

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on February 1, 1989, at
8:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

HEARING ON HOUSE BILL 306

Presentation and Opening Statement by Sponsor:

Rep. Driscoll, District 92, Billings. This bill stops the transfer of the remaining balance in the insurance regulatory trust and securities regulatory account into the general fund after current fiscal year expenditures are met.

Testifying Proponents and Who They Represent:

Larry Akey, Montana Assoc. of Life Underwriters
Roger McGlenn, Independent Insurance Agents Assoc. of MT
Kathy Irigoin, Deputy Securities Commissioner

Proponent Testimony:

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

Mr. Akey stated that his association was in support of this bill. I doesn't believe the people I represent necessarily feel like they are overcharged. I do feel, however, that fees that have been collected for the purpose of regulation of the industry should be allocated for that purpose and not be used as a subsidy for the state's general fund. I find it interesting on the one hand that we can hear on the floor of the house as debate on the repeal of the McCarren Ferguson Act that the insurance industry in Montana is under regulated and at the same time have 38 cents on every dollar collected in fees be siphoned off to the general fund. I feel that the Montana legislature should not have it both ways. That is why I would like to ask this committee for a

do pass on HB 306.

Mr. McGlenn stated that the independent agents have historically supported adequate and increased staffing and funding of the state insurance department. In 1988, as mentioned by Kathy Irigoin, 38 cents of every dollar that was charged to insurance agents and insurance companies for regulation of the insurance industry was returned to the general fund. In 1987, approximately 40 cents for every dollar that was charged for regulation was returned to the general fund. We submit that it is necessary for actuarial services, for in-house training of insurance department personnel, and in-field investigative teams. In 1987 session there was a bill to increase the fees to agents and companies. The agent's fee went up, in some cases, approximately 50 cents. We supported those increases as long as they were appropriated to the insurance department for adequate staffing and funding of that department. The legislature did increase the funding to the insurance department in 1987, unfortunately, they lost some of that funding. Many times the agents are the eyes and ears of the insurance department. We bring the attention of the insurance department for document abuses, without adequate staffing, without the funding to have in-field investigative teams many times it is impossible for the insurance department to react. We certainly have adequate regulation in the state as far as statutory, but if you don't fund that you cannot achieve the goals that are desired by this body. We urge a do pass for this bill.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Simon asked Kathy if she had the statutory appropriation authority to spend the money that is currently in that fund as of July 1? Kathy said they did not have appropriation authority to spend the money in the account. However, with the passing of this bill the cash balance will not revert to the general fund on June 30 of this year, it will stay in the account.

Closing by Sponsor: Rep. Driscoll said that if this bill passes and we can get some regulation, the insurance companies through the appropriation process, will force them to appropriate money to the insurance commissioner. Then maybe we can get an actuary on the staff and some other things that are needed.

HEARING ON HOUSE BILL 405

Presentation and Opening Statement by Sponsor:

Rep. Schye, District 18, Glasgow. This bill will provide that a warehouseman or commodity dealer may establish licensing eligibility by providing the department of agriculture with additional bonding or its equivalent if current assets do not equal or exceed current liabilities.

Testifying Proponents and Who They Represent:

None

Proponent Testimony:

None

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Smith asked Rep. Schye if there were any problems getting bonded? Rep. Schye said there are some having problems getting bonded, but that is only one of the options. We have to bond our elevators to begin with. Any wheat that is in there or so on, a lot of times before we had the elevators in Glasgow I bought personal bonds for my own wheat that I sent to someone else's elevator. I imagine others have done the same thing. You are right, bonds are getting harder and harder to get. We haven't run in to that at our elevator, we are still able to purchase the bonds. I'm not sure if we went in with this option to a bonding company and told them our assets are down, we need to double our bond, what they would say. But that is an option for us.

Rep. Thomas said on page 2 where we are requiring \$2,000 for each \$1,000 of deficit, is that a workable number? Rep. Schye said they were not sure if it is or not. This is a law that we pulled out that is in two or three other states, Iowa, Minnesota, and Illinois I think have this law. The option we are really interested in is the letter of credit from our banks. If we can get that from the bonding companies maybe, our elevator this year is about \$100,000 down, that sounds like a lot of money. But you are talking about an elevator that moves 7-8 million bushels of grain a year. That is still a lot of money for a local elevator but

it is not that much that it can't be made up. Rep. Thomas asked Rep. Schye if he would object to liberalize this bill at all? Rep. Schye said you would have to be real careful, I am also on the other end, I am a farmer and I don't want to have elevators that are licensed that will go down. Just like we did with West Coast Trading and some of those. You have to be careful. I think if you do this, discuss it with the department and other people to make sure that if you do this you don't weaken the licensing process so much that it makes those elevators unsafe. The way the grain market is right now, some of those might be real shaky.

Rep. Pavlovich asked Rep. Schye what effect this would have on the big elevator in Butte? Rep. Schye said to his knowledge it would not have any effect. Unless they have the problem too which they might just because of the grain economy. This might give them more flexibility in getting that license. I am real fearful of elevators going down. I protect myself when I put grain in other elevators that I'm not sure of. Other farmers don't. I'll buy a personal bond on grain if I don't feel safe.

Closing by Sponsor: Rep. Schye said he closed.

HEARING ON HOUSE BILL 238

Presentation and Opening Statement by Sponsor:

Rep. Whalen introduced and asked for favorable consideration for HB 238. This bill provides for the disclosure of loss and expense experience by property and casualty insurers for purposes of determining then appropriateness of rates charged by such insurers.

Testifying Proponents and Who They Represent:

Mike Sherwood, MTLA

Proponent Testimony:

See exhibit 1 for Mr. Sherwood's written testimony.

Testifying Opponents and Who They Represent:

Bonnie Tippy, Alliance of American Insurers
Jacqueline Terrell, American Insurance Association
Roger McGlenn, Independent Insurance Agents Assoc. of MT
Steve Browning, State Farm Insurance
Gene Phillips, NAI
Kathy Irigoin, State Auditor's Office

Opponent Testimony:

Ms. Terrell said the insurance industry recognizes that credible useful data is important to understanding the work it does and the possible solutions to the liability insurance crisis. Absent meaningful input and analysis, even the most detailed data has failed to result in any useful solutions. Rather than enacting new and burdensome data recording requirements in 1989, we hope that Montana will utilize the wealth of information and data that is already available to us as well as data that has already been collected in the years 1987 and 1988. We ask you to give this bill a do not pass.

Ms. Tippy said she would like to point out to the committee the amount of data that is already available and collected through the insurance commissioner's department. The insurance industry already provides more data than any other comparable section of the economy. In addition to state specific information, insurers provide data detailing their nationwide operations to federal agencies such as IRS, and SEC as well as to the national association of insurance commissioner. I ask you to give this bill a do not pass recommendation. It is simply an unworkable bill.

Mr. McGlenn stated, I don't represent insurance companies, I represent insurance agents around the state. Annually we produce, with the permission of the insurance department, statistical data and we get that from the reports filed with the insurance department. There is a room full of reports up there. There are many reports submitted that go unreviewed at all by the insurance department because of lack of staffing and funding. We submit that the data now recorded, that if we had actuarial services, the staffing necessary to review these reports under the current statutory authority of Montana insurance code, the insurance department can disallow rates that are inadequate, excessive, or unfairly discriminatory. The first priority for this body is to staff and fund that insurance department so they can use what data they have currently reported to make sure that the Montana insurance consumer is fairly treated. We would support increased funding if and when this is done. I urge you to do not pass this bill.

Mr. Browning agreed with the other opponents. He said much of the information requested in this bill would be duplication of information already provided. The national association of insurance commissioners has model regulation on the collection of information and we might do well to adopt those regulations. That would provide some uniformity so that there could be some comparable information where people could make comparisons on what the experiences are in Montana versus other states.

Mr. Phillips stated that he characterizes this bill as another solution looking for a problem that does not exist. It is evident in testimony, so far, that the commissioner is not able to utilize all the information presently provided to the department. I request that you give the bill a do not pass.

Ms. Irigoin said the state auditor's office supports the amendments given by Rep. Whalen. If the amendments are not accepted the state auditor's office would oppose the bill.

Questions From Committee Members: Rep. Pavlovich asked Kathy if we should pass this bill with the amendments, doesn't HB 306 take care of the fiscal note if it is passed? You will have the money to supplement and get the FTE's for HB 238 out of HB 306 with that money you have in there. Two million dollars? She said no, under HB 306 excess money we would collect would simply stay in that account. The legislature would have to give us appropriation authority to use the cash balance remaining in the account. The fiscal note attached to this bill is necessary because we need the appropriation authority from the legislature. Rep. Pavlovich asked if this was the money they would use if it was appropriated? She said yes.

Rep. Thomas asked Rep. Whalen if he would consider taking out Section 2, which essentially establishes a list of lines of insurance we want to report and goes into a more or less a minimal form of what would be reported by each line of business. Would you object to taking this section out and putting it in a statement of intent? Rep. Whalen said without knowing what the model form would be he would object to this.

Closing by Sponsor: Rep. Whalen stated that he is hearing two different things being said to you in the same breath. You hear the statement made that the insurance industry already develops a tremendous amount of information and there are rooms filled with all kinds of dusty boxes of information that has already been rated and the information being requested here is duplicative and at the same time they tell you that if they have to furnish this information it would be an enormous burden on them and they will have to leave the state. These are not consistent statements and the fact of the matter is they don't submit the information right now and they do not want to submit the information to you. I am for doing away with the requirement that they submit information that is useless. I suspect that a lot of information that is submitted now is absolutely useless. If we can eliminate that I think that would be a great step forward and in the same breath eliminating the useless information we should start asking for the information that we can put to use, develop a little accountability from the insurance industry. The statement that the collection of

past data is not relevant to setting future rates, however, if you look at the bill it requests data with regard to the setting of reserves in the future. Past data is useful in that the past data will tell us whether or not they were telling the truth to us two years ago and four years ago when they came in and said they can no longer do business in this state unless we make dramatic changes in our civil justice system. If they have that information available but refuse to tell us, it seems to me they came in here one of two ways. They came in here and made up the fact that they could not do business in this state unless we change our civil justice system or they knew what the situation was but refused to tell us. If they made it up, I think we in the legislature need to reconsider what we did two years ago at the behest of the insurance industry. I urge you to give this bill a do pass.

HEARING ON HOUSE BILL 446

Presentation and Opening Statement by Sponsor:

Rep. Daily, District 69 in Butte. The purpose of this bill is to increase the commission on the sales of lottery tickets from 5 percent to 8 percent. This was requested by the Montana Food Distributors Association. The present law provides that the sales agents are entitled to no more than 5 percent. This group wanted to assure that they had at least 8 percent so an amendment is necessary to accomplish this goal. The lottery commission projects that the cost of this bill will be \$380,000 to the lottery. The intention of this bill is to increase the sales of lottery tickets and they hope that by offering a little more commission that goal will be accomplished. If this is not done the lottery sales will continue to decline as they have been. Actually the bill is intended to do two things, cover the cost of the lottery tickets for the vendors and, hopefully, increase sales. Both the vendors and the state will benefit from the increased sales.

Testifying Proponents and Who They Represent:

W. Frank Capps

Proponent Testimony:

See exhibit 1 for Mr. Capps' written testimony.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Pavlovich asked if the extra 3 percent comes out of the 15 percent that the lottery uses for their expenses or from the prize money? It can't come from the 45 percent that goes to the foundation program. Where does the other 3 percent come from? Mr. Tom Dowling said he might be able to answer Rep. Pavlovich's questions. Mr. Dowling had talked to the lottery director this morning and she said the money would come out of their operating money. Rep. Pavlovich said to Mr. Capps, as you know the lottery sales have gone down, you realize that the director, Mrs. Dowling, is in the process now of trying to put an on-line game on and if that game goes on the lottery sales will probably go back up. Do you presume this will happen? Mr. Capps stated that other states with on-line games sell more at the check stand than through the on-line machine. How is Montana going to accept the on-line program, I don't know, even if they are going to accept it I don't know. It is quite expensive to get these machines put in all the different localities in order to keep the momentum going on the sales.

Rep. Simon asked Rep. Daily if this extra 3 percent would come out of the lottery's operating funds, I don't think they can do that. Would you find out for this committee before we take executive action on this bill what the situation is. Because my understanding is that they cannot cut their operating expenses below 15 percent. They have contracts on computer software and all kinds of things that there is no way they can cut below 15 percent. I don't see how they can finance this. I don't know where the 3 percent is going to come from. Rep. Daily said he would request this information from Mrs. Dowling or the committee chairman can request it. Rep. Daily said he finds it hard to believe that no one from the lottery is here today. It is unbelievable that they are not here to answer questions. I requested them to be here.

Rep. Thomas told Rep. Daily that in the fiscal note he might have them look at, I'm sure this 3 percent, would shift into the lottery expenses. And that is not a bad thing. I suggest that you have them, make sure it is looked at, the necessity of continuing these people that run around the state delivering the lottery tickets. I think this is an expense that does not need to be done because the security is not a problem and now, in some cases, they are mailing these tickets out.

Closing by Sponsor: Rep. Daily said in closing that he requests

that the committee ask for a fiscal note and the information that was requested from the lottery. I think we have a good lottery program in Montana. In the past year we contributed over 8 million dollars to the teacher's retirement program. That is a lot of money in this state. So, we do have a good program, but I think there are two ingredients needed to have a successful lottery program. Number one you have to have people buying the tickets and more importantly you have to have people selling the tickets. If people are not selling the tickets, people aren't going to buy the tickets. In my community a lot of sales agents have stopped selling the tickets, grocers, local taverns, people like that. To be successful you have to have to have a lot of people selling the tickets.

HEARING ON HOUSE BILL 371

Presentation and Opening Statement by Sponsor:

Rep. Pavlovich, District 70, Butte. HB 371 is requested by the city treasurers of Lewis and Clark County. This bill will increase the redemption period on certain properties from 18 months to 24 months; amending Section 15-18-111; and provides an effective date.

Testifying Proponents and Who They Represent:

Cort Harrington

Proponent Testimony:

Mr. Harrington stated that in the last session SB 162 completely revised the tax deed process. There was another bill that came out of Bozeman which dealt with undeveloped property being subdivided and developed. In the past year the counties all across the state have been actively engaged in the process of taking tax deed under that mandate of SB 162. Typically the redemption period for property was 36 months. The redemption period for subdivided land on which there is no dwelling is 18 months. It is up to the county clerk and the recorders in the county treasurer to take the tax deed and it creates a great deal of difficulty for them having the redemption period expire in an odd half year. In other words, their tax deeding process season is in the summer when the 36 months expires and under the existing 18 months redemption period for that type of property the redemption period expires in December and January. It creates real difficulty to have to do it twice a year. The purpose of requesting this bill is to either extend from 18 months to 2 years so the redemption period falls the same time other property falls. There is problems with some

people like the city of Missoula. They have a problem with 2 years, think that is too long. They may come in with an amendment to shorten that to 1 year. Whether it is 1 or 2 years, it is a policy question which will be up to the legislature. What the treasurers are concerned about is making sure that the months are even years 12 months, 24 months, 6 months what ever. That is what they are concerned with.

Testifying Opponents and Who They Represent:

Chuck Stearns, Finance Treasurer & City Clerk, Missoula

Opponent Testimony:

Mr. Stearns said it is important to recognize that this is not a request of city treasurers but county treasurers. SB 139 which is coming over to the house also changes it from 18 months to 2 years and the cities of Helena, Bozeman, and Missoula all oppose that. We prefer 1 year, SB 139 was originally taking it back to 36 months for subdivided developer bare land lots. Those are the lots that many cities and areas have gotten in trouble with on SIDs and we understand the county treasurer's and clerk recorder's problems with an 18 month period. We would strongly prefer SB 139's provisions that it be 1 year rather than 2 years. We felt this was a most important bill 2 years ago to deal with some of the crises and issues in SIDs led by the Columbia Falls situation where they had a default on their SID bonds. The difficulty now is that we have no track record on the county treasurer's performance in that the 18 month process has not been completed as yet. So we can't say if the bill 2 years ago did or did not work. In the past 2 years we have several things that provide evidence that the situation as it used to be didn't work; that is the Columbia Falls law suit where the judge said essentially they have to levy general taxes out of a revolving fund to support the SID payments.

Questions From Committee Members: None

Closing by Sponsor: Rep. Pavlovich did not realize that there was a bill in the Senate. I don't know why the people don't get together on this. We will leave it up to this committee and the senate whether we have 1 year or 2 years.

EXECUTIVE ACTION

DISPOSITION OF HOUSE BILL 405

Motion: Rep. Glaser moved DO PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 405 DO PASS unanimously.

DISPOSITION OF HOUSE BILL 371

Motion: Rep. Glaser moved DO PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 371 DO PASS 15-1 vote.

DISPOSITION OF HOUSE BILL 238

Motion: Rep. Bachini moved DO PASS. Rep. Bachini also moved the amendments submitted by Rep. Whalen.

Amendments, Discussion, and Votes: The amendments DO PASS. Rep. Simon moved to strike on page 4, line 15 subsection (j). Rep. Simon said this was a catch all phrase. Rep. Stepler opposes this amendment. Rep. Thomas said the language Rep. Simon wants to take out is duplicative. The insurance commissioner can request this data now. The primary thing is that it is saying in Section 1 that she shall do this. This is what we are really changing here. She can do this whether the language is in or taken out. The amendment failed 7-9 vote.

Rep. Thomas said he had asked Kathy Irigoien what her thoughts were about taking Section 2 essentially out and placing it in a statement of intent. Kathy responded favorable to this. But essentially, my thought on this is, instead of prescribing the form in law that we are giving direction to the commissioner. This is the data we want you to get and include any other information that you want. I would move to amend the bill, Mr. Chairman, to strike new Section 2 in its entirety and ask Paul to draw up a statement of intent including Section 2 language saying this is essentially what we want you to include in your reports. These are the lines of insurance we want and this is the data we want you to get.

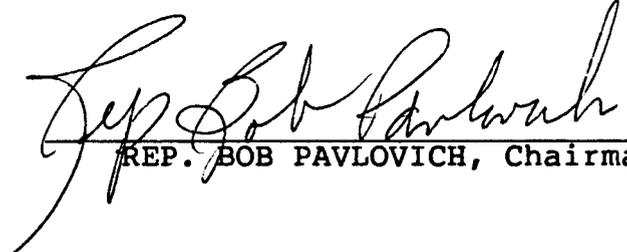
Rep. Johnson asked what the statement of intent would do in relationship to this section. Could it be eliminated, Section 2, by a statement of intent? Paul said a statement of intent in Section 2 is intended to prescribe or proscribe what the executive agency can do in promulgating rules to be administered and enacted by the legislature. Section 1 is the rule making authority and Section 2 is actually a statement of intent. A statement of intent is not codified, it does not appear in the MCA.

The amendment DO NOT PASS 7-9 vote.

Recommendation and Vote: HB 238 DO PASS 9-7 vote.

ADJOURNMENT

Adjournment At: 10:40 a.m.



REP. BOB PAVLOVICH, Chairman

BP/sp

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21-87
1.05

STANDING COMMITTEE REPORT

February 1, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 405 (first reading copy -- white) do pass .

Signed: _____
Robert Pavlovich, Chairman

2-1-89
1105
J.C.

STANDING COMMITTEE REPORT

February 1, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 371 (first reading copy -- white) do pass.

Signed: Robert Pavlovich, Chairman

20-89
1/15/89
J.C.

STANDING COMMITTEE REPORT

February 4, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 238 (first reading copy -- white), with statement of intent attached, do pass .

Signed: 

Robert Pavlovich, Chairman

#1
2/1/89
HB 238

Kathy M. Irigoin
State Auditor's Office
444-2040

AMENDMENT TO HOUSE BILL 238
February 2, 1989

1. Title, lines 6 through 7.
Strike: "FOR PURPOSES OF DETERMINING THE APPROPRIATENESS OF RATES CHARGED BY SUCH INSURERS"
2. Title, line 8.
Strike: "; AND REPEALING SECTION 33-16-202, MCA"
3. Page 4, line 23.
Strike: "annually compile and review"
Insert: "store"
4. Page 4, line 24 through line 1, page 5.
Strike: "to determine the appropriateness of premium rates for property and casualty insurance in this state."
5. Page 5, line 2.
Strike: "commissioner's findings and the"
6. Page 5, lines 5 through 12.
Strike: "If the commissioner finds at any time that any rate is no longer fair or appropriate, he shall issue an order withdrawing his approval for the rate. The order must specify reasons for withdrawal of approval and must be furnished to each affected insurer and rating organization. The order is effective 30 days from its issuance unless the affected insurer meets the burden of showing that the rate is in fact fair and appropriate."
7. Page 5, line 14.
Strike: "insurance company"
Insert: "insurer"
Following: "file"
Insert: "annually"
8. Page 5, lines 16 through 18.
Strike: "obtaining permission to write coverage, to continue to do business, or to increase or decrease rates charged for insurance coverage."
Insert: "transacting insurance in this state"
9. Page 5, line 25 through line 1, page 6.
Strike: section 6 in its entirety
Renumber: subsequent sections

REVISED FISCAL NOTE/HB 238

Assumptions:

1. The data will be filed and stored for 5 years.
2. The Montana Insurance Department will store and maintain the data on its computer to achieve retrievability.
3. The data will not be used for on-going rate review.

Fiscal Impact:

1.	One-half Clerical Position (Grade 6, Step 2)				
	Personal Services	FY 90	\$ 7,550	FY 91	\$ 7,524
	Operating Expense		475		475
	Capital Outlay		550		0
			<u>\$ 8,575</u>		<u>\$ 7,999</u>
2.	Additional Disk Storage				
	Capital Outlay	FY 90	\$12,000	FY 91	\$ 0
	GRAND TOTALS	FY 90	\$20,575	FY 91	\$ 7,999
	89 Biennium Cost		\$28,574		

Kathy M. Irigoin
Deputy Securities Commissioner
444-5236

#1
2/1/89
HB 306

TESTIMONY ON HOUSE BILL 306
STATE AUDITOR'S OFFICE
February 1, 1989

I. General Information about the Insurance Regulatory Trust Account and the Securities Regulatory Trust Account

Until 1985, insurance and securities regulatory fees were deposited in the general fund. In 1985, the Legislature created the insurance regulatory trust account and the securities regulatory trust account.

Regulatory fees collected by the Montana Insurance Department are deposited in the insurance regulatory trust account. Last year, the Montana Insurance Department collected approximately \$1.3 million in regulatory fees. The Montana Insurance Department was appropriated \$839,000. At fiscal year end, approximately \$460,000 reverted to the general fund. In addition to the insurance regulatory fees that reverted to the general fund at fiscal year end, approximately \$25,000,000 in insurance premium taxes collected by the Montana Insurance Department was deposited directly in the general fund during the last fiscal year.

Regulatory fees collected by the Montana Securities Department are deposited in the securities regulatory trust account. Last year, the Montana Securities Department collected approximately \$2.2 million in regulatory fees. The Legislature appropriated to the Montana Securities Department approximately \$268,000, about one-eighth of the regulatory fees collected. More than \$1.9 million, which remained in the securities regulatory trust account at fiscal year end, reverted to the general fund.

II. Reasons the State Auditor Supports House Bill 306

The State Auditor maintains that the purpose of a regulatory fee is to pay for the regulation of the industry that pays it. During the last fiscal year, approximately \$2.4 million in regulatory fees from the insurance and securities regulatory trust accounts reverted to the general fund. The State Auditor maintains that the \$2.4 million reversion to the general resulted from two practices: (1) underfunding of the Montana Insurance and Securities Departments, and (2) overcharging of the insurance and securities industries. If cash balances remaining in the insurance and securities regulatory trust accounts continue to revert to the general fund at fiscal year end, the Legislature will have no incentive to discontinue underfunding the Montana Insurance and Securities Departments and overcharging the insurance and securities industries.

The purpose of House Bill 306 is to eliminate the fiscal-year-end transfer to the general fund of cash balances remaining in the insurance and securities regulatory trust accounts. The State Auditor supports House Bill 306 because its passage would remove the Legislature's incentive for underfunding the Montana Insurance and Securities Departments and overcharging the insurance and securities industries. If cash balances in the insurance and securities regulatory trust accounts were to accumulate rather than revert to the general fund at fiscal year end, (1) the general fund would no longer benefit from the current practice of inadequately funding the Montana Insurance and Securities Departments and overcharging the insurance and securities industries; and (2) regulatory fees collected by the Montana Insurance and Securities Departments would more likely be used to pay for the intended regulation.

2
HB 238
2/1/89

Testimony of Michael Sherwood
Representing MTLA
Supporting House Bill 238

For the past fifteen years the insurance industry has repeatedly raised premiums in a fashion which far exceeded cost of living increases and inflation. Business and individuals have come before the legislature over that period of time asking for relief.

The insurance industry has pointed its finger repeatedly at large jury awards and settlements paid to injured victims. Over that period of time the legislature has enacted more and more legislation to restrict the rights of injured victims in an effort to lower costs. The last legislative session saw the passage of 25 bills restricting the rights of injured victims. Still rates continue to rise.

In response to allegations the State Bar and the Trial Lawyers have conducted jury surveys showing allegations to be false. We also expended a considerable amount of money (in excess of \$20,000) to examine the records of the insurance commission only to find that insufficient information was present to reach any conclusions as to the profits being taken by national carriers on a local level.

We support this legislation because it would allow the collection of data which could then focus upon cost containment rather than erosion of victims rights in solving the problem of ever increasing insurance rates.

1
2/1/89
HB 446

TESTIMONY OF W. FRANK CAPPS

W. Frank Capps is former Executive Director of the Montana Food Distributors Assoc.; former President of the organization and the owner of two Thriftway Stores in Helena. His stores are among the top in the sales of lottery tickets.

At the present time the 5% commission vendors are receiving is not sufficient to cover the costs incurred in the sale of the lottery tickets. At the start of the lottery I was very enthusiastic and was one of the top volume agents. However, as time went on it became apparent to me that I was not covering my costs for the sales of the lottery tickets. Nationally, labor costs in grocery stores is 10%. If we are receiving only a 5% commission from the sale of the lottery tickets you can see that we lose money every sale we make. At the present commission rate it does me no good to increase my sales because with the volume I lose increasingly more money. At the 8% rate requested in this Bill, vendors should be able to break even. We are willing to do that as the sales of the lottery tickets may be an attraction which would bring customers to our store.

Because groceries are the major sales outlet for the lottery, it makes good sense to provide sufficient income to keep grocers enthusiastic.

One of the major problems we are experiencing with sale of lottery tickets is theft. The lottery tickets theft exposure is as great or greater than any other item in our store. A person stealing

lottery tickets not only steals a dollar from me but he has the opportunity to scratch off a winner which may pay him thousands of dollars. I have had personal experience with theft of lottery tickets as you may be aware. One of my night cleaning crew was prosecuted and convicted of theft of lottery tickets.

Another item which many people overlook is that the accounting system used by the lottery is very expensive and adds to our cost of doing business. We are required to account on a day to day basis for lottery sales and our accounts are swept by the lottery on a regular basis which causes a great deal of added bookkeeping requirements.

Lastly, I have in mind that the lottery officials have proposed a percentage incentive to increase lottery ticket sales. In my mind that will not work as the only grocers who will benefit from this type of an incentive promotion would be the large volume sellers of lottery tickets. They will benefit the most. The smaller vendors such as the Mom and Pop Grocery Stores won't bother with the lottery tickets as their sales will never be great enough to generate the incentives that the lottery officials have projected.

From all the foregoing, I recommend passage of HB 446 with the amendments requested by Representative Daily.

