line 19.

Page 1, line 20.

Following: "partners"

Insert: "or specified agent"

2. Page 2, line 6.

Strike: "(1)"

3. Page 2, line 11.

Strike: "(a)"

Insert: "(1)"

Renumber: subsequent subsections

4. Page 2, line 16.

Strike: "and"

5. Page 2, line 18.

Following: "transacted"

Strike: "."

Insert: "; and"

6. Page 2, lines 19 through 21.

Strike: lines 19 and 20 in their entirety and line 21 through
"include"

Insert: "(6)"

HOUSE STANDING COMMITTEE REPORT

March 8, 1991

Page 1 of 4

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 651 (first reading copy -- white) do pass as amended .

Signed: Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Title, line 15.
Following: "33-7-518,"
Insert: "AND"
Strike: "33-7-525, AND 33-7-526,"
2. Page 1, line 20.
Following: "society,"
Insert: "order, or supreme lodge,"
3. Page 1, line 22.
Strike: "37"
Insert: "38(1) (b) "
4. Page 2, line 2.
Page 4, line 12.
Page 10, line 17.
Page 11, line 14.
Page 13, line 21.
Page 20, line 17.
Page 24, line 14.
Page 27, line 24.
Page 31, line 1.
Page 32, line 5.
Page 33, line 1.
Page 33, line 25.
Page 34, line 9.
Page 36, line 25.
Page 40, line 12.
Page 41, line 2.
Page 41, line 7.
Page 42, line 10.
Page 42, line 12.
Page 42, line 21 (two places).
Page 43, line 3.

Strike: "37"
Insert: "38"

5. Page 8, line 16.

Following: "society"

Insert: "and, in a criminal action or proceeding, in addition,
had no reasonable cause to believe that his conduct was
unlawful"

6. Page 8, line 21.

Following: "body"

Insert: "or board of directors"

7. Page 10, line 9.

Strike: "the commissioner of insurance"

Insert: "a notary public"

8. Page 11, line 2.

Strike: "a charter"

Insert: "articles of incorporation"

9. Page 14, line 14.

Following: "with"

Strike: "its"

Insert: "the"

10. Page 14, line 15.

Following: "provisions"

Insert: "of its laws"

11. Page 16, line 3.

Following: "5"

Insert: "(1)(b)"

12. Page 21, line 12.

Following: "person"

Insert: "equitably"

13. Page 24, line 8.

Page 25, line 21.

Page 28, line 4.

Strike: "1 year after"

14. Page 24, line 9.

Page 25, line 21.

Page 28, line 5.

Strike: "1992"

Insert: "1993"

15. Page 24, line 12.

Page 28, line 8.

Strike: "1 year from"

Strike: "1992"

Insert: "1993"

16. Page 25, line 20.

Following: "options."

Insert: "(1)"

17. Page 26, line 1.

Following: page 25

Insert: "(2) For certificates issued on or after July 1, 1993, for which reserves are computed on the commissioner of insurance's 1941 standard ordinary mortality table, the commissioner's 1941 standard industrial mortality table, the commissioner's 1958 standard ordinary mortality table, the commissioner's 1980 standard mortality table, or any more recent table made applicable to life insurers, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted may not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing policies containing similar benefits based upon the tables."

18. Page 26, line 1.

Strike: "(1)"

19. Page 26, lines 10 through 21.

Strike: subsection (2) in its entirety

20. Page 27, line 23.

Following: line 22

Insert: "NEW SECTION. Section 23. Scope -- provisions applicable. (1) Except as provided in subsection (2), societies are governed by [sections 1 through 38] and are exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state but for every other purpose. The provisions of a law enacted after January 1, 1992, do not apply to fraternal benefit societies unless expressly made applicable by the provisions of the law.

(2) In addition to the provisions of [sections 1 through 38], the provisions of chapter 1, parts 1 through 4 and 7; 33-2-104; 33-2-107; 33-2-112; chapter 2, part 12; 33-3-308; 33-15-502; and chapters 17, 18, 20, and 22 apply to fraternal benefit societies to the extent applicable and to the extent not in conflict with the provisions of [sections 1 through 38] and the reasonable implications of [sections 1

through 38]."

Renumber: subsequent sections

21. Page 30, line 9.

Strike: "24"

Insert: "25"

22. Page 33, line 8.

Strike: "34"

Insert: "35"

23. Page 38, lines 24 and 25.

Page 39, line 1.

Strike: "[sections 1 through 37]"

Insert: "chapter 18"

24. Page 46, line 23.

Following: "33-7-518,"

Insert: "and"

Strike: "33-7-525, and 33-7-526,"

25. Page 47.

Following: line 5

Insert: "NEW SECTION. Section 43. Codification instruction.

[Sections 1 through 38] are intended to be codified as an
integral part of Title 33, and the provisions of Title 33
apply to [sections 1 through 38]."

Renumber: subsequent section

HOUSE STANDING COMMITTEE REPORT

March 7, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 827 (first reading copy -- white) do pass as amended.

Signed: _____
Bob Bachini, Chairman

And, that such amendments read:

1. Title, line 6.

Strike: "AND"

2. Title, line 7.

Following: "APPROPRIATION"

Insert: "; AND DEFINING "CERTIFIED COMMUNITY LEAD ORGANIZATION"

3. Page 1, line 10.

Following: line 9

Insert: "WHEREAS, front-line, hands-on assistance for business retention, expansion, development, and recruitment in Montana is provided by local economic development organizations that are funded by private sources and by local governments and that are forced to spend much time in raising money; and

WHEREAS, many states, in recognition of the vital role of local economic development organizations in basic industry job creation and diversification, provide financial assistance; and

WHEREAS, the Montana Department of Commerce, through its certified communities program, assists communities to assess economic development potential, address local concerns and opportunities, and continually update community strategic plans; and

WHEREAS, the certified communities program is a vehicle through which funds can be disbursed to local economic development organizations without additional program requirements or additional staffing."

4. Page 1, line 12.

Following: "appropriation"

Insert: "-- definition"

5. Page 1, line 16.
Following: "creating"
Insert: "and maintaining"

6. Page 1, line 18.
Following: "creating"
Strike: "and updating"
Insert: ", revising, or implementing"

7. Page 1, line 20.
Following: "community"
Insert: "lead"

8. Page 1, line 21.
Following: "capita"
Insert: "a year"

9. Page 1, line 24.
Following: "\$1,000"
Insert: "a year"

10. Page 2, line 1.
Following: "community"
Insert: "lead"
Following: "organization"
Insert: "that has completed original certification requirements
and maintained program standards mandated by the department"

11. Page 2, line 4.
Following: line 3
Insert: " (4) Grants under [this act]:
 (a) may be used to assess local economic development opportunities, establish and maintain economic development organizations, or conduct economic development programs consistent with strategic plans that are adopted by the certified communities and that are filed with the certified communities program; and
 (b) may not be used to make loans.
 (5) As used in [this act], "certified community lead organization" means an entity that has been endorsed by resolution of a local governing body and that meets and maintains requirements for certification established by the department."

CLERICAL

Bill No. 827

Date: 3-7-91

Time: 1:25 p.m.

UFR
(Legislative Council Staff)

☒ Business
S / H Standing Committee

(Chairman) Bachini

☐ S / H Committee of the Whole
(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment #3 should read
Following: line 9 =
Insert "WHEREAS, [Montana] frontier..."

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

Amendments to House Bill No. 740
First Reading Copy

Requested by Rep. Grady
For the Committee on Business and Economic Development

Prepared by Lee Heiman
March 5, 1991

1. Title, line 4.
Following: "PUB"
Insert: "ENDORSEMENTS TO BREWERY"
2. Title, line 7.
Following: "SELL"
Insert: "ITS"
3. Page 1, line 11.
Strike: "Beer license for brew"
Insert: "Brew"
Following: "pub"
Insert: "endorsement"
4. Page 1, line 13.
Strike: "a license, known as"
Following: "pub"
Strike: "license"
Insert: "endorsement to a brewery license"
Following: "beer"
Insert: "manufactured on the premises"
5. Page 1, line 15.
Strike: "license"
Insert: "endorsement"
6. Page 1, line 22.
Strike: "A license"
Insert: "An endorsement"
7. Page 1, line 24.
Strike: "license"
Insert: "endorsement"
8. Page 1, line 25.
Following: "The"
Insert: "only alcoholic beverage that the"
9. Page 2, line 1.
Strike: "license"
Insert: "endorsement"
Strike: "beer"
Strike: "on- and off-premises"
Insert: "on-premise"
10. Page 2, line 2.

Following: "consumption"

Insert: "is beer manufactured on the premises"

11. Page 2, lines 2 and 3.

Strike: "A brew pub licensee may sell any brand or type of beer regardless of where it is manufactured."

Insert: "For the purposes of gambling regulation under Title 23, chapter 5, a brew pub endorsement is not a license to sell alcoholic beverages."

12. Page 2, line 4.

Strike: "license"

Insert: "endorsement"

13. Page 2, line 5.

Strike: "the same as required for a beer retailer under 16-4-501"

Insert: "\$200"

14. Page 2, line 6.

Strike: "license"

Insert: "endorsement"

15. Page 3, line 2.

Strike: "licensed"

Insert: "operating under an endorsement issued"

16. Page 3, line 5.

Strike: "4"

Insert: "3"

House Business and Economic Development Committee

Testimony for HB 740, as amended
by Bruce DeRosier Kessler Brewery
March 7, 1991

EXHIBIT 2
DATE 3/7/91
HB 740

HB 740, as amended, is a bill to allow brewpubs in small Montana breweries, that is beer made by that brewer, could be sold by the glass at that brewery.

When the Legislature authorized wineries to be licensed to operate in Montana they allowed functions essentially parallel to there of a Montana licensed brewery, with one exception-wineries have always been able to sell their product by the glass at the winery, breweries have not. This bill would correct that inequity.

When this bill was first drafted, the Montana Tavernowners Association expressed grave concern and rightly so. It had erroneously been drafted to allow a brewery to have a full beer and wine license, presumably outside the quota system. I agree that this would not have been a proper request, and was never our intent. An amendment has been drafted and is before you to correct this error.

Therefore, under this bill, as amended, there are some important things that this will not do:

- a) First, it will not allow a Montana brewery to sell other beers.
- b) It will not allow a Montana brewery to sell wine.
- c) It will not allow a Montana brewery to apply for a

1
gambling license.

DATE 3/7/91

HE 740

d) It will not create any new beer and wine licenses.

Ten years ago there were no longer any small local breweries as there had once been in the U.S. Only the large national and regional breweries. And brewpubs in breweries did not exist.

Now there are between 200 and 300 microbreweries in the U.S. three of those are in Montana. Thirty states have now authorized brewpubs and more are considering such legislation.

There is interest in several Montana communities to build these small specialty, premium brewing operations. The ability to have a brewpub in conjunction with a brewery is a natural extension, and would greatly increase the viability of a new small business in a sometimes difficult economy.

I believe correspondence from several of these communities expressing such interest have been forwarded to the committee chairman.

DATE 3/7/91
HB 740

Bayern Brewing

North Higgins & Railroad, P.O. Box 8043, Missoula, Montana 59807-8043, Telephone (406) 721-8705



Date: March 6, 1991
To: Stella Jean Hansen
From: Juergen Knoeller, Brewmaster, Bayern Brewing
Re: House Bill 740-- Brew-pub Authorization

I am writing to inform you of my support for House Bill 740, allowing small Montana breweries to sell their product by the glass on the brewery's premises. I currently operate Bayern Brewing, Inc., in Missoula. Our output is less than 1500 barrels a year. I feel this bill would make it much easier for a small Montana business to compete with the much larger out-of-state breweries. The attraction and novelty of serving the beer directly from the brewery would do a great deal to increase our sales and the public's awareness of our product.

House Bill 740 would not allow other beers or wine to be sold at the brewery. Nor would it allow gambling at the brewery. Montana law has always allowed Montana wineries to sell their own wines by the glass.

As a Representative from the Missoula area I hope you consider supporting this legislation. Please feel free to call me if you have any questions.

Sincerely,

Juergen Knoeller

March 6, 1991

EXHIBIT 3

DATE 3/7/91

HB 740

Attn: Bob Bachini:

I am a Yellowstone county resident of 40 years & a homeowner. I'm concerned about house bill # 740 as amended. This bill has come to my attention since it seems to favor the wine industry & by-pass the beer industry.

This would be a tourist attraction - which Montana needs more of. There will not be a bar with gambling machines etc., just a place for tourists to sit & relax while touring our state.

I understand 30 of our states allow this & to my knowledge has caused no problems. This seems to be a good tourist attraction & that we need alot of.

I'll appreciate your help in this matter.

Sincerely,

Elayne J. Connor
3020 Lecann Blvd
Billings, Mt. 59102

EXHIBIT 3
DATE 3/7/91
HB 740

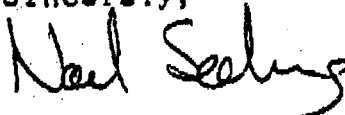
Dear Representative Bob Bachini,

I urge you to support HB 740 as amended. I believe that selling micro-crafted beer would be beneficial to both state and local economies and would welcome the privilege of selling fresh-brewed beers by the glass in the brewery.

As a lifetime resident of Montana, I want to continue to live here with the financial security provided by my own prospective business, a small brew-pub selling handmade beer to my friends and neighbors here in the Gallatin Valley. In Montana, contrary to many of our neighboring states, it is not permissible to sell beer in the same building where it is manufactured. This defeats the purpose of beer crafting, since friends and customers are not allowed to gather in one place with the Brewmaster to enjoy and improve the quality of the beer, whereas the wineries in Montana are allowed to sell their product by the glass for just such a purpose.

Though I am currently taking steps to brew and wholesale my beer to a selection of bars and restaurants, there is an obvious economic advantage to retailing this beer in my own brewery. It is what local handmade beer is all about, and it is good business, for me and for Montana.

Sincerely,



Noel Seeburg
1400 Axtell-Anceny Rd.
Bozeman, MT 59715

kinko's

the copy center

EXHIBIT 3
DATE 3/7/91
HB 740

March 6, 1991

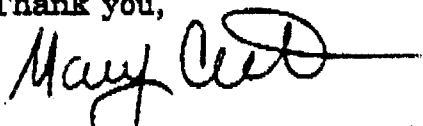
To: Bob Bachini, Business and Economics Committee Chairman

Re: House Bill 740 as amended

Dear Mr. Bachini:

My name is Mary Certo. I am writing to urge you to pass House Bill 740 as amended. 30 states have this law in their books, and we already have wineries in Montana. House Bill 740 as amended will draw tourism from outside and inside the state, and that can only help our floundering economy.

Thank you,



Mary Certo
Manager, Billings Kinko's

MONTANA BEVERAGES, LTD.

DATE 3/7/91
1439 Harris Street
Helena, Montana 59601 HB 740
406/449-6214
FAX 406/449-8119

Brewers of
KESSLER BEER



MONTANA'S PREMIUM
LAGER BEER

March 6, 1991

Representative Tom Kilpatrick
Capitol Station
Helena, MT 59620

Re: House Bill 740 as Amended, a Bill to allow Brew-Pubs in
Montana Breweries.

Dear Tom:

One of the bills you will be hearing tomorrow morning, March 7th,
in the Business and Economic Development Committee, is a bill to
allow small Montana Breweries to sell their own product, i.e.,
beer that they themselves have manufactured at the brewery site.

In the interest of brevity I have enclosed a summary fact sheet
of what House Bill 740 as Amended does and does not do, and some
other relevant facts.

Several other Montana Brewers from locations as wide spread as
Miles City, Flathead Valley, Missoula and Bozeman also support
this bill. We would appreciate your consideration in support of
our efforts to provide better opportunities for small business
activities in Montana.

Sincerely,

Bruce H. DeRosier
President

BHD:gdl

enc.

DATE 3/7/91
HB 740

March 1, 1991

FACT SHEET

HOUSE BILL 740 - BREW PUB

- 1) Allows a small Montana Brewery producing less than 60,000 barrels per year to sell beer produced at that brewery by the glass on the brewery premises.
- 2) Montana law has always allowed Montana Wineries to sell their own wine by the glass. This bill would provide equitable treatment for Montana breweries.
- 3) This bill would not allow other beers or wine to be sold at the brewery.
- 4) It would not allow gambling at the brewery.
- 5) This bill would not create any additional beer and wine licenses.
- 6) Thirty other states allow brew pubs and more are considering such legislation.
- 7) There is interest in several communities in Montana for the opportunity for small Montana breweries to have a brew pub within their facility.

**MEMBER-SOCIETIES LICENSED TO DO BUSINESS
IN THE STATE OF MONTANA**

AAL (Aid Association for Lutherans)
American Fraternal Union
American Postal Workers Accident Benefit Assoc.
American Slovenian Catholic Union (KSKJ)
Catholic Order of Foresters
Croatian Fraternal Union of America
Degree of Honor Protective Assoc.
Independent Order of Foresters
Knights of Columbus
Loyal Christian Benefit Association
Lutheran Brotherhood
Modern Woodmen
National Catholic Society of Foresters
National Mutual Benefit
Neighbors of Woodcraft
North American Benefit Association
Order of United Commercial Travelers of America
Police and Firemen Insurance Assoc.
Polish National Alliance of U.S. of N.A.
Royal Neighbors of America
Serb National Federation
Slovene National Benefit Society
Sons of Norway
Western Fraternal Life Assoc.
Woodmen of the World (Colorado)
Woodmen of the World Life Insurance Society

EXHIBIT 4
DATE 3/7/91
HB 651

PROPOSED AMENDMENTS TO HOUSE BILL NO. 651

EXHIBIT 5
DATE 3/7/91
HB 651

1. Page 1, line 20.
Following: "society,"
Insert: "order or supreme lodge"
2. Page 1, line 22.
Following: "37"
Insert: ",(1),(b)"
3. Page 8, line 16.
Following: "society"
Insert: "and, in a criminal action or proceeding, in
addition, had no reasonable cause to believe that his
or her conduct was unlawful"
4. Page 8, line 21.
Following: "body"
Insert: "or board of directors"
5. Page 10, line 9.
Strike: "the commissioner of insurance"
Insert: "a notary public"
6. Page 11, line 2.
Strike: "a charter"
Insert: "articles of incorporation"
7. Page 14, line 14.
Strike: "its"
Insert: "the"
8. Page 14, line 15.
Following: "provisions"
Insert: "of its laws"
9. Page 16, line 4.
Following: "5"
Insert: ",(1),(b)"
10. Page 21, line 12.
Following: "person"
Insert: "equitably"
11. Page 25, line 20.
Following: "options."
Insert: "(1)"

Ex. 5
3/7/91
HB 651

12. Page 25.

Following: line 25

Insert: "(2) For certificates issued on or after 1 year from July 1, 1992, for which reserves are computed on the commissioner's 1941 standard ordinary mortality table, the commissioner's 1941 standard industrial mortality table, the commissioner's 1958 standard ordinary mortality table, the commissioner's 1980 standard mortality table, or any more recent table made applicable to life insurers, every paid up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted may not be less than the corresponding amount ascertained in accordance with the law of this state applicable to life insurers issuing policies containing like benefits based upon the tables."

13. Page 26, line 1.

Strike: "(1)"

14. Page 26, lines 10-21.

Strike: Subsection (2) in its entirety.

15. Page 27.

Following: line 22

Insert: "NEW SECTION. Section 23. Applicability of Provisions. (1) Except as provided in this section, societies are governed by this chapter and are exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state but for every other purpose. No law hereafter enacted applies to societies unless they are expressly designated in the law.

(2) In addition to the provisions contained in [sections 1 through 38], other chapters and provisions of this title apply to fraternal benefit societies to the extent applicable and not in conflict with the express provisions of [sections 1 through 38] and the reasonable implications of [sections 1 through 38], as follows: Part 1 through 4 and 7 of chapter 1; 33-2-104; 33-2-107; 33-2-112; chapter 2, part 13; 33-3-308; and 33-15-502."

Renumber: subsequent sections

16. Page 38, line 24.

Strike: "[sections 1 through 37]"

Insert: "Title 33, chapter 18"

17. Page 39, line 1.

Strike: "[sections 1 through 37]"

Insert: "Title 33, chapter 18"

Statement of
NATIONAL FRATERNAL CONGRESS OF AMERICA
In Regard to
Montana H.B. 651
Revision of Fraternal Benefit Societies
Chapter of Montana Insurance Code
March 7, 1991

EXHIBIT 6
DATE 3/7/91
HB 651

Mr. Chairman and members of the Committee, my name is Joe W. Peel. I am consulting Counsel to the National Fraternal Congress of America, which represents approximately 100 fraternal benefit societies doing business throughout the United States, 26 of whom are licensed to do business in Montana. There are approximately 38 societies licensed to do business in Montana insuring approximately 51,000 members.

With me today is Mr. Robert W. Walton, General Counsel of Royal Neighbors of America, Rock Island, Illinois. Mr. Walton has many years of experience with the fraternal benefit system and in the regulation of the insurance operations of fraternal benefit societies.

As my part of the presentation this morning, I would like to describe briefly what fraternal benefit societies are and summarize the reasons why the NFCA feels that this bill is important to Montana residents, the Montana Insurance Department, and to the members of fraternal benefit societies who reside in this State.

3/7/91
HB 651

Page 2

Fraternal benefit societies are self-help, membership organizations formed by people of common ethnic, religious or vocational backgrounds, or people holding similar patriotic or moral beliefs. It is a concept of organization brought to the United States over 100 years ago by our ancestors. In fact, some of these groups were unable to obtain insurance from regular insurance companies, such as railroad workers, and they banded together for their common interests.

Societies operate today in much the same manner as they have in the past, bringing together through their membership requirements--people of common ethnic, religious or vocational backgrounds or patriotic or moral beliefs. Each society creates, establishes and administers programs and activities to carry out the purposes for which it was established. Each society operates on a lodge or branch system where local members meet regularly to identify the needs of lodge members and their local communities and plan and act to fulfill these needs. They have a representative form of government and provide among other things life, health or disability benefits to and for their members.

The volume and substance of self-help activities, charitable and benevolent programs, local lodge and branch meetings, time of volunteers, disaster relief and other programs is substantial in the State of Montana, involving several hundred thousand dollars, thousands of person hours, meetings and events.

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Over 10 years ago, the NFCA recognized that the laws applicable to fraternal benefit societies in the various states were substantially out of date and undertook a project to revise and update them throughout the country in order to allow societies to better serve the financial and estate planning needs of their members. The model fraternal code, as embodied in H.B. 651, was the result of several years of study and was adopted by the NFCA in late 1983.

Since then the Model Code, with some variations based upon local considerations, has been enacted in 22 states, including your close neighboring states of Washington, Oregon, North Dakota, South Dakota and Wyoming. Utah and Wisconsin have laws which contain the essential features of the Model Code.

As part of our standing operating procedure, we always ask the state insurance department for its views on our proposed legislation. This has been done here and we are advised that the Montana Insurance Department has no objections to the bill.

Besides Montana, the Model Code has been introduced in Georgia and Pennsylvania this year, and we hope to see it introduced shortly in Missouri and Nevada.

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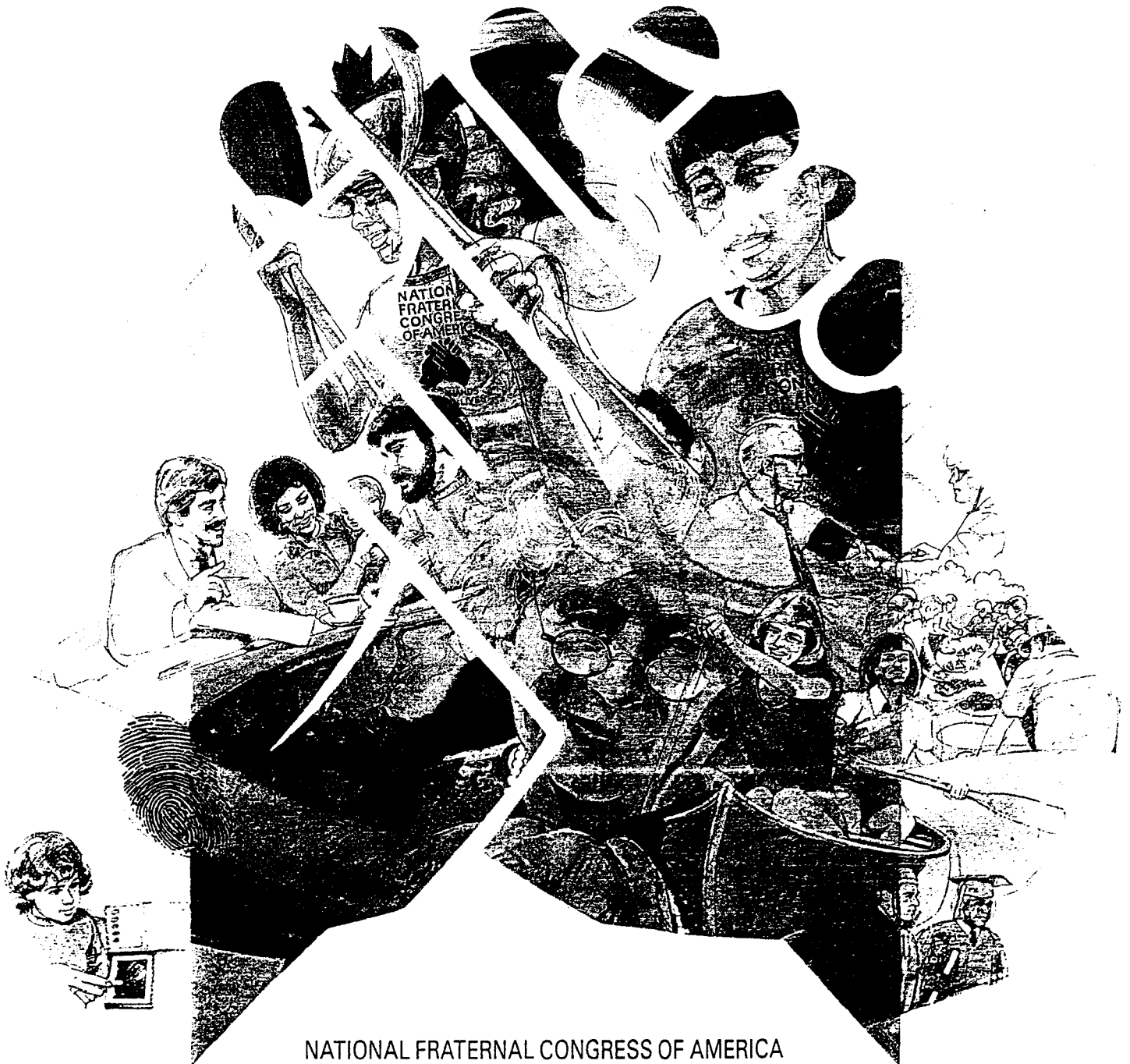
As you will see, the Model Fraternal Code is not legislation which is blazing new trails. Much of it is an update of current laws with some new features which enable societies to better meet the modern needs of their members.

Mr. Walton will now give you a brief look at the essential features of the Code.

House Business & Industry

EXHIBIT 7
DATE 3/7/91
HB 651

JOINING HANDS TO TOUCH LIVES



NATIONAL FRATERNAL CONGRESS OF AMERICA

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Summary

The fraternal benefit system was built on a single, positive notion: to provide a unique opportunity for fraternal benefit societies to be *responsive* to the needs and desires of their members.

The new Model Fraternal Code allows fraternal to put that responsiveness into practice.

It gives fraternal the freedom to react to today's changing environment — to keep pace with changes in our society and the insurance industry.

It clearly identifies the special characteristics that make fraternal different from commercial insurers.

It gives fraternal the opportunity to answer today's needs with today's answers. Relevant insurance products. Meaningful fraternal programs.

Fraternal must be flexible in order to continue performing their vital role for our country and its citizens. It's a challenge they gladly accept — but can only accomplish with the correct tools. ■

Those valuable tools are provided
in one special set of standards:

the new Model Fraternal Code.

For more information about
the Model Fraternal Code, contact:
National Fraternal Congress of America

1300 Iroquois Dr.

Suite 260

P.O. Box 3087

Naperville, IL 60566-7087

(708) 355-6633

NATIONAL FRATERNAL CONGRESS OF AMERICA



JOINING HANDS
TO TOUCH LIVES

An Introduction to the National Fraternal Congress of America Model Fraternal Code

STATEMENT TO BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE
MONTANA HOUSE OF REPRESENTATIVES - March 7, 1991

Re: House Bill 651

My name is Bob Walton. I am a member of the Law Committee, National Fraternal Congress of America (NFCFA), and General Counsel of Royal Neighbors of America, one of the NFCFA member-societies licensed in Montana.

Fraternal benefit societies currently operate under Chapter 7 of the Montana Insurance Laws. The basic text and format of Chapter 7 derives from the Uniform Fraternal Code of 1955 enacted in the revision of the Montana Insurance Laws in 1959. Since 1959, 11 sections of the Montana ~~Insurance~~ ^{fraternal} Code have been amended. However, Chapter 7 is still considerably lacking in certain beneficial features of the NFCFA Model Fraternal Code. Therefore, it appears that a new, modern approach to the statutory law for fraternal benefit societies in Montana is in order.

House Bill 651 provides that:

1. All fraternal insurance certificates must be filed for approval with the Insurance Department and comply with the same requirements that apply to commercial insurance contracts. Other existing surveillance protections, and examination and regulatory requirements are maintained and enhanced.
2. The traditional definitions and requirements to be a fraternal benefit society are strengthened.
3. Fraternal members may use irrevocable beneficiary designations and absolute assignments of their insurance certificates, to take advantage of current provisions of law to help fulfill their modern estate planning needs.
4. Fraternals must set out in their laws the rights and benefits of membership.
5. 1980 CSO mortality tables, or newer tables that may be developed, must be used for new certificates.
6. Fraternals may form subsidiaries or nonprofit institutions to carry out their charitable and benevolent purposes.

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7. Fraternalists may set up separate accounts and may issue variable insurance plans to members, upon approval of the Commissioner.
8. Fraternalists may issue, upon approval of the Commissioner, new life or health insurance plans that may be developed in the future that are also approved for use by commercial insurers.
9. Outdated provisions of current Montana law are deleted while other provisions have been consolidated and rewritten in "easy to understand" gender neutral language.
10. Current investment and trade practice safeguards are continued.

In summary, the revisions contained in H.B. 651 will be of benefit to the Insurance Department, to fraternalists, and most importantly Montana citizens who are or will become members of a fraternal benefit society. Therefore, you are urged to approve and support its adoption.

Robert W. Walton
Member, Law Committee
National Fraternal Congress
of America

February 26, 1991

EXHIBIT 10
DATE 3/7/91
HB 651

AMENDMENTS TO HB 651

Introduced Copy

March 7, 1991

Submitted by the State Auditor and Commissioner of Insurance

1. Title, line 15

Strike: "33-7-525, AND 33-7-526,"

2. Page 27

Following: line 22

Insert: "NEW SECTION. Section 23. Scope of chapter - provisions applicable. (1) Except as provided in this section, societies are governed by this chapter and are exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state but for every other purpose. No law hereafter enacted applies to societies unless they are expressly designated in the law. (2) In addition to the provisions contained in {sections 1 through 38), other chapters and provisions of this title apply to fraternal benefit societies to the extent applicable and not in conflict with the express provisions of (sections 1 through 38) and the reasonable implications of (sections 1 through 38), as follows: parts 1 through 4 and 7 of chapter 1; 33-2-104; 33-2-107; 33-2-112; chapter 2, part 13; 33-3-308; 33-15-502; chapter 17; chapter 18; chapter 20; and chapter 22."

House Bill No. 566

House Business Economic Development Committee

March 7, 1991

David Barnhill, Deputy Insurance Commissioner

Good morning, I am Dave Barnhill, Deputy Insurance Commissioner. I represent Commissioner of Insurance Andrea "Andy" Bennett, and I am testifying as a proponent of House Bill No. 566.

The fees paid by individuals and businesses for the privilege of conducting the business of insurance are set by statute. The Insurance Department collects the fees and transfers the money to the general fund. The legislature appropriates the money as it sees fit for whatever purposes it deems appropriate. The Department estimates that in Fiscal Year 1991, the State will collect about \$1,355,639.00 in fees. The budget of the Department is set at \$966,309.00. The difference is \$369,330.00. This is the amount that persons and companies pay in excess of the cost of regulating the industry, a service provided by the State.

A fee is recompense for services. Fees should be commensurate to the value of the service. Under current law, the fees paid exceed the value of the cost of regulation by a considerable margin. The purpose of this bill is to conform the level of fees to the actual costs of operation of the Department. It does so by eliminating the statutorily set fee amounts, pages 8-11 of the bill, and empowering the commissioner to set the fee level by rule in such a way as to be commensurate with the costs of the operation

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of the Insurance Department. The Commissioner must justify the fee level through records that show the costs of operation of the Department. The fees will be paid to the general fund.

I emphasize that this bill would not affect the funding mechanism of the Department. No special revenue account would be established. Funding would still come from the general fund upon appropriation by the legislature. The level of funding may or may not be the same as the amount of fees collected.

For the sake of brevity, I have not given you details about the nature and extent of the activities of either the Department or the insurance industry. I would be happy to share that information with you in response to questions. Thank you.

Proposed Amendments
House Bill 629

Amendment Number One

Page 1, Line 17, following "or partners", insert:

, or specified agent

Amendment Number Two

Page 1, Line 19, following "or partners", insert:

, or specified agent

Amendment Number Three

Page 2, Line 19, strike section (2) in its entirety:

~~(2) In addition to the information required under subsection (1), if application for renewal is for a foreign limited partnership, the applicant must include the name and address of the registered agent for service of process in the state.~~

Amendment Number Four

Page 2, Line 19, in place of section (2) insert:

(f) the name and address of the specified agent for service of process in the state.

Amendments to House Bill No. 629
First Reading Copy

Requested by Representative McCulloch
For the Committee on Business and Economic Development

Prepared by Paul Verdon
March 7, 1991

1. Page 1, line 17.
Page 1, line 19.
Page 1, line 20.
Following: "partners"
Insert: "or specified agent"
2. Page 2, line 6.
Strike: "(1)"
3. Page 2, line 11.
Strike: "(a)"
Insert: "(1)"
Re-number: subsequent subsections
4. Page 2, line 16.
Strike: "and"
5. Page 2, line 18.
Following: "transacted"
Strike: "."
Insert: "; and"
6. Page 2, lines 19 through 21.
Strike: lines 19 and 20 in their entirety and line 21 through
"include"
Insert: "(6)"

Amendments to House Bill No. 651
First Reading Copy

Requested by Representative Harrington
For the Committee on Business and Economic Development

Prepared by Paul Verdon
March 7, 1991

1. Title, line 15.
Following: "33-7-518,"
Insert: "AND"
Strike: "33-7-525, AND 33-7-526,"
2. Page 1, line 20.
Following: "society,"
Insert: "order, or supreme lodge,"
3. Page 1, line 22.
Strike: "37"
Insert: "38(1)(b)"
4. Page 2, line 2.
Page 4, line 12.
Page 10, line 17.
Page 11, line 14.
Page 13, line 21.
Page 20, line 17.
Page 24, line 14.
Page 27, line 24.
Page 31, line 1.
Page 32, line 5.
Page 33, line 1.
Page 33, line 25.
Page 34, line 9.
Page 36, line 25.
Page 40, line 12.
Page 41, line 2.
Page 41, line 7.
Page 42, line 10.
Page 42, line 12.
Page 42, line 21 (two places).
Page 43, line 3.
Strike: "37"
Insert: "38"
5. Page 8, line 16.
Following: "society"
Insert: "and, in a criminal action or proceeding, in addition,
had no reasonable cause to believe that his conduct was
unlawful"
6. Page 8, line 21.
Following: "body"
Insert: "or board of directors"

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7. Page 10, line 9.
Strike: "the commissioner of insurance"
Insert: "a notary public"

8. Page 11, line 2.
Strike: "a charter"
Insert: "articles of incorporation"

9. Page 14, line 14.
Following: "with"
Strike: "its"
Insert: "the"

10. Page 14, line 15.
Following: "provisions"
Insert: "of its laws"

11. Page 16, line 3.
Following: "5"
Insert: "(1)(b)"

12. Page 21, line 12.
Following: "person"
Insert: "equitably"

13. Page 24, line 8.
Page 25, line 21.
Page 28, line 4.
Strike: "1 year after"

14. Page 24, line 9.
Page 25, line 21.
Page 28, line 5.
Strike: "1992"
Insert: "1993"

15. Page 24, line 12.
Page 28, line 8.
Strike: "1 year from"
Strike: "1992"
Insert: "1993"

16. Page 25, line 20.
Following: "options."
Insert: "(1)"

17. Page 26, line 1.
Following: page 25
Insert: "(2) For certificates issued on or after July 1, 1993,
for which reserves are computed on the commissioner of
insurance's 1941 standard ordinary mortality table, the
commissioner's 1941 standard industrial mortality table, the
commissioner's 1958 standard ordinary mortality table, the
commissioner's 1980 standard mortality table, or any more
recent table made applicable to life insurers, every paid-up

nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted may not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing policies containing similar benefits based upon the tables."

18. Page 26, line 1.

Strike: "(1)"

19. Page 26, lines 10 through 21.

Strike: subsection (2) in its entirety

20. Page 27, line 23.

Following: line 22

Insert: "NEW SECTION. **Section 23. Scope -- provisions**

applicable. (1) Except as provided in subsection (2), societies are governed by [sections 1 through 38] and are exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state but for every other purpose. The provisions of a law enacted after January 1, 1992, do not apply to fraternal benefit societies unless expressly made applicable by the provisions of the law.

(2) In addition to the provisions of [sections 1 through 38], the provisions of chapter 1, parts 1 through 4 and 7; 33-2-104; 33-2-107; 33-2-112; chapter 2, part 12; 33-3-308; 33-15-502; and chapters 17, 18, 20, and 22 apply to fraternal benefit societies to the extent applicable and to the extent not in conflict with the provisions of [sections 1 through 38] and the reasonable implications of [sections 1 through 38]."

Renumber: subsequent sections

21. Page 30, line 9.

Strike: "24"

Insert: "25"

22. Page 33, line 8.

Strike: "34"

Insert: "35"

23. Page 38, lines 24 and 25.

Page 39, line 1.

Strike: "[sections 1 through 37]"

Insert: "chapter 18"

24. Page 46, line 23.

Following: "33-7-518,"

Insert: "and"

Strike: "33-7-525, and 33-7-526,"

25. Page 47.

Following: line 5

Insert: "NEW SECTION. **Section 43. Codification instruction.**

[Sections 1 through 38] are intended to be codified as an

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integral part of Title 33, and the provisions of Title 33
apply to [sections 1 through 38]."
Renumber: subsequent section

Amendments to House Bill No. 827
First Reading Copy

Requested by Representative Harper
For the Committee on Business and Economic Development

Prepared by Paul Verdon
March 6, 1991

1. Title, line 6.
Strike: "AND"

2. Title, line 7.
Following: "APPROPRIATION"
Insert: "; AND DEFINING "CERTIFIED COMMUNITY LEAD ORGANIZATION"

3. Page 1, line 10.
Following: line 9
Insert: "WHEREAS, front-line, hands-on assistance for business retention, expansion, development, and recruitment in Montana is provided by local economic development organizations that are funded by private sources and by local governments and that are forced to spend much time in raising money; and
WHEREAS, many states, in recognition of the vital role of local economic development organizations in basic industry job creation and diversification, provide financial assistance; and
WHEREAS, the Montana Department of Commerce, through its certified communities program, assists communities to assess economic development potential, address local concerns and opportunities, and continually update community strategic plans; and
WHEREAS, the certified communities program is a vehicle through which funds can be disbursed to local economic development organizations without additional program requirements or additional staffing."

4. Page 1, line 12.
Following: "appropriation"
Insert: "-- definition"

5. Page 1, line 16.
Following: "creating"
Insert: "and maintaining"

6. Page 1, line 18.
Following: "creating"
Strike: "and updating"
Insert: ", revising, or implementing"

7. Page 1, line 20.
Following: "community"
Insert: "lead"

8. Page 1, line 21.

Following: "capita"

Insert: "a year"

9. Page 1, line 24.

Following: "\$1,000"

Insert: "a year"

10. Page 2, line 1.

Following: "community"

Insert: "lead"

Following: "organization"

Insert: "that has completed original certification requirements
and maintained program standards mandated by the department"

11. Page 2, line 4.

Following: line 3

Insert: " (4) Grants under [this act]:

(a) may be used to assess local economic development opportunities, establish and maintain economic development organizations, or conduct economic development programs consistent with strategic plans that are adopted by the certified communities and that are filed with the certified communities program; and

(b) may not be used to make loans.

(5) As used in [this act], "certified community lead organization" means an entity that has been endorsed by resolution of a local governing body and that meets and maintains requirements for certification established by the department."

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. HB 740

DATE MARCH 7, 1991 **SPONSOR(S)** REP. ED GRADY

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Chris Pacicot Helena	Montana Beverages	Yes	
DIANA KOON	DOF REVENUE	—	—
BRUCE DE ROSIER	KESSLER BREWERY	YES	
Don Larson	M.T.A.		X
Lynn Miller	Miller's Cave		X
Mark Styer	MTA		X

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.**

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BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. HB 566

DATE MARCH 7, 1991 SPONSOR(S) REP. TOM NELSON

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dave Barnhill	Insurance dept.	X	
Roger McGLENN	IIA M	X	
LARRY AKEN	MT ASSOC OF LIFE UNDERWRITERS	X	

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

BILL NO. HB 629

DATE MARCH 7, 1991 SPONSOR(S) REP. SCOTT McCULLOCH

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
DOUG MITCHELL	SECRETARY OF STATE	HB 629		✓
John Mr. Anthony	self	629		✓

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**HOUSE OF REPRESENTATIVES
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BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. HB 651

DATE MARCH 7, 1991 **SPONSOR(S)** REP. DAN HARRINGTON

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Pat Melby	National Fraternal Congress	✓	
Robert W. Walton	Royal Neighbors of America	✓	
JOE W. PEEL	National Fraternal Congress	✓	
Donald Lytle	Harp's Bar mta		
James T. Mular	MONT JOINT RAIL LABOR LEGIS. COUNCIL	✓	
SWAN C. Witte	Montana Insurance Dept	✓	

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