

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS & INDUSTRY**

**Call to Order:** By Chairman J.D. Lynch, on March 21, 1991, at  
10:00 a.m.

**ROLL CALL**

**Members Present:**

J.D. Lynch, Chairman (D)  
John Jr. Kennedy, Vice Chairman (D)  
Betty Bruski (D)  
Eve Franklin (D)  
Delwyn Gage (R)  
Thomas Hager (R)  
Jerry Noble (R)  
Gene Thayer (R)  
Bob Williams (D)

**Members Excused:** None

**Staff Present:** Bart Campbell (Legislative Council).

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

**Announcements/Discussion:** None

**HEARING ON SENATE JOINT RESOLUTION 26**

**Presentation and Opening Statement by Sponsor:**

Senator Judy Jacobson, sponsor of the bill, stated the SJR 26 is a resolution that she brought in after sitting on this committee that Dorothy Eck has been heading regarding healthcare costs and trying to look at some alternatives to getting more people involved in healthcare. One of the things that keeps coming up is mandated benefits, and whether they are beneficial, and whether their not, whether they are increasing or decreasing costs. In the past, they have been put to place in a rather hodgepodge manner, on a first come, first serve basis. After looking at the work that was done on the interim committee to look at a basic healthcare package for the state of Montana for people who are uninsured, it appeared to her that it was time they take a look at the whole system to get a handle on what it's doing, how much it's costing, and how effective it is.

Proponents' Testimony:

Representative Fred Thomas stated that they are studying this area on an unofficial basis. There is a lot of concerns and questions, and this would be a good step forward. Our own legislative study to take a look at all that we are doing and why should we continue, or not continue.

Bob Heiser, representing the United food and commercial workers (UFCW), stated that it has been said that there has been a lot of legislation come down during this session on different mandated benefits. Their concern is when you start mandating benefits what are the costs going to be to that plan. Everytime we add a benefit, there is some costs involved to that plan.

Lars Ericson, representing the Montana state council of carpenters and the secretary of the Montana Wyoming carpenters health and welfare, stated that when you mandate benefits, the result is we either run into a deficit, we have to take money out of the paycheck, or we have to cut benefits out of the existing plan. He is not against mandated benefits, but we have to do this in a scheduled manner.

Jim Tutwiler, representing the Montana chamber of commerce, stated that the U.S. chamber of commerce in Washington worked extensively in this area.

Riley Johnson, representing NFIB, stated that he supports the SJR 26.

Steve Turkiewicz, representing the Montana auto dealer's association, stated that they support SJR 26.

A gentleman stood and announced that the Montana medical association supports SJR 26.

Chuck Butler, representing blue cross blue shield, stated that they support SJR 26 and submitted some information (See Exhibit 1 and Exhibit 2).

Dave Barnhill, representing the Montana insurance department, stated that they are in support of SJR 26.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Hager stated that this is a very good idea.

Closing by Sponsor:

Senator Jacobson closed by saying that Don Judge was also in support of SJR (See Exhibit 3).

EXECUTIVE ACTION ON SENATE JOINT RESOLUTION 26Motion:

Senator Thayer moved SJR 26 do pass.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion by Senator Thayer that SJR 26 do pass passed unanimously.

HEARING ON HOUSE BILL 698

Presentation and Opening Statement by Sponsor:

Representative John Scott, sponsor of the bill, stated that this bill is two-fold. We have a potential for a real problem within our distributorship on the sale of beer. As it is today, any out of state brewery has to go through the three tier system, which is brewer, wholesaler, and retailer. An instate brewery does not have to go through the three tier system. This could be considered discriminatory today. This bill puts a cap of sixty thousand barrels. Any brewery that produces sixty thousand barrels a year has to go through the three tier system. At present, Kessler brewery in Helena brews approximately four thousand barrels. This bill allows a lot of growth with the micro brewers of Montana. It promotes business in Montana. It protects the state. With the tap room portion of the bill where they allow the tap room without charge, it will get more tourists to turn off some of our interstate highways and stop in these communities and test the beer, and hopefully stop and buy some.

Proponents' Testimony:

Roger Tippy, representing the Montana beer and wine wholesaler's association, stated that the problem is that the small micro breweries in state have a number of privileges under the law which are spelled out in section 16-32-14 starting on page one. The instate brewery can, under existing law, sell directly to any retailer. An instate brewer can sell directly to the public, and they can have the free sample area in their own brewery. The aspects of the present law that allow the instate brewers to sell directly to retailers or consumers when no out of state brewery can do this are what give us problems. He stated that his handouts summarize his testimony (See Exhibit 4, and Exhibit 4A).

Mark Staples, representing the Montana tavern association, stated that there was a bill earlier that kessler came out with which was they could sell their product from the kessler brewery

directly to the public. We opposed it on behalf of all of the people who had made investments in taverns and paying off their mortgages and licenses, but particularly on behalf of those people in Helena, Montana, who by putting this product on tap and basically been the people that make kessler go. The taverns are the people that support kessler when they couldn't get going, they couldn't get distribution or get it any place else. This bill in section one allows them to sell and deliver beer to the public right out of their place. We pay a great deal of money for that privilege, and we also pay a great deal of money to support and establish kessler's very popularity in Helena, Montana. We do not think it is fair that they should be able to compete with the people that basically created that market for them. The Montana tavern association is very opposed to kessler being able to sell it to the public off the dock. He proposed to amend HB 698 to strike line three in section one, and line twenty five. He proposed that sub section two of section one be amended by inserting "during normal business hours".

Opponents' Testimony:

None

Questions From Committee Members:

Senator Noble asked Representative Scott if he agreed with the amendments proposed by Mark Staples.

Representative Scott stated that he feels that the real intent of the bill with the amendments make it more workable for the people in the tavern industry.

Senator Thayer asked if the micro breweries, such as Kessler, came in to oppose this bill in the house.

Roger Tippy replied that the breweries did not, because they took out some of the provisions restricting their direct sales to the public or the retailers.

Senator Gage asked if there is a section in the code that deals with the breweries that sell over sixty thousand barrels.

Roger Tippy replied that the general law right now deal with breweries in two ways, regardless of size, if they are out of state their coming through the regular three tier system. Regardless of size, if they are in state their coming through this section which allows them to sell under any law.

Senator Lynch asked Representative Scott why he picked sixty thousand barrels.

Representative Scott replied that sixty thousand is the cut off point on the federal level between a micro brewery and a major brewery.

Senator Lynch asked if Roger Tippy had any problems with the amendments proposed by Mark Staples.

Roger Tippy stated that he did not have a problem with the amendments proposed by Mark Staples.

Closing by Sponsor:

Representative John Scott closed by saying that the reason that a brewer goes through a distributor is because part of the service that the distributor offers is he gets out and markets the product, he keeps the product rotated out, he keeps the area in the stores where the product is being sold clean. He doesn't think that there is a threat of a brewery in Massachusetts setting up a warehouse in Montana, it would be good for Montana, because they would have to man that warehouse. This bill is for the Montana micro brewers.

EXECUTIVE ACTION ON HOUSE BILL 698

Motion:

Senator Noble moved to amend HB 698 with the amendments proposed by Roger Tippy.

Senator Kennedy moved to amend HB 698 with the amendments proposed by Mark Staples.

Senator Noble moved HB 698 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion made by Senator Noble to amend HB 698 passed unanimously.

The motion made by Senator Kennedy to amend HB 698 passed 8 to 1 vote.

The motion made by Senator Noble that HB 698 be concurred in as amended passed unanimously. Senator Williams will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 252

Motion:

Senator Gage moved to amend HB 252 with some technical amendments prepared by Bart Campbell.

Senator Thayer moved to amend HB 252 by changing the forty five days to thirty days on the bank portion of the bill.

Senator Thayer moved to amend HB 252 on the right to claim the lien from twenty to ten days.

Senator Gage moved to amend HB 252 on page three, line five, by inserting a section that when a notice is delivered there must

be a written acknowledgement obtained by the owner.

Senator Williams moved HB 252 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

Senator Thayer stated that thirty days is a lot more palatable than forty days.

Senator Lynch stated that he would oppose the amendments moved by Senator Thayer because he has received many letters from the people in Butte that the forty five fits in much better with them than the thirty days.

Senator Gage stated that he would also oppose those amendments moved by Senator Thayer. It doesn't give them the billing cycle that they were looking for in the forty five days.

The motion made by Senator Gage to amend HB 252 with some technical amendments passed unanimously.

The motion made by Senator Thayer to amend HB 252 by changing the forty five days to thirty days on the bank portion of the bill failed 6 to 3 votes.

Senator Thayer stated that the reason that he would like to change the twenty days to ten days for the right to claim a lien is that he served on that committee, and although it was testified that twenty days was working, there was testimony during the original hearing that stated that there were still situations were that may not be tight enough.

The motion to amend HB 252 made by Senator Thayer to change the twenty days to ten days for the right to claim a lien failed 5 to 4 vote.

The motion to amend HB 252 made by Senator Gage that a written acknowledgement must be obtained by the owner when a notice is given passed unanimously.

Recommendation and Vote:

The motion made by Senator Williams that HB 252 be concurred in passed 5 to 4 vote.

EXECUTIVE ACTION ON HOUSE BILL 719

Motion:

Senator Noble made a motion that HB 719 do be concurred in.  
Senator Kennedy moved amendment number one from Mr. Hopgood.  
Senator Thayer moved the amendment number two from Mr.

Hopgood.

Senator Thayer moved to amend HB 719 by deleting sub section F, line 15.

Senator Thayer moved to amend HB 719 by adding the revenue amendment.

Senator Kennedy moved HB 719 be concurred in as amended.

Senator Thayer moved HB 719 be not concurred in as amended.

Senator Lynch stated that if this motion fails, executive action on this bill will be continued another day.

### Discussion:

George Wood stated that this amendment that would say that in the event that we want to determine the person's condition or treatment, that we have to have the right to send it to the physician at the earliest possible time.

Senator Lynch stated that he would like to put in a provision that the regular reviews that are excepted aren't subjected to a chiropractor's hiring.

Tom Hopgood stated that he has the language to say that, and is finding a place in the bill to put it.

Senator Gage asked that Jacqueline Terrell review SB 394 to see if there is a conflict between that bill and this bill.

Jacqueline Terrell stated that section 605, that George Wood referred to, and the utilization review bill is going to create a problem. The utilization bill covers the plan two of worker's compensation for private insurers. Plan two carriers are pulled into SB 394. This bill is requiring us to hire a Montana chiropractor with all of these different qualifications to review records and to make the examination.

Senator Lynch stated that if we do this, it will only be the cases that are denied, and we will clean that up.

### Amendments, Discussion, and Votes:

Bart Campbell explained the amendments offered by Tom Hopgood. On page two of the bill, subsection one, there will be an insertion of line fourteen after the word "records" and the sentence should read as follows, "A healthcare insurer may not contract with or employ a person to conduct a physical examination of a patient or a review of a chiropractor's records upon appeal or redetermination of an adverse decision by an insurer as to the medical necessity or appropriateness of treatment made pursuant to the insurer's utilization review." This amendment would make it clear that you have to go to other chiropractor to review this, if it is on an appeal or redetermination pursuant to a utilization review.

Bonnie Tippy stated that she believes that the second amendment of Mr. Hopgood's takes care of all of the routine

claims examinations. There is going to be more appeal, and more problems. The first amendment of Mr. Hopgood guts the bill. The amendment that Bart explained proposed by Mr. Hopgood is bad because the first independent examination is going to go to anybody that the insurer wants it to go to. The only time that it would go to a chiropractor, is if they say that they disallow this. Which could create more friction between the chiropractors and the medical doctors. The only time that the chiropractor would see the review or the patient, is after the medical doctor has turned it down.

Senator Franklin asked couldn't we make an assumption that it could go to a chiropractor initially.

Bonnie Tippy replied we could assume that sometimes it could, but no more than it does now.

Tom Hopgood stated what this bill deals with is something called utilization review. Utilization review is something all together different than routine claim determination. The amendment that he printed up (See Exhibit 5), deals with routine claim determination. That is when you send your claim into an insurance company, somebody sits down and compares it to the policy, and says this is covered, or this is not covered. You don't have to have a doctor or a medical person to do that; that is just a clerk that sits in the insurance company's office and makes that determination. The bill as it was drafted was too broad, because anytime you would have a chiropractic claim you would have had to have it reviewed; a routine claim determination by a chiropractor. This bill addresses what it is intended to address, which is utilization review. Which is a determination of the medical necessity or appropriateness of treatment by a chiropractor.

Senator Gage asked who can protest the determination of the insurance company's doctor if he says that the claim is not valid.

Tom Hopgood replied that the insured can protest the determination.

Senator Noble stated that what we are doing is allowing one type of a doctor a special privilege. We are not allowing the same for people in all of the other care services to do this same thing.

Senator Lynch stated that we are trying to get the chiropractors to be treated as the other medical professionals are right now. The whole idea is freedom of choice.

Senator Noble stated that this bill is going way overboard. As we're getting more and more into it, are we going to make more problems by passing this bill than we're going to solve.

Senator Franklin stated that she is very concerned about the "muddiness" of the bill.

Senator Lynch stated that he is concerned that the chiropractic concerns are not going to be addressed without this bill.

Senator Williams asked what prompted the bill to start with.

Bonnie Tippy replied that there is a long standing bad relationships between medical doctors and chiropractors. The reason is that the chiropractors are the biggest competition in



the general healthcare field. Chiropractors know how to review chiropractor claims, medical doctors do not.

Recommendation and Vote:

The motion by Senator Noble that HB 719 do not be concurred in failed 5 to 4 votes.

The motion by Senator Kennedy to amend HB 719 with amendment number one proposed by Tom Hopgood passed unanimously.

The motion by Senator Thayer to amend HB 719 with amendment number two proposed by Tom Hopgood failed 6 to 2 votes.

The motion by Senator Thayer to amend HB 719 by deleting sub section F, line 15 passed 6 to 1 votes.

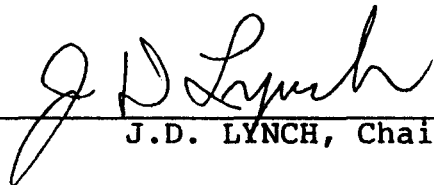
The motion by Senator Thayer to amend HB 719 by adding the revenue amendment passed unanimously.

The motion by Senator Kennedy that HB 719 be concurred in as amended failed 5 to 4 votes.

The motion by Senator Thayer that HB 719 be not concurred in as amended failed 6 to 3 votes.

ADJOURNMENT

Adjournment At: 12:00 a.m.



J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

JDL/dia

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE 3/21/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	X		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER			
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY			
SENATOR LYNCH	X		

Each day attach to minutes.

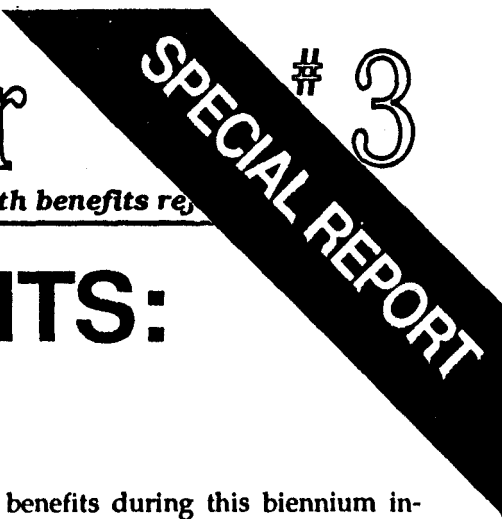
## BUSINESS &amp; INDUSTRY

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Don Judge	MT. ST. AFL-CIO	SJR 23	X	
Maana Koon	Dep. Revenue	HB698	—	—
Bob Heiser	UFCW	SJR 26	X	
Lars Eriksen	Montana Carpenters	STR26	X	
Roger Tapp	MT Beer & Wine Wholesalers	HB698	X	
Dave Barnhill	MT. Ins. Dept.	SJR26	+	
Riley Johnson	NFIB	SJR26	+	
Steve Turkiewicz	MT. Auto Dealers Assn	SJR26	X	
Jim Tretwiler	MT Chamber Com	SJR 26	✓	
DAN EDWARDS	OCRAW	SJR 26	X	
JUDITH CARLSON	MT CHA NASW	SJR26	X	
LARRY AKY	MT ASSOC OF LIFE UNDERWRITERS	STR26	X	

# Health Benefits Letter

covering state, federal and private-sector developments in health benefits re



## MANDATED BENEFITS:

### Mixed Signals From the States

*State legislatures continue to enact mandated insurance benefits by the dozen, even while there is a growing countertrend of skepticism about the ultimate value of many of these benefits and concern over what the effect may be on the cost and availability of health insurance.*

#### The 1989-90 Biennium

More mandates were enacted during the biennium just concluded than during any two-year legislative session ever. Although only 30 mandate bills were passed in 1990, a whopping 86 bills became law during 1989, for a total of 116 for the session. At the end of 1990, a total of 816 mandate laws were in effect in all 50 states.

The chart on this page illustrates the growth of mandate laws over the years. The numbers reflect the year of enactment of the laws currently in effect. Laws that were passed in earlier years and then amended or expanded in later years are reported only once according to the most recent year of action.

Benefit requirements adopted through regulatory rule-making are not reflected in these tables. Health Benefits Letter is unaware of any mandate ever being repealed.

The sources for the information in this report include Blue Cross and Blue Shield Plans, commercial insurance companies, advocacy groups, and state regulators and legislative research offices.

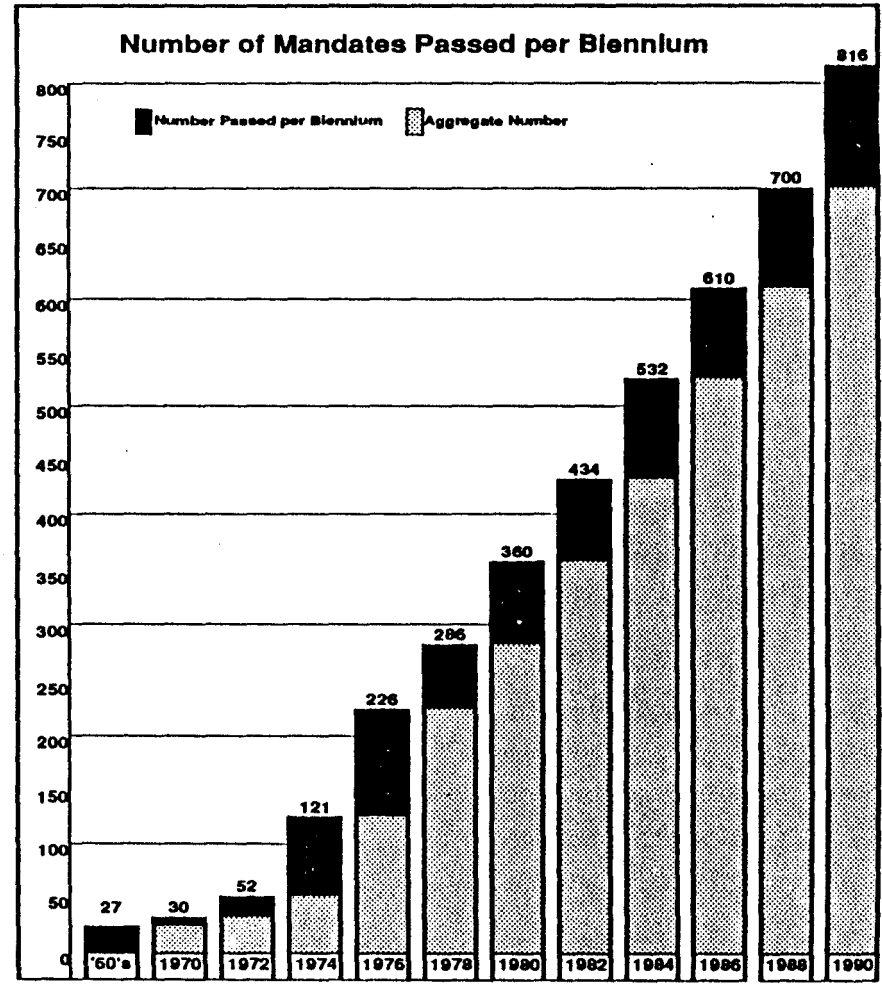
#### Mammography Screening Enacted in 24 States

Mammography screening was easily the most popular mandate during this biennium. Mandates for coverage of mammography screening were enacted in 24 states during this period, bringing the total number of states with this mandate to 33. The other most frequently mandated

benefits during this biennium included:

- Services for Temporomandibular Joint (TMJ) disorders (enacted in 7 states);
- Requirements that non-custodial children remain on the health insurance contract of the absent parent (6 states);
- Chiropractic coverage (5 states);

*(Please turn to page two)*



Some TPA and Self-Insured Groups Identified

Missoula

St. Patrick Hospital  
Washington Corporation  
City of Missoula  
Missoula County  
Zip Beverage  
Missoula Electric

Butte

Western Energy  
Twin Bridges School  
Dillon School District  
St. James Hospital  
Montana Resources  
Madison County  
Butte/Silver Bow  
AASCO Foundry

Great Falls

Deaconess Medical Center  
Columbus Hospital  
Lewistown Hospital  
MATDS  
Hill County  
Blaine County  
Choteau Schools  
Sun River Schools  
Pacific Hide and Fur  
Great Falls Gas Co.  
D.A. Davidson  
Havre Clinic

Miles City

Colstrip Schools  
First Security Bank Miles  
Custer County  
Glendive Memorial Hospital  
Francis Mahon Hospital  
Plevna Schools  
Bainville School

Miles City (cont.)

Rosebud County  
Rosebud County Hospital  
Glasgow School District  
Wolf Point School District  
Plentywood School District

Billings

Conlins Furniture  
Molerway Freight Lines  
Beal Mfg.  
MAIDS  
IBEW Electricians Trust  
Montana Contractors, Statewide  
Henry's Safety Supply  
Bighorn County  
Musselshell County  
Melstone Schools  
Roundup Schools  
Columbus Schools  
Bob's Supermarkets  
St. John's Nursing Home  
Genex Refinery  
City of Billings  
Billings School District  
Montana BancSystems  
Rocky Mountain BancSystems  
Roscoe Steel  
Coke West  
Deaconess Medical Center  
Billings Medical Center  
Waggoner Trucking

Bozeman

Bozeman Deaconess Hospital  
Gallatin County  
Sweet Grass County  
Belgrade Schools  
Bozeman Schools

Helena

State of Montana  
Montana Power Co.  
Lewis and Clark County  
Broadwater County  
Jefferson County

Helena (cont.)

TBM  
Helena School District  
Townsend School District  
Clancy School District

Kalispell

Kalispell Regional Hospital  
Semtool, Inc.  
St. John's Lutheran Hospital  
Flathead County  
Pacific Power  
N.W. Telephone  
Columbia Falls Schools  
Libby School District  
Noxon Schools  
Sanders County  
Lincoln County High School  
Salish and Kootenai College  
Outlaw Inn  
Arlee School Charlo School  
Timber Trust Oregon



SENATE BUSINESS & INDUSTRY  
TRANSMIT NO. 3  
DATE 3/21/91  
BILL NO. SJR 26

DONALD R. JUDGE  
EXECUTIVE SECRETARY

110 WEST 13TH STREET  
P.O. BOX 1176  
HELENA, MONTANA 59624

(406) 442-1708

March 21, 1991

The Honorable J.D. Lynch  
Chairman, Senate Business and Industry Committee  
Montana State Senate  
Capitol Station  
Helena, Montana 59620

Dear Mr. Chairman:

Please accept this letter in lieu of testimony on Senate Joint Resolution 26. I'm sorry we won't be able to appear in person at the hearing, but because of the press of business across the Legislature, we are unable to appear at all of the hearings in which we have an interest today.

We are very supportive of Senate Joint Resolution 26 and wish to be recorded as proponents.

The National AFL-CIO, as well as the Montana State AFL-CIO and local, state and national labor organizations across the country, have been leading the fight for improved health insurance for years. We look at this resolution as a helpful step on the apparently long road to improving access to health care for all Montanans and all Americans.

The AFL-CIO and its member organizations over the years have spent literally millions of dollars and thousands upon thousands of hours working to improve access to health care, to improve public awareness of the critical nature of the issue, and to support others who are involved in the issue.

We're very supportive of the idea of a legislative study of mandated health insurance benefits in Montana. If such a study is undertaken, we will be happy to provide input based on the concerns of the members of our organization, as well as information pulled from the AFL-CIO's extensive research resources on the issue of health insurance.

We hope that an interim study of such a critical issue raises public, governmental and corporate awareness of the importance of good health insurance, and provides a springboard for action in the next legislative session. We look forward to working with the Legislature on the issue, and we urge you to give Senate Joint Resolution 26 a "do pass" recommendation.

Thank you for this opportunity to express our views. And again, our apologies for not being able to be present for the hearing.

With best regards, I am

Sincerely yours,

Donald R. Judge, Executive Secretary  
Montana State AFL-CIO

cc: Members of the Senate Business and Industry Committee

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. SJR 26 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

Motion:

Do Pass

J.D. LYNCH

Chairman





Montana  
Beer & Wine  
Wholesalers  
Association

Post Office Box 124 • Helena, Montana 59624 • Telephone (406) 442-4451

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3/21/91

BILL NO. HB 698

## FACT SHEET -- HOUSE BILL 698

The situation: Montana laws governing breweries treat in-state and out-of-state breweries differently. All out-of-state breweries must ship their beer to a licensed wholesaler's warehouse or to a storage depot in Montana licensed by the Liquor Division, from which they can sell only to wholesalers. In-state breweries (there are now three microbreweries licensed and operating: Kessler in Helena, Bayern in Missoula, Great Northern in Columbia Falls) may sell to wholesalers, retailers, or consumers.

The problem: The 21st amendment to the U.S. Constitution used to be interpreted by the federal courts as a broad grant of power to the states to regulate beverage alcohol marketing without considering the Commerce Clause or the Equal Protection Clause. No longer is this the prevailing interpretation. The U.S. Supreme Court now talks about states' "core powers" under the 21st amendment--those which promote temperance and combat the evils which either led to Prohibition or arose under Prohibition--which can override other parts of the Constitution. The states' peripheral powers under the 21st amendment must be balanced against the Commerce Clause and Equal Protection Clause's limits on states.

Under this interpretation, Montana's current laws on breweries could be subject to challenge. The social considerations which led to a three-tier system for the marketing of beer would apply as much to beer brewed here as to beer brewed in other states.

If Montana breweries can sell to anyone of legal age, in any amount while out-of-state brewers' sales of beer is so strictly controlled, the effect may be to discriminate against interstate commerce without a justification under the core powers of the 21st amendment.

The solution: To allow the exemption from the full controls on beer marketing on the basis of the brewery's size rather than its location. 60,000 barrels of annual beer production is the amount set by Congress for a lower rate of federal excise tax, so the breweries qualifying for this small-brewer status are available from the U.S. Treasury Department.

Most microbreweries in the United States are producing under 60,000 barrels. The Anchor Brewing Co. of San Francisco, makers of Anchor Steam and several other specialty brews, may have recently passed this level. If so, it would join sixteen others, ranging in size from Anheuser-Busch to the Latrobe Brewing Co. which makes

Rolling Rock beer in Pennsylvania. The three Montana brewers are well under this level. Their 1988 production was estimated by Modern Brewery Age as follows:

Kessler	3,500 barrels
Bayern	1,000 barrels
Great Northern	N/A

If Kessler hit 6,000 barrels in 1990, it would have to grow 1000% before its current marketing practices were affected by HB698. The other effect of this bill is to allow an out-of-state brewery to license a storage depot in Montana and sell beer from that storage depot to retailers and consumers. A microbrewery in Coeur d'Alene or Spokane could, for instance, license a storage depot in Missoula or Kalispell to market its beer. This is unlikely, since the total annual fees to be licensed as a brewer and then to have a storage depot would come to \$900.

There is a rational basis for treating large brewers and small brewers differently. The small brewers need more flexible marketing arrangements while they are getting off the ground. They usually sell their beers in a very limited area, so they are not subjecting the product to the risk of spoilage in long shipments. The quality control service which wholesalers provide to retailers with the national beers is a service the microbrewers can also provide in their own localities.



Post Office Box 124 • Helena, Montana 59624 • Telephone (406) 442-4451

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4A

DATE 3/21/91

BILL NO. HB 698

House Bill 698  
Third reading bill  
Amendment proposed by Wholesalers Association

Page ~~2~~ line 9

Following: line 8

Insert: "(3) This section does not prohibit a brewer from shipping and selling beer directly to a wholesaler from a brewery located outside Montana under the provisions of 16-3-230."

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/24/91 Bill No. HB 698 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER		X
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: STAPLE'S AMENDMTS

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ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HBC98 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: AMENDMENTS - TIPPY

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Amendments to House Bill No. 698  
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell  
March 21, 1991

1. Title, line 7.  
Following: "YEAR;"  
Insert: "ELIMINATING SALES TO THE PUBLIC;"
2. Page 1, line 23.  
Following: ";"  
Insert: "or"
3. Page 1, line 25.  
Strike: "or"
4. Page 2, line 1.  
Strike: subsection (iii) in its entirety
5. Page 2, line 3.  
Following: "premises"  
Insert: "during normal business hours"
6. Page 2, line 9.  
Following: line 8  
Insert: "(3) This section does not prohibit a brewer located outside of Montana from shipping and selling beer directly to a wholesaler in this state under the provisions of 16-3-230."

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 698 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: BE CONCURRED IN AS AMENDED  
SN WILLIAMS TO CARRY

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 252 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: TECHNICAL AMENDMENTS

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ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 252 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS		X
SENATOR THAYER	X	
SENATOR NOBLE		X
SENATOR HAGER	X	
SENATOR GAGE		X
SENATOR FRANKLIN		X
SENATOR BRUSKI		X
SENATOR KENNEDY	X	
SENATOR LYNCH		X

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: AMENDMENTS - CHANGING 45 to 30  
DAYS -

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB252 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS		X
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN		X
SENATOR BRUSKI		X
SENATOR KENNEDY		X
SENATOR LYNCH		X

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: AMENDMENTS - 20 to 10 DAYS

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ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 252 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: AMENDMT - SUB 5, PAGE 3.

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Amendments to House Bill No. 252  
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell  
March 8, 1991

1. Title, line 6.

Strike: "20"

Insert: "45"

2. Title, line 7.

Following: "LIEN"

Insert: "TO A REGULATED LENDER PROVIDING FUNDS FOR SERVICES OR  
MATERIALS"

3. Page 3, line 5.

Following: "mailed."

Insert: "If the notice is delivered, written acknowledgement of  
receipt must be obtained from the owner. A person may not  
claim a construction lien unless he has complied with this  
subsection."

4. Page 5, line 13.

Strike: "30"

Insert: "20"

5. Page 5, line 17.

Strike: "30-DAY"

Insert: "20-day"

6. Page 5, line 17.

Following: "given."

Insert: "However, if a regulated lender has provided the funds  
for the services or materials described in this notice, the  
notice may be given 45 days after the date the services or  
materials are first furnished to you. If the notice is not  
given within that time, a lien is enforceable for only the  
services or materials furnished within the 45-day period  
before the date the notice is given."

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB252 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER		X
SENATOR NOBLE		X
SENATOR HAGER		X
SENATOR GAGE		X
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: CONCURRED IN AS AMENDED

SN WILLIAMS TO CARRY

Proposed Amendments to HB 719

1. Page 1, line 6, strike "or Review of Chiropractic records".

2. Page 2, line 11, insert after "(2)", where a patients sole treating physician is a chiropractor, licensed in this state pursuant to the provisions of Title 37, chapter 12.

3. Page 2, line 13, strike the phrase beginning with the word "or" through "," in line 14.

4. Page 2, line 22, strike "in Montana".

5. Page 3, line 3, starting with the word "Requesting" strike through the word "treatment." on line 4, and insert requiring examinations and treatments by any licensed medical provider. Such licensed medical provider may make a recommendation regarding the further chiropractic treatment of a patient and whether chiropractic services or charges should be covered.

**COMMENTS**

Amendment 1--Change in Title to conform with amendment 3.

Amendment 2--Purpose is to clarify that provisions of Section 1 apply only where patient's treating physician is a chiropractor.

Amendment 3--Purpose is to clarify that the review of the patient's records can be conducted by someone other than a chiropractic doctor.

Amendment 4--Purpose is to allow use of medical and/or chiropractic personnel outside of Montana.

Amendment 5--Purpose is to permit examination and/or treatment by other licensed health care professionals.

Organizations

Montana Municipal Insurance Authority  
Montana State Compensation Mutual Insurance Fund  
Blue Cross/Blue Shield  
Montana Self-Insurers' Association  
Health Insurance Association of America  
Alliance of American Insurers  
State Farm Insurance Companies  
American Insurance Association

**PROPOSED AMENDMENTS****to****HOUSE BILL 719**

House Bill 719 is proposed to be amended as follows:

1. Page 3  
Line 4

Following: "treatment"  
Insert: "(3) nothing in this section shall apply to routine claim administration or determination by an insurer"

OR

1. Page 2  
Line 11

Following: "(2)"  
Strike: ", "  
Insert: "and except in the course of routine claim administration or determination"

2. Renumber subsequent subsections.

Purpose:

The purpose of this amendment is to limit the application of the bill to situations where an insurer is performing utilization review. As this bill now reads, every claim involving chiropractic services must be handled by a chiropractor regardless of whether the insurer is engaged in utilization review.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 719 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS		X
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER		X
SENATOR GAGE		X
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY		X
SENATOR LYNCH		X

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion:

BE NOT CONCURRED IN



ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 719 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER		
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: AMENDMENTS FROM TOM HORGWOOD  
# 1

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 719 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE		
SENATOR HAGER		X
SENATOR GAGE		X
SENATOR FRANKLIN		X
SENATOR BRUSKI		X
SENATOR KENNEDY		X
SENATOR LYNCH		X

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: AMENDMENTS FROM TOM HOPGOOD  
# 2

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. 43719 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE		
SENATOR HAGER		
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH		X

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion:

DELETE SUB SEC # F, LINE 15

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 719 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE		
SENATOR HAGER		
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

*Thayer*  
Motion:

ADD. REV. AMEND.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 719 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS		X
SENATOR THAYER		X
SENATOR NOBLE		X
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN		X
SENATOR BRUSKI		X
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: BE CONCURRED IN AS AMENDED

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 719 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS		X
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER		X
SENATOR GAGE		X
SENATOR FRANKLIN	X	
SENATOR BRUSKI		X
SENATOR KENNEDY		X
SENATOR LYNCH		X

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: BE NOT CARRIED IN. AS AMENDED.

Amendments to House Bill No. 719  
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell  
March 22, 1991

1. Page 2, line 14.

Strike: ", "

Insert: "upon appeal or redetermination of an adverse decision  
by an insurer as to the medical necessity or appropriateness  
of treatment, which appeal or redetermination is made  
pursuant to an insurer's utilization review,"

2. Page 3, line 4.

Following: "TREATMENT"

Insert: "by another chiropractor or medical provider"

3. Page 3, line 5.

Following: line 4

Insert: "(3) Nothing in this section applies to routine claim  
administration or determination by an insurer."

Renumber: subsequent subsection

4. Page 3, line 14.

Following: " ; "

Insert: "and"

5. Page 3, lines 15 and 16.

Strike: subsection (f) in its entirety

Renumber: subsequent subsection

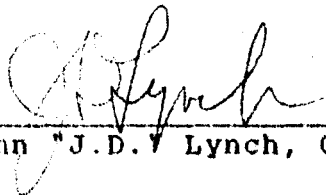
SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 21, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Joint Resolution No. 26 (first reading copy -- white), respectfully report that Senate Joint Resolution No. 26 do pass.

Signed: \_\_\_\_\_



John "J.D." Lynch, Chairman

*JJA* 3-21-91  
Amd. Coord.

31, 3-21 8:25  
Sec. of Senate



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 21, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 252 (third reading copy, as amended - blue), respectfully report that House Bill No. 252 be amended and as so amended be concurred in:

1. Title, line 6.

Strike: "20"

Insert: "45"

2. Title, line 7.

Following: "LIEN"

Insert: "TO A REGULATED LENDER PROVIDING FUNDS FOR SERVICES OR MATERIALS"

3. Page 3, line 5.

Following: "mailed."

Insert: "If the notice is delivered, written acknowledgement of receipt must be obtained from the owner. A person may not claim a construction lien unless he has complied with this subsection."

4. Page 5, line 13.

Strike: "30"

Insert: "20"

5. Page 5, line 17.

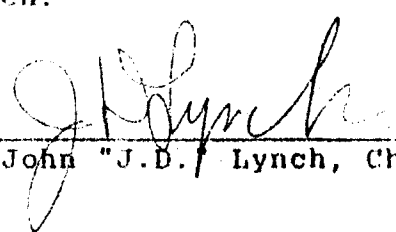
Strike: "30-DAY"

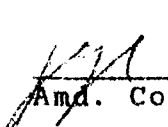
Insert: "20-day"

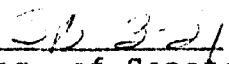
6. Page 5, line 17.

Following: "given."

Insert: "However, if a regulated lender has provided the funds for the services or materials described in this notice, the notice may be given 45 days after the date the services or materials are first furnished to you. If the notice is not given within that time, a lien is enforceable for only the services or materials furnished within the 45-day period before the date the notice is given."

Signed:   
John "J.D." Lynch, Chairman

 3-21-91  
Amd. Coord.

 3-21 2:25  
Sec. of Senate

611412SC.Sji

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 21, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 698 (third reading copy -- blue), respectfully report that House Bill No. 698 be amended and as so amended be concurred in:

1. Title, line 7.

Following: "YEAR;"

Insert: "ELIMINATING SALES TO THE PUBLIC;"

2. Page 1, line 23.

Following: ";"

Insert: "or"

3. Page 1, line 25.

Strike: "or"

4. Page 2, line 1.

Strike: subsection (iii) in its entirety

5. Page 2, line 3.

Following: "premises"

Insert: "during normal business hours"

6. Page 2, line 9.

Following: line 8

Insert: "(3) This section does not prohibit a brewer located outside of Montana from shipping and selling beer directly to a wholesaler in this state under the provisions of 16-3-230."

Signed: 

John "J.D." Lynch, Chairman

*MA* 3-21-91  
App. Coord.

*SP* 3-21-91 5:15  
Sec. of Senate