

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN BENEDICT, on February 16, 1993, at
7:15 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chairman (R)
Rep. Sonny Hanson, Vice Chairman (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (X)D
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon, Legislative Council
Claudia Johnson, Committee Secretary

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

Committee Business Summary:

Hearing: HB 543, HB 545, HB 577 AND HB 575
Executive Action: HB 543, HB 545, HB 575, HB 577, and
HB 155

HEARING ON HB 543

Opening Statement by Sponsor:

REP. DAVE EWER, House District 45, Helena, said HB 543 will
enable trust companies to invest in open or closed management

investment companies or investment trusts even if the fiduciary is providing compensated services to the management investment company. He said trust companies would be empowered to invest their clients' money in a money market mutual fund which is offered as a product by their holding companies, i.e., banks. Under current law, the customers can use the board of investments, but in a more restrictive circumstance. HB 543 will allow the trust companies with the requirements that are already in place for full disclosure to enable the customer to use the product. He said on page 2, line 1, after "judiciary" to insert "or affiliates of judiciary". He said the banking industry does not have a problem with this bill. He re-emphasized that HB 543 will allow trust companies, not just any trust company, but trust companies affiliated with banks, to allow their customers to use a money market product of their bank.

Proponents' Testimony:

Ron Waterman, representing Federated Cash Management System, said Federated Cash is one of the entities that provides mutual funds services to a variety of trust companies throughout the state of Montana. He said Federated Cash supports HB 543. He explained the origination of the bill and how it was developed. He said this idea has been circulating throughout the United States because of the ruling of the controller of the currency that this type of activity would be permitted provided there would be state laws that would authorize trust companies to act in this manner throughout the United States. As a consequence, about 16 to 18 states have passed similar legislation, and at this time, other legislative bodies are considering legislation. He said it opens up options for individuals within the trust companies community to make certain they can provide complete services for all of their underlying customers. He said to draft this bill, they contacted all of the entities that had an affiliation with a bank, bank holding company or bank trust company. They had meetings with representatives of the various banking associations, and made modifications and changes to respond to these companies. He said the Montana Bankers Association and other bank associations support this concept. It gives more flexibility for bank customers with trust company customers.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. SONNY HANSON asked REP. EWER with this bill can corporate entities lend through structured money markets to sell products to their clients? REP. EWER replied that is correct.

REP. BRANDEWIE asked REP. EWER if this bill is only redefining fiduciary, because a fiduciary has a sole responsibility to its client to act in a fiduciary sound manner? REP. EWER said that

trust companies are subsidiaries of banks and have to demonstrate and maintain high standards of integrity.

Closing by Sponsor:

REP. EWER closed.

HEARING ON HB 577

Opening Statement by Sponsor:

REP. DAVE BROWN, House District 72, Butte, said HB 577 is at the request of the secretary of state. He said last session there were two bar association bills passed and were set up to place them on the legislation for-profit corporation and for-non-profit corporations. This bill takes care of technical corrections or administrative adjustments to those two acts. He distributed amendments and walked the committee through the bill showing what the amendments do. EXHIBIT 1

Proponents' Testimony:

Garth Jacobson, representing the Office of the Secretary of State, said HB 577 is a technical corrections bill. It provides the necessary clean up language for the corporate acts passed last session. He distributed written testimony. EXHIBIT 2

Opponents' Testimony:

None

Questions From Committee Members and Responses:

CHAIRMAN BENEDICT asked Garth Jacobson why they are striking the language on page 10, subsection (5)? Mr. Jacobson said they mail out approximately 30,000 annual reports. It takes awhile for this mail to be processed and the deadline is April 15. He said there are very few rejections. CHAIRMAN BENEDICT asked if there was no more grace period. Mr. Jacobson said the filing fee is \$10 if filed on time, and up to \$20 if it is after the April 15 deadline, and \$30 if the September 15 deadline is missed. CHAIRMAN BENEDICT asked Mr. Jacobson if he would mind if the committee placed that stricken language back into the bill? Mr. Jacobson said it is an unworkable situation, but would do whatever the committee decided to do.

Closing by Sponsor:

REP. BROWN closed stating if the language on page 11 in regard to the 30 day time limit was stricken and "reasonable time" inserted, it would avoid the penalty, and would help the secretary of state's office so they do not have to keep track of every date.

HEARING ON HB 575

Opening Statement by Sponsor:

REP. ROGER DEBRUYCKER, House District 13, Floweree, opened stating he would let the proponents explain the bill.

Proponents' Testimony:

Herbert Pasha, Director of the Cascade Farmers Mutual Insurance Co., Great Falls, said these small insurance companies were started by farmers back in the late teens and early 1920s as a requirement for farm credit. The companies are member-owned, and have survived through the years and the economy. HB 575 is to clean up language to make it more adaptable for the companies to operate with the state auditor's office. He said mutual companies are restricted to what they can invest in, i.e., CDs with minimum interest rate. In the case of mutual insurers, no more than five percent of the total assets of the mutual insurer may be invested with one corporation.

Willie Day, rancher, said he worked with Mr. Pasha and the commissioner's office to develop this bill. He said below the title of the bill there is a statement of intent which requires the commissioner of insurance to adopt the administrative rules to implement this bill. He explained the changes in the bill.

James W. Borchardt, representing Mark O'Keefe, State Auditor's Office, said the farm mutual group wanted to obtain a broader investment authority. At this time, farm mutual groups cannot invest in money market funds. The auditor's office feels comfortable in allowing mutual insurance to invest in the money market. HB 575 does have authority for administrative rules. He said the bill not only broadens the investment authority, it also enhances their underwriting authority. He said in the past, farm mutuals could only insure residences that were on farm property, and residences that are in small towns as long as the member had farm property that was insured. HB 575 will allow rural residences that do not have farm property attached to them to be insured.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

REP. DEBRUYCKER said the small mutual companies provide a service to the rural communities and asked that they be allowed to invest their money more wisely.

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 16, 1993

Page 5 of 9

EXECUTIVE ACTION ON HB 575

Motion: REP. BRANDEWIE MOVED HB 575 DO PASS.

Discussion: None

Motion/Vote: The question was called. Voice vote was taken. Motion carried unanimously.

Vote: HB 575 DO PASS. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 577

Motion: REP. ELLIS MOVED HB 577 DO PASS.

Discussion: REP. BRANDEWIE proposed an amendment to strike section 5, subsection (5), and made the motion to adopt the amendment.

EXHIBIT 5

REP. PAVLOVICH said he agrees with REP. BROWN to eliminate the 30 day time period and insert "a reasonable time frame".

REP. DAILY moved to strike section 5. Voice vote was taken. Motion carried 11 - 7 with REPS. COCCHIARELLA, DOWELL, TUSS, STELLA JEAN HANSEN, BACHINI, ELLIS, AND MILLS voting no.

REP. SIMON proposed an amendment on page 13, section 8, to clarify that foreign corporations would not have to call themselves professional corporations. REP. TUSS called the question. Voice vote was taken. Motion carried unanimously.

REP. BRANDEWIE moved to adopt the auditor's amendment on page 4, lines 7, 24, and 25, and page 12, line 25, and page 13, line 1. Paul Verdon said it changes the language for serving and mailing. REP. BRANDEWIE called the question. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. ELLIS MOVED HB 577 DO PASS AS AMENDED. REP. DAILY called the question. Voice vote was taken. Motion carried unanimously.

Vote: HB 577 DO PASS AS AMENDED. Motion carried 18 - 0.

HEARING ON HB 545

Opening Statement by Sponsor:

REP. CARLEY TUSS, House District 35, Black Eagle, said HB 545 is at the request of the state auditor's office. It is a comprehensive document that will revise the state insurance laws.

She said the revisions include number changes, definition changes, and sections that address only federal regulations. It increases the flexibility for the state auditor's operation and for the companies' operation. She said it alters the approach to conform the areas between the domestic and alien agents.

Proponents' Testimony:

Mark O'Keefe, State Auditor, said this bill is a housekeeping bill. He said his office has worked with the consumer groups, the insurance industry, and attorneys to cleanup the code. He said there are big changes to the bill because it deals with Title 33, which is a big code.

Mark Nelson, State Auditor's Office, said he is the licensing administrator of the insurance department. He talked about the various changes that were made, stating that a lot of them needed to be changed because some of the sections that were codified did not meet the legislative intent in the past. He urged a do pass.

Bill Jensen, general counsel for Blue Cross/Blue Shield of Montana (BC/BS), said BC/BS supports the housekeeping measures in HB 545. He thanked the commissioner's office for allowing them the opportunity to participate in the cleanup language of this bill. He urged a do pass.

Gene Phillips, National Association of Independent Insurers, Kalispell, said the association supports HB 545. He also appeared on behalf of Tom Hopgood, representing the Health Insurance Association of America, who also supports HB 545.

Larry Akey, representing the Montana Association of Life Underwriters, said the underwriters association supports HB 545.

Roger McGlenn, Executive Director of the Independent Insurance Agents Association of Montana, said the association supports HB 545. He thanked the insurance department for approving the bill in advance and providing some input. He said the bill will resolve some issues that have been open for four years, and will now bring Montana in line with other states. HB 545 will repeal a section that was used when the insurance companies had the single licensing law.

Jacqueline Lenmark, representing American Insurance Association, said AIA supports HB 545.

Ralph Peck, Deputy Director of the Montana Department of Agriculture, thanked Mark O'Keefe for working with them and the state hail board in this housekeeping bill.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

REP. TUSS closed urging the committee to give HB 545 a do pass recommendation.

EXECUTIVE ACTION ON HB 545

Motion: REP. DAILY MOVED HB 545 DO PASS.

Discussion: None

Motion/Vote: REP. MILLS called the question. Voice vote was taken. Motion carried unanimously.

Vote: HB 545 DO PASS. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 543

Motion: REP. COCCHIARELLA MOVED HB 543 DO PASS.

Discussion: REP. BACHINI moved to adopt an amendment on page 2, line 1. Voice vote was taken. Motion carried 17 - 1 with REP. BRANDEWIE voting no. EXHIBIT 4

Motion/Vote: REP. ELLIS MOVED HB 543 DO PASS AS AMENDED. Voice vote was taken. Motion carried unanimously.

Vote: HB 543 DO PASS AS AMENDED. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 546

Motion: REP. ELLIS MOVED HB 546 DO PASS.

Discussion: REP. KNOX said this bill comes from an isolated situation. The problem is not widespread enough for it to be in this committee. The local co-ops have grievance procedures in their by-laws to take care of this at the local level. He did not want to see this placed under the PSC.

REP. SONNY HANSON said this problem is not isolated. There are a lot of meter problems, and this is the reason why the state passed the law to force all utilities, gas and electric, to have a limited time in their paybacks. He said maybe Title 35 would be a more appropriate placement than the PSC.

Motion/Vote: REP. DAILY MADE A SUBSTITUTE MOTION THAT HB 546 BE TABLED. Voice vote was taken. Motion carried 13 - 5 with REPS. SIMON, MILLS, SONNY HANSON, STELLA JEAN HANSEN AND CHAIRMAN BENEDICT.

Vote: HB 546 BE TABLED AS AMENDED. Motion carried 13 - 5.

EXECUTIVE ACTION ON HB 155

Motion: REP. PAVLOVICH MOVED TO RECONSIDER HB 155 AND TAKE FROM THE TABLE.

Discussion: REP. PAVLOVICH said this is the denturists' bill. He said there are amendments to be placed under the Department of Commerce so they can get away from the Board of Dentistry.

REP. BACHINI said the denturists are not ready to have their own board. They do not have any curriculum set up and recognized by the state.

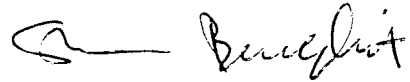
REP. COCCHIARELLA said if the motion is made to bring this bill off the table, then she would make a motion to take HB 240 off the table to change the composition of the Board of Dentistry, because they are wrong also.

Motion/Vote: Roll call vote was taken to bring off the table. Motion failed 8 - 10. EXHIBIT 3

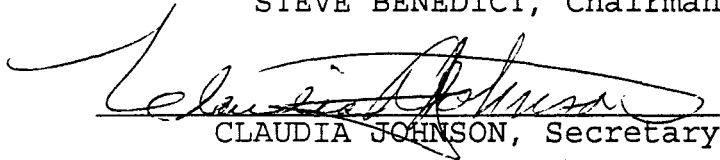
Vote: HB 155 FAILED TO TAKE FROM THE TABLE.

ADJOURNMENT

Adjournment: 10:30 A.M.



STEVE BENEDICT, Chairman



CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE 2-16-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

wp.rollcall.man

HOUSE STANDING COMMITTEE REPORT

February 16, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 543 (first reading copy -- white) do pass as amended.

Signed: Steve Benedict
Steve Benedict, Chair

And, that such amendments read:

1. Title, line 6.
Following: "FIDUCIARY"
Insert: "OR AN AFFILIATE OF THE FIDUCIARY"
2. Page 2, line 1.
Following: "fiduciary"
Insert: "or an affiliate of the fiduciary"

-END-

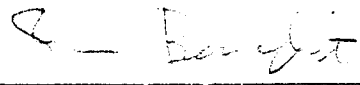
HOUSE STANDING COMMITTEE REPORT

February 16, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 545 (first reading copy -- white) do pass and be placed on consent calendar.

Signed: _____


Steve Benedict, Chair

Committee Vote: _____

20120300 10-1

HOUSE STANDING COMMITTEE REPORT

February 16, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 575 (first reading copy -- white) do pass.

Signed: _____
Steve Benedict, Chair

HOUSE STANDING COMMITTEE REPORT

February 16, 1993

Page 1 of 2

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

Signed: Steve Benedict
Steve Benedict, Chair

And, that such amendments read:

1. Title, line 10.

Strike: "35-1-1104,"

2. Page 7, line 18.

Strike: "service of"

3. Page 7, lines 18 and 19.

Strike: "perfected under 35-1-1034"

Insert: "mailed"

4. Page 7, line 24.

Strike: "serve"

Insert: "mail"

Strike: "on"

Insert: "to"

5. Page 7, line 25.

Strike: "pursuant to 35-1-1034"

6. Page 8, line 22 through page 11, line 2.

Strike: section 5 in its entirety

Renumber: subsequent sections

7. Page 12, line 25.

Strike: "serve"

Insert: "mail"

Strike: "on"

Insert: "to"

8. Page 13, line 1.

Strike: "under 35-2-830"

Committee Vote:

9. Page 13, line 11.

Following: "(1)"

Insert: "except as provided in subsection (1)(b),"

Following: "must"

Insert: ":

(a)"

10. Page 13, line 12.

Following: "\"P.C.\""

Strike: ", and"

Insert: "; unless

(b)"

11. Page 13, line 13.

Strike: "may contain"

Insert: "contains"

12. Page 15, lines 4 and 6.

Strike: "9"

Insert: "8"

-END-

EXHIBIT 1
DATE 2-16-93
HB 577

Amendments to HB 577

Amend: Section 4., Page 7, line 18, and 19.

Following: "after"

Strike: "service of"

Following: "is"

Strike: "perfected under 35-1-1034,"

Insert: "mailed,"

Amend: Section 4., Page 7, line 24 and 25.

Following: "and"

Strike: "serve"

Insert: "mail"

Following: "corporation"

Strike: "pursuant to 35-1-1034"

Amend: Section 7., Page 12, line 25 and Page 12, line 1

Following: "and"

Strike: "serve"

Insert: "mail"

Following: "corporation"

Strike: "under 35-2-830"

Testimony in Support of HB 577

Before the House Business and Industry Committee

Presented by Garth Jacobson

Representing the Office of the Secretary of State

February 16, 1993

Mr. Chairman and members of the House Business and Economic Development Committee, for the record I am Garth Jacobson representing the Office of the Secretary of State. I am here testifying in support of HB 577.

HB 577 is a technical correction bill. It provides necessary clean up language for the corporate acts passed last session. As a member of the State Bar of Montana Corporate Law Revision Committee I know there were hundreds of hours put into the drafting of the model profit and nonprofit business acts. However, despite the extensive work there were a few glitches discovered during the past 2 years. Therefore, HB 577 is the corporate law equivalent to the code commissioner bill. In a couple of sections it also deals with some matters that are necessary to deal with unworkable administrative procedures.

The following is a section by section analysis of HB 577,

SECTION 1. This minor wording change is necessary to make this subsection consistent with 35-1-618(5). There is no policy impact.

SECTION 2. The change of the word accumulate to cumulate is consistent with the American Bar Association Model Business Corporation Act and consistent with 35-1-531(2)(b) and (c) MCA. This change will eliminate ambiguity.

SECTION 3. This corrects a incorrect cross reference which involved a "6" being transposed into a "9".

SECTION 4. The change adjusts the act to an affordable method for revocations of certificates of authority for foreign corporations. Without this change the office could incur major service of process expenses. This brings the process back to the old method.

SECTION 5. This change is necessary to save money by not maintaining a tickler system of rejected annual reports being resubmitted. The present statutory scheme is great on paper but administratively difficult to implement.

SECTION 6. These were words that were accidentally omitted from the original act. This language makes the section understandable.

SECTION 7. These changes are the same as for profit foreign corporations as identified in section 4. This brings the nonprofit corporate act in line with the profit corporation act.

SECTION 8. This change permits foreign professional corporations to use the disclaimer name permitted in their jurisdiction of origin.

SECTION 9. This language puts back in a provision the old act had to permit corporations that expire due to term of existence limitations in their article of incorporation to reinstate following the expiration of their term of existence.

As you can see these changes are minor. However they are needed to make the statutes work properly. I urge your favorable consideration of HB 577 and if you find no objections to this legislation I ask that you consider this for your consent calendar.

EXHIBIT 5
DATE 2-16-93
HB 155

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 2-16-93 BILL NO. HB 155 NUMBER _____

MOTION: Rep Pavlovich Moved to take
from the table.

Motion Failed 8-10

NAME	AYE	NO
REP. ALVIN ELLIS		✓
REP. DICK KNOX		✓
REP. NORM MILLS		✓
REP. JOE BARNETT		✓
REP. RAY BRANDEWIE		✓
REP. JACK HERRON	✓	
REP. TIM DOWELL	✓	
REP. CARLEY TUSS	✓	
REP. STELLA JEAN HANSEN	✓	
REP. BOB PAVLOVICH	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRITZ DAILY	✓	
REP. BOB BACHINI		✓
REP. DON LARSON	✓	
REP. BRUCE SIMON		✓
REP. DOUG WAGNER		✓
REP. SONNY HANSON, VICE CHAIRMAN		✓
REP. STEVE BENEDICT, CHAIRMAN		✓
	8	10

HR:1993

wp:rlclvote.man

CS-11

EXHIBIT 4
DATE 2-16-93
HB 543

Amendments to House Bill No. 543
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 16, 1993

1. Title, line 6.

Following: "FIDUCIARY"

Insert: "OR AN AFFILIATE OF THE FIDUCIARY"

2. Page 2, line 1.

Following: "fiduciary"

Insert: "or an affiliate of the fiduciary"

Amendments to House Bill No. 577
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 16, 1993

1. Title, line 10.
Strike: "35-1-1104,"
2. Page 7, line 18.
Strike: "service of"
3. Page 7, lines 18 and 19.
Strike: "perfected under 35-1-1034"
Insert: "mailed"
4. Page 7, line 24.
Strike: "serve"
Insert: "mail"
Strike: "on"
Insert: "to"
5. Page 7, line 25.
Strike: "pursuant to 35-1-1034"
6. Page 8, line 22 through page 11, line 2.
Strike: section 5 in its entirety
Renumber: subsequent sections
7. Page 12, line 25.
Strike: "serve"
Insert: "mail"
Strike: "on"
Insert: "to"
8. Page 13, line 1.
Strike: "under 35-2-830"
9. Page 13, line 11.
Following: "(1)"
Insert: "except as provided in subsection (1)(b),"
Following: "must"
Insert: ":"
 (a)"
10. Page 13, line 12.
Following: "'P.C.'"
Strike: ", and"
Insert: "; unless
 (b)"
11. Page 13, line 13.

Strike: "may contain"
Insert: "contains"

12. Page 15, lines 4 and 6.
Strike: "9"
Insert: "8"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Ec. COMMITTEE BILL NO. NB 545
DATE Feb 16, 1993 SPONSOR(S) C. Ture

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
MARK E. NELSON, Helena	State Auditor's Office	✓	
Bill Jonson	Blue Cross Blue Shield	✓	
LARRY AKET	MT ASSOC OF LIFE UNDERWRITERS	✓	
Roger McGlen	INDEPENDENT INS. AGENTS ASSOC OF MT	✓	
Mark R. [unclear]	State Auditor	✓	
GENE PHILLIPS	NAI	✓	
TOM HOPGOOD	HIAA	✓	
Jacqueline Denmark	AIA	✓	
Robert Peck	MT Dept of Ag	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Ec.

COMMITTEE

BILL NO. HB 577

DATE Feb. 16, 1993 SPONSOR(S) D. Brown

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DALE Brown	sponsor - H.D #72	X	
Gauth Jacobson	Sec of State	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Ec. COMMITTEE BILL NO. NB 575
DATE Feb. 16, 1993 SPONSOR (S) R. DeBruycker
PLEASE PRINT PLEASE PRINT PLEASE PRINT

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Business & Ec.

BILL NOY

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R. Ewer

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