

HOUSE BUSINESS AND INDUSTRY COMMITTEE

February 17, 1981

SUMMARIES FOR

HOUSE BILL 574 -

Introduced by Rep. Kitselman, establishes reciprocity with other states in countersignature requirements on policies written by a nonresident agent on insurance coverage in Montana. If the home state of the nonresident agent requires a Montana agent writing insurance in that state to get a countersignature from a resident agent of the other state, Montana will apply the same rule.

HOUSE BILL 577 -

Introduced by Rep. Harrington, by request of the Board of Professional and Occupational Licensing, revises law regulating the Board of Medical Examiners, requires a physician to keep the receipt for his annual registration fee in his office or on his person during its valid period, requires forfeiture of a physician's certificate to practice for default in payment of annual registration fees, and requires any insurer writing professional liability coverage for a physician to report final disposition of any claim for professional negligence to the board within 30 days of final disposition, including the pertinent details and the dollar settlement.

HOUSE BILL 654 -

Introduced by Rep. Menahan, amends the law to provide backing for Railroad Rehabilitation Bonds. The bill broadens the definition of "rail facilities" to include freight and commodities storage and loading facilities, removes the 9% limit on interest on bonds and allows the Department of Highways to set the rate, allows the department to enter into covenants to grant mortgages or security interests to secure the bonds and to appropriate proceeds. The bill broadens the definition of "railroad rolling stock" to include cars to move coal, ore, lumber, freight, and commodities.

NOTE: Title, line 7, should be amended to change "INCREASING" to "ELIMINATING LIMITS ON" bonds.

HOUSE BILL 710 -

Introduced by Rep. Kitselman, provides additional regulation of the countersigning privilege addressed in HB 574 by requiring nonresident agents to pay personal income or corporate license tax on income from policies sold in Montana, requires annual reports by nonresident agents, imposing fines of up to \$10,000 and revocation or suspension of license for up to 10 years, and requires payment of premium taxes on Montana policies.

HOUSE BILL 796 -

Introduced by Reps. Andreason and Fabrega, requires 10 days written notice prior to cancellation of insurance on a residence for nonpayment of premiums.

HOUSE BUSINESS AND INDUSTRY COMMITTEE

Rep. W. J. Fabrega, Chairman, called the committee to order at 8:00 a.m. February 17, 1981, in Room 129, Capitol Building, Helena. All members were present. Bills to be heard were HB 574, 577, 654, 706, 710.

HOUSE BILL 577 -

REP. DAN HARRINGTON, District 88, Silver Bow County, introduced HB 577 at the request of the Department of Professional and Occupational Licensing revising certain laws administered by the Montana State Board of Medical Examiners providing for the board to set the date of annual election of officers; providing for forfeiture instead of revocation of license when the annual registration fee is not paid and that the licensee shall retain in his office or on his person evidence of payment of the annual registration fee during the period of validity. It would also provide for insurers underwriting professional liability insurance to report the final disposition of any claim filed for alleged professional negligence to the board within 30 days of final disposition, including the pertinent details and the dollar settlement.

OPPONENTS: None

QUESTIONS -

Rep. Harrington closed saying HB 577 makes licensing and basic changes to the present law.

HOUSE BILL 574 -

REP. LES KITSELMAN, District 60, Yellowstone County, asked to have HB 574 and HB 710 considered together. HB 574 basically establishes reciprocity with other states in countersignature requirements on policies written by a nonresident agent on insurance in Montana. The present way this is handled is not working. It is up to the agent to report any transactions on business done out-of-state.

ROGER MCGLENN, Independent Insurance Agents of Montana, Inc., feels the present countersignature laws are not working, but that HB 574 and HB 710 will alleviate and solve these problems. See his testimony, EXHIBIT A.

JO DRISCOLL, Deputy Insurance Commissioner for the State of Montana, said they have had problems on countersignature insurance. All casualty policies must be issued through a licensed agent and that means either a nonresident licensed agent or Montana licensed agent and they have to be countersigned by a Montana agent. This has caused problems and led to some abuses. They have tried to correct this, and agents have reported to the commissioner. Many times insurance is written by people who do not have a Montana license. They have levied considerable fines in the last year.

The insurance company must pay 5% of the premium to the agent who has countersigned his name. She thinks the agents overall would not object to taking this countersignature requirement off. They would report those who are doing business in the state, and nonresidents would have to certify and give the number of their license before the Montana agent would countersign. This places a restriction on a nonresident.

HOUSE BILL 710 -

REP. LES KITSELMAN sponsored HB 710 which provides for further controls of nonresident insurance licensees by requiring them to pay personal income or corporate license tax on income from policies sold in Montana. It requires annual reports to be made by nonresident agents, and imposes fines of up to \$10,000 and revocation or suspension of license for up to 10 years, and requires payment of premium taxes on Montana policies.

OPPONENTS: None on HB 710.

QUESTIONS:

Rep. Kitselman proposed an amendment on page 2, line 11 to change "10" to "5".

Jo Driscoll said most states have some reciprocal agreements in some respects. When California comes in, Montana charges \$1,000, usually it is \$300 from other states - whatever is reciprocal. Montana would not impose any greater problems for an out-of-state agent than his resident state imposes on Montana residents doing business as a nonresident in the other state.

HOUSE BILL 654 -

REP. WILLIAM MENAHAN, District 90, Deer Lodge County, sponsored HB 654 working with Mike Fitzgerald, President of the Montana Trade Commission, and two bond houses. The intent of this legislation was passed in the 1979 session to alleviate the grain car shortage in Montana, to strengthen the rail transportation system in Montana, and to stimulate the state's economy by providing more jobs for Montanans. HB 654 is a clean up bill to make previous legislation work. EXHIBIT B explains what HB 654 accomplishes in more detail. HB 654 might not be feasible today, but it will be in the future.

TOM DOWLING, Montana Railroad Association, tried to point out these problems before and believes with the amendments to the existing legislation that it will become workable.

BOB STEPHENS, Montana Grain Growers Association, thinks HB 654 is an important piece of legislation, and is in full support.

J. T. MULAR, Brotherhood of Railway Clerks, Butte, supports HB 654, saying this legislation would basically keep the rolling stock within the northern part of the country.

MORRIS W. GULLICKSON, United Transportation Union, Livingston, MT, feels HB 654 will be one approach to keeping the railroads healthy in the state, and had it been in existence before the Milwaukee Railroad might have been saved.

WARREN L. TAYLOR, Montana Railcar Company, Great Falls, is a Montana railway cars private investigator. They recognized the possibilities for Montana manufacture of these cars. Coal companies are very much interested in the manufacture of covered cars which are going to come into need. It would seem likely that this kind of facility could be located in Great Falls, Anaconda, Glasgow which have facilities which are not being used otherwise. A facility was approved, but because of the grain embargo, it was not continued.

This legislation addresses itself to the future rather than something that needs to be done right away. Such a facility would employ 90-100 full time people.

OPPONENTS: None

QUESTIONS -

The original purpose of this legislation was to help with problems of grain cars, but now it is being expanded to coal, oil, lumber, freight and commodities. If these bonds are used and for these other kinds of rolling stock, will it be competition for grain cars, Rep. Metcalf asked. Mr. Stephens said grain cars are hopper cars. The reason for expanding language to include other kinds of products was to make it more economically feasible. Whatever kinds of cars the market was demanding was what would be produced.

This money would be used to repair railways or roadways after the Department of Highways had a review and approval of whoever was applying for the bonds. These bonds are not guaranteed by the state, but by taxes on property. Assets of the BN would be taken and held in a mortgage until the bonds were reimbursed, for example. This is provided for in the legislation. The state can take a property mortgage as collateral.

The interest rate is changed to make the bonds more marketable.

Rep. O'Hara said Senator Baucus has a bill in Congress now to make rolling stock tax exempt.

Rep. Menahan closed. He presented a letter from the Economic Growth Council, Great Falls, signed by Jack R. Hill, Executive Director, EXHIBIT C supporting HB 654.

* ANN SCOTT, Montana Farmers Union, Great Falls, also supports HB 654.

HOUSE BILL 706 -

REP. AARON ANDREASON, District 24, Missoula County, co-sponsored HB 706 with Rep. Fabrega. This bill changes the law to require 10 days written notice be given prior to cancellation of insurance on a residence for nonpayment of insurance. A special case is provided for when people buy insurance on their home and then cancel it by taking back the check or stopping payment on it. There is to be 30 days time you have when you first pay for something and another 30 days grace period, and so you in reality are allowed 60 days. Ten days if the cancellation were due to nonpayment of the premium if HB 706 is passed.

JO DRISCOLL, Deputy Commissioner of Insurance Department, said they have had some problems brought to their attention and the people who have fire insurance know they have 30 days notice of cancellation, and then they know they are going to get another 30 days extension. If it is limited to nonpayment only, it might be alright. There is a provision in the law saying there is to be a 10 day cancellation on car insurance for nonpayment.

LARRY HUSS, Savings and Loan League, is not an opponent or proponent, but wants to be educated. A period may elapse when a person is away or ill and has some other problem and forgets to pay his premium. The 30-day period turns into a 60-day period that he is not aware of, and they would now have 40 days to pay their premium.

Jo Driscoll said you will seldom find an insurer who will not give you a time to pay your premium. An agent very seldom will consider it nonpayment the minute that your coverage comes into effect.

Rep. Fabrega mentioned that normally when you buy a three-year contract, at the end of each year you have 30 days in which to send your premium in and you are notified 30 days ahead. Jo Driscoll said a company cannot refuse to renew your policy unless they give you 30 days notice. Ordinarily they don't give you two notices. Thirty days prior to the time your policy takes effect they notify you. The agents usually pay to the insurance company 45 days after the insurance is in effect. She had never heard of anybody sending out a cancellation notice the day it becomes due.

ROGER McGLENN said the agents or agency is required to pay within 45 days. As a last resort the lending institution is covered for the full 30 days when the insured is covered for 10 days. Driscoll said where there is a lending agency, they are supposed to get a piece of that insurance. This legislation reduces them both to 10 days. The lending institution would get notice of that nonpayment, and could pay the premium. If there is a mortgage or name on the policy, they would both get notices.

Rep. Schultz thinks a person needs the additional time - 10 days is not long enough.

Rep. Andreason closed saying in most instances the 40 days notice would be a common kind of notice. An individual usually knows when his insurance is due and if he was going on vacation, he would have that taken care of in his absence.

EXECUTIVE ACTION -

Rep. Kitselman moved HOUSE BILL 574 Do Pass. Motion was unanimously adopted.

Rep. Kitselman moved HOUSE BILL 710 Do Pass. He then moved that an amendment on page 2, line 11, changing "10" to "5" be adopted, which was unanimously passed. HB 710 was unanimously adopted as DO PASS AS AMENDED.

Rep. Metcalf moved HOUSE BILL 577 Do Pass. Motion was adopted 15-2. Rep. Ellerd and Rep. Andreason voted No. There were two absent.

Rep. Manning moved HOUSE BILL 654 DO PASS. He then moved that an amendment to title, line 7 to strike "INCREASING" and insert "ELIMINATING LIMITS ON" be adopted, and it was unanimously accepted. Motion to DO PASS AS AMENDED HB 654 was unanimously adopted with two members absent.

Rep. Metcalf moved HOUSE BILL 706 Do Pass. Motion was later withdrawn.

Rep. Kitselman moved HOUSE BILL 706 be tabled. Discussion led to having the researcher prepare an amendment that would clearly indicate that on a renewal of an insurance policy, there has to be a 30-days notice prior to the expiration and after that a 10-day notice applies.

HB 385 was discussed. The committee wanted to mandate that the public trust is being carried out. Section 4, subsection (1) was to be reinserted in the language. The title would have to have an amendment also.

Rep. Metcalf said HOUSE BILL 409 prevents blind bidding before licensing a screening company. He moved proposed amendments for the purposes of discussion, and then moved they be adopted which they unanimously were. Rep. Metcalf then moved HOUSE BILL 409 AS AMENDED DO PASS, and it was unanimously adopted. Reps. Ellerd and Ellison were absent.

Rep. Meyer moved HOUSE BILL 395 DO PASS. He then moved proposed amendments. Discussion brought out this bill would give the PSC an opportunity to look at hard numbers and to consider CWIP. Section (c) requires a utility to demonstrate that this would make for a lower rate to the consumer. Pollution control rating is considered by the PSC. It would make the practice in Montana correspond with the way FERC does it at the present time. FERC allows pollution control equipment to be considered in the rate base. Mr. Burke disagreed only to a degree with Mr. Opitz. The PSC may need some additional staff people. There is a very definite meaning of what pollution control is, and it is very clear what part of a plant is pollution control related. Proposed amendments are on EXHIBIT D.

Rep. Fabrega raised the question where this is clearly defined. Mr. Burke said the PSC knows what is included in pollution control and what is not, and would have no trouble in reviewing what is and what is not pollution control related. It would be as determined by the Commission.

Other types of energy generation such as wind, biomass, solar are being considered, and because it may take several years for construction

of such facilities, it should be included in the rate base to encourage utilities to make that kind of investment. They want it to be considered in the rate base before it is on line.

Opitz thinks a dam or hydro facility would qualify also.

Burke, MPC, doesn't think it really falls within the meaning of these terms. The new ethic is to encourage use of renewable energy resources. Rep. Fabrega said that it does not apply to any nuclear plant using fission. Burke said he has never heard of it. Pacific Power and Light operates in six states and they may site a nuclear project in Washington, Idaho, or Oregon. They don't think they would qualify as renewable.

Mr. Opitz said every plant is designed to protect from radiation, and it is very costly. The question of hydro should be addressed.

Mr. Burke spoke against adding (on existing facilities) in subsection (a) as it wouldn't do that much good to separate from existing facilities. The stack is pollution control equipment and it has nothing to do with cleaning up the smoke in a coal fired plant or that cleans up the water - those are pollution control related. FERC has included this because most power production is related and so it is included as CWIP.

Mr. Burke believes, and his belief is shared by the other utilities, that including construction work in progress (CWIP) is cheaper to the consumer. At the end of 1980 when the Colstrip plant had been under construction about five years, there is \$21 million of capitalized interest and about \$95 million of basic construction costs. If today Colstrip 3 and 4 were included in the rate base, from this point on there would be about \$200 million that the consumer would have already paid for. In a fair showing MPC believes they will be able to demonstrate that it is cheaper for the consumer to put CWIP in the rate base rather than after the facility is on line. If we can't do it, it would be returned.

JIM JENSEN, LISCA, doesn't believe any members should be forced under CWIP. Forced investment is against their policy. It isn't a question of cost - it is the question of taking away the right of choice as to whether to invest or not.

Rep. Harper referred to the Statement of Intent, EXHIBIT E. He asked why should alternative or renewable alternative resources be included. The lowest cost to the consumer should be provided. Burke said 3 and 4 are built for the benefit of the consumers. Alternative and renewable sources are being used instead of nonrenewable resources, and do have a public welfare benefit because they are using that source of energy. It is also largely experimental.

Rep. Harper said we are being asked to make laws on something we don't completely understand, He is not in favor of putting anything in the rate base until it is proved cost effective. Mr. Burke thought this would be an additional justification.

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A roll call vote was taken on subsections (a) and (b) in the proposed amendment to HB 395. They were stricken by a vote of 12-6, with Rep. Kitselman absent.

Subsection (c) was adopted by a vote of 17-2 with Reps. Metcalf and Vincent voting No.

Rep. Jacobsen moved "may at its discretion" be included, but this motion failed 18-1.

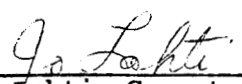
Rep. Meyer's original motion that HOUSE BILL 395 DO PASS AS AMENDED failed with a roll call vote of 6-13.

Rep. Jacobsen moved HOUSE BILL 625 Do Pass. There was not time for careful consideration, so this was not voted on.

Committee adjourned at 12:10 p.m.



REP. W. J. FABREGA, Chairman



Jo Lahti, Secretary

Independent Insurance Agents of Montana

INCORPORATED



REGARDING HOUSE BILLS NO. 574 & 710

To: The House Business and Industry Committee
From: Independent Insurance Agents' Association of Montana
Date: February 17. 1981
Re: Support for House Bills 574 & 710

We feel that the current countersignature laws in Montana are not working. The 5% of premium, not to exceed 50% of the total commission, due the Montana agent is in many cases not being paid. That in some cases the premium tax on policies written in Montana are not paid to the Insurance Commissioners office as required. We also feel that nonresident licensees should pay taxes to the State of Montana on personal income, business income, or corporate license taxes, on all income earned on insurance policies issued in Montana. There is no reporting required on this business written by nonresident agents under the current codes.

House Bills 574 and 710 would solve the problems that we mentioned above.

These Bills will provide a more workable form of regulation on policies written by out-of-state firms on risks in Montana. We feel the Montana insurance consumer can best benefit from an open insurance market, not a market closed in by false, provincial legislation designed to "protect" the agents of the state. Proper safeguards and requirements have been written into these bills to prevent abuses by out-of-state agents, collect the taxes rightfully due on all such insurance, strengthen the enforcement muscle of the

Independent Insurance Agents of Montana

INCORPORATED



Insurance Commissioner's office on this business and yet allow an honest, open, and competitive insurance market to exist for our Montana consumers.

The Independent Insurance Agents Association of Montana urges the House Business and Industry Committee to give a do-pass recommendation to House Bills 574 and 710.

COUNTERSIGNATURE AND COMMISSION LAWS AFFECTING HANDLING OF INSURANCE BY NON-RESIDENTS

Plus Surplus Line Laws

Sooner or later, most producers have occasion to handle insurance of clients attaching in other states. For some, this constitutes a material part of their business. For others, the premium itself may not be significant, but an important client is involved. To accomodate these clients, producers, in the capacity of non-resident agents or brokers, as well as the insurance company personnel with whom they must work in these transactions, must be familiar with the qualifications and procedures of other states; and these vary considerably. The tabulation comprising the General Csa- pages is intended to assist those confronted with the laws of other states dealing with non-resident licensing and countersigning requirements.

The Csa- pages have been compiled with the cooperation of the insurance departments of the various states and territories. They are brought up to date by survey of all the insurance departments annually after the close of the various state legislative sessions, with changes occurring between times included as they are discovered. *In cases of ambiguity or apparent contradiction, the departmental interpretation is shown.* The compilers are grateful to the insurance departments for their cooperation.

Points Discussed

★ Following a uniform arrangement, these major topics concerning non-resident and surplus line laws — some with subdivisions — are discussed for the 50 states, District of Columbia, Puerto Rico and the Virgin Islands.

- I. Non-Resident Laws: 1. Applicability (to other than Life insurance) as to types of insurer and types of insurance; 2. License required of non-resident; 3. Countersignature requirements; 4. Premiums and commissions; 5. Other restrictions; 6. Retaliatory or reciprocal provisions; 7. Statutory references; and

(Continued on next page.)

Reciprocal and Retaliatory Laws

Many, but not all, of the state laws dealing with handling of insurance by non-residents have provisions which are reciprocal or retaliatory. These terms are not always clearly understood and are sometimes confused or incorrectly regarded as interchangeable.

Strictly speaking, a *reciprocal* law is an arrangement for mutual convenience. State A eliminates or reduces a requirement for residents of State B *insofar as* State B extends like privileges to residents of State A. A *retaliatory* law might be thought of as a device for *getting even*. State A imposes or increases requirements on residents of State B usually to the equivalent of the requirements which State B imposes on residents of State A. For example, waiving an examination requirement for residents of a state which similarly waives an examination requirement is a *reciprocal provision*; while increasing the license fee to the greater fee required by an applicant's home state is *retaliatory*.

Two of the more common questions stemming from the repeal of countersignature requirements are: (1) May countersignature requirements still be invoked on licensees of states which do not reciprocate? (2) To what extent are retaliatory provisions affected in a state that has repealed its requirements? Answers to these questions — as provided for us by the insurance departments — may be found under Section I, items 3, 4 and 6.

Reprints Available

In response to the requests of many, this compilation is being made available as a separate booklet. Prices are: Single copy, \$5; five copies, \$4.75 each; 10 copies, \$4.50 each; 25 copies, \$4.25 each; 50 copies, \$4 each; 100 copies, \$3.75 each; 500 copies or more, \$3.50 each.

STATES THAT DO NOT HAVE COUNTERSIGNATURE LAWS

CALIFORNIA
COLORADO
CONNECTICUT
DELAWARE
MICHIGAN
MINNESOTA
NEW MEXICO
NEW JERSEY

OREGON
TENNESSEE
UTAH
VERMONT
VIRGINIA
WASHINGTON
WISCONSIN

MONTANA

Insurance Commissioner, State Auditor's Office, Helena 59601

I. Non-Resident Laws

1. **Applicability** (to other than Life insurance): Laws apply to all types of insurers except companies soliciting insurance through salaried representatives not receiving commission, and rural mutual companies, and all types of insurance except Bid bonds, Transportation, Reinsurance, insurance involving vehicles principally garaged and operated outside Montana, and Wet Marine.
- ★ 2. **License required of non-resident**: Non-resident Agent's License applies until terminated, but company appointments expire May 31 annually. Original license fee is \$100; renewal of license, \$5 each insurer. No bond is required. Application forms 1001 and 1014 are obtained from the Insurance Commissioner, other needed forms from the insurer. Appointment by company, certification from home state insurance department and appointment of Montana Commissioner for service of suit are necessary.
- ★ 3. **Countersignature**: (Rules apply to all property or exposures within the state, regardless of residence of insured or place where contract is made.)
 - A. Policy must be signed by a licensed resident agent or agent's authorized clerical employee. Salaried company employees may not countersign except in emergencies where no resident agent is available, with subsequent signature of resident agent.
 - B. Countersignature endorsement is permitted, but not in blank.
 - C. Countersigning agent must keep a record of all policies countersigned.
4. **Premiums and commissions**: Countersigning agent need not collect the premium but must be paid a minimum of 5% of premium, not exceeding 50% of the commission, retaliatory with non-resident's home state. If countersigning agent performs additional services, additional compensation may be negotiated with non-resident agent. Unlicensed non-resident may not receive commission under any circumstances.
5. **Other restrictions**: Unlicensed non-resident may not enter state to solicit, inspect or service.
6. **Retaliatory or reciprocal provisions**: Retaliatory as to taxes, fees, commissions and licensing.
- ★ 7. **Statutory references**: Title 33. Montana Code Annotated.

II. Surplus Line Laws

1. **Resident licensing**: Residents may be licensed to place insurance with non-admitted insurers. Surplus Lines Agent's License expires annually April 1. Annual fee is \$25. Applicant must file \$2,000 bond. Montana licensed agents may place business through a licensed surplus lines agent and receive commission.
2. **Non-resident licensing**: Non-residents may not be licensed as surplus lines agents but, if licensed in Montana for general lines, may place business through a licensed surplus lines agent and receive commission.
3. **Certificates of non-availability**: Affidavit of non-availability through admitted insurers must be filed with the Commissioner at the time the insurance is procured. Use of non-admitted insurers to secure better rates or policy terms is prohibited.
4. **Tax**: $2\frac{3}{4}\%$ of net premiums plus $2\frac{1}{4}\%$ of fire premiums.
- ★ 5. **Statutory references**: Title 33. Montana Code Annotated.

IDAHO

Department of Insurance, 700 W. State Street, Boise 83720

I. Non-Resident Laws

1. **Applicability** (to other than Life insurance): Laws apply to all types of insurers and to all types of insurance except Bid bonds, Ocean Marine, Property in transit by common carrier, Reinsurance and Title insurance.
2. **License required of non-resident:** Agent or Broker's Qualification License, expiring annually last day of September, October or November for agent, March for broker. Fee is same as non-resident's home state. Application obtained from Department of Insurance. Certification from home state department, fingerprints and photograph, and — broker only — \$10,000 bond (retaliatory with home state) are required. Examination is reciprocal with home state.
3. **Countersignature:** (Rules apply to all property or exposures within the state, regardless of residence of insured or place where contract is made.)
 - A. Policy must be countersigned by a licensed resident agent of the insured or by a full time employe of the agent, over age 21 and granted agent's power of attorney. Salaried company employes may not countersign.
 - B. Countersignature endorsement permitted. Power of attorney and facsimile signature permitted only within agent's office.
 - C. Countersigning agent must keep a record of all policies countersigned. Companies are required to file periodic affidavit of compliance with countersigning laws.
4. **Premiums and commissions:** Countersigning agent need not collect the premium, but must receive the least of 5% of premium, $\frac{1}{3}$ of commission or \$250. Countersigning fees less than \$5 may be waived. Non-resident must hold Idaho license to receive commission.
5. **Other restrictions:** Licensed non-resident may enter state to solicit, inspect or service, subject to retaliatory provisions with home state. Unlicensed non-resident may not enter state for any insurance purpose. Companies may not accept Idaho business from unlicensed non-residents.
6. **Retaliatory or reciprocal provisions:** Reciprocal as to license and examination, retaliatory as to fees, bond requirements, commissions and solicitation.
7. **Statutory references:** Idaho Code Secs. 41-337/8, 41-340, 41-401, 41-1040, 41-1058 through 1068.

II. Surplus Line Laws

1. **Resident licensing:** Residents may be licensed to place insurance with non-admitted insurers. The Surplus Lines Broker's License expires March 31 annually. Annual fee is \$25. Applicant must file \$1,000 bond. Any general lines agent or broker licensed in Idaho may place business through licensed surplus line brokers and receive commission.
2. **Non-resident licensing:** Non-residents may not be licensed as surplus line brokers but, if licensed for general lines in Idaho, may place business through licensed resident surplus lines brokers and receive commission.
3. **Certificates of non-availability:** Affidavit of non-availability, also showing that placement was not for better rate or terms, must be filed with the Surplus Lines Association of Idaho within 30 days after procurement for each line.
4. **Tax:** 3% of gross premiums less returns, plus 1% stamping fee to Surplus Lines Association of Idaho. Annual tax statement due March 1; taxes due April 1.
5. **Statutory references:** Idaho Code Secs. 41-1215 through 1230.

NORTH DAKOTA

Insurance Department, Capitol Bldg., Bismarck 58505

I. Non-Resident Laws

1. **Applicability** (to other than Life insurance): Laws apply to all types of insurers and to all types of insurance except Bid bonds, insurance on property in transit in possession of common carriers and insurance written or carried by the State of North Dakota.
- ★ 2. **License required of non-resident:** Non-Resident Agent or Broker's License expires annually April 30. Fee is \$10 for agent for each company represented, \$15 for broker, both retaliatory with non-resident's home state. License application obtained from Insurance Department. Certification of resident license from home state insurance department and, for brokers, a \$2,000 (minimum) bond are required. Bond is retaliatory with home state for either agent or broker.
3. **Countersignature:** (Rules apply to all property or exposures within the state, regardless of residence of insured or place where contract is made.)
 - A. Policy must be countersigned by a licensed resident agent of the insurer. A salaried company employee may sign *only* if a licensed resident agent.
 - B. Countersignature endorsement permitted, but not in blank. Countersigning agent may use facsimile signature, but may not delegate its use to others nor grant power of attorney to others for countersignature.
 - C. Countersigning agent must keep a record of all policies countersigned.
4. **Premiums and commissions:** Countersigning agent need not collect premium. There is no restriction on distribution of commission between countersigning agent and licensed non-resident, or *unlicensed* non-resident *if no* solicitation, inspection or service is offered in North Dakota.
5. **Other restrictions:** Unlicensed non-resident may not enter North Dakota for any insurance purpose.
6. **Retaliatory or reciprocal provisions:** Retaliatory as to licenses, license fees and bonds.
7. **Statutory references:** North Dakota Century Code Secs. 26-01-04/05, 26-17.1-01 through 53 and Dept. interpretation

II. Surplus Line Laws

- ★ 1. **Resident licensing:** Residents may be licensed to place insurance with non-admitted insurers. The Surplus Line Broker's License expires annually April 30. Annual fee is \$10. Applicant must file a bond for not less than the premium tax paid on the previous year's business (minimum \$500, maximum \$20,000, new brokers at Commissioner's discretion). Licensed North Dakota agents may place business through licensed surplus line brokers and receive commission.
- ★ 2. **Non-resident licensing:** Non-residents may not be licensed for this purpose, but North Dakota licensed *non-resident agents* may place business through licensed resident surplus line brokers and receive commission.
3. **Certificates of non-availability:** Affidavit of non-availability through admitted insurers must be filed with and approved by the Insurance Commissioner for each line prior to procurement.
4. **Tax:** 2½% of gross premiums.
5. **Statutory references:** North Dakota Century Code Secs. 26-09B-01 through 13, 26-17.1-17.

WYOMING

Insurance Commissioner, 2424 Pioneer, 1 Pioneer Center, Cheyenne 82202

I. Non-Resident Laws

1. Applicability (to other than Life insurance): Laws apply to all types of insurers and to all types of insurance and bonds, except Bid bonds, insurance on property in transit, and Reinsurance.
- ★ 2. License required of non-resident: Non-Resident Broker's License expires annually March 31. Annual fee: \$25, retaliatory with non-resident's home state. License application obtained from Insurance Department. Certification of resident license by home state insurance department required. New certification required with 1980 renewal. No bond or examination is required. Licenses may be issued only to non-residents 1) in states with reciprocal agreements and 2) not affiliated with a firm where Wyoming commission is shared with the firm. Certification by broker that Wyoming commissions will not be shared must accompany application.
3. Countersignature: (Rules apply to all property or exposures within the state, regardless of residence of insured or place where contract is made.)
 - A. Policy must be countersigned by licensed resident agent. Salaried company employee may countersign *only* if licensed as agent.
 - B. Countersignature endorsement is permitted, but not signature in blank. Agent's power-of-attorney to others or use of facsimile signature is prohibited.
 - C. Countersigning agent must receive a copy of the policy or its equivalent and keep a record of all policies countersigned.
4. Premiums and commissions: Countersigning agent need not collect the premium, but must receive as countersigning commission the lesser of 5% of premium or 25% of commission. *Unlicensed* non-resident may not receive commission under any circumstance.
5. Other restrictions: Non-resident *may not* solicit in Wyoming, even if licensed, but *licensed* non-resident *may* inspect or service in state.
- ★ 6. Retaliatory or reciprocal provisions: Retaliatory as to fees.
7. Statutory references: Wyoming Statutes Republ. 12-77 Secs. 26-3-130 through 26-9-141.

II. Surplus Line Laws

1. Resident licensing: Licensed general lines agents or brokers may be licensed to place insurance with non-admitted insurers. The Surplus Lines Broker's License expires annually March 31. Annual fee: \$10. Applicant must file \$1,000 bond. Any licensed general lines agent may place business with a surplus lines broker and receive commission.
2. Non-resident licensing: Non-residents may not be licensed as surplus lines brokers but, if licensed in Wyoming, may place business with licensed resident surplus lines brokers and receive commission.
3. Certificates of non-availability: Affidavit of non-availability with admitted insurers must be filed with the Commissioner for each line within 30 days after procurement. Use to obtain better rate or terms is prohibited.
- ★ 4. Tax: 3% of gross premiums, less the amount of return premium on cancelled policies, including sums collected to cover federal and state taxes on surplus line insurance subject to tax transacted by the unauthorized insurer, payable annually by March 1.
5. Statutory references: Wyoming Statutes Republ. 12-77 Secs. 26-4-101 and 26-11-101 through 122.

HOUSE BILL 654 IS THE RESULT OF LEGISLATION THAT WAS INTRODUCED BY REP. DENNIS IVERSON DURING THE 1979 SESSION.

THE INTENT WAS THREEOLD:

1. to alleviate the grain car shortage in Montana (shortage of railroad rolling stock)
2. to strengthen the rail transportation system in Montana
3. and to stimulate the state's economy by providing more jobs for more Montanans.

THIS WAS TO BE ACCOMPLISHED BY:

- authorizing the issuance of up to \$25 million worth of revenue bonds for the rehabilitation of certain rail facilities
- and further authorizing the issuance of up to \$75 million worth of revenue bonds for the manufacture, purchase or lease of certain railroad rolling stock.

THIS WAS PASSED DURING THE 79' SESSION AND HOUSE BILL 654 LEAVES ALL OF THIS IN PLACE AND IN ORDER FOR THE STATUTE TO BE WORKABLE DOES THE FOLLOWING:

- provides that the interest rate on the bonds be established by the department in order to sell them.
- provides for not only the manufacture, purchase or lease of rolling stock but the repair as well.
- provides that railroad rolling stock meaning railroad cargo carriers used to transport grain be expanded to transport lumber, ore, coal, freight and commodities as well.
- remedies the IRS objection that the rolling stock couldn't be used primarily in Montana by providing that the rolling stock is to be based in Montana.
- provides that the department may require the borrower to secure the loan with the project or other property of the borrower.

Exhibit C

REPRESENTING:

Cascade County Commission
Cascade County Economic
Development Corporation
Cascade County Trades &
Labor Assembly
Great Falls Area Chamber
of Commerce
Great Falls City Commission
Great Falls International
Airport Authority
Economic Development Corporation
of Great Falls
Opportunities Incorporated
Agriculture
Finance
News Media
Transportation
Energy

ECONOMIC GROWTH COUNCIL

P.O. Box 1273
Great Falls, Montana 59403

Phone (406) 761-5036

February 13, 1981

Representative W. Jay Fabrega, Chairman
House Business and Industry Committee
State Capitol
Helena, Montana 59620

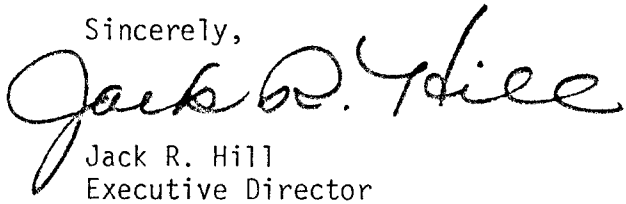
Dear Representative Fabrega:

The Economic Growth Council of Great Falls, a not-for-profit local development corporation whose goal is the diversification and strengthening of the economic base in Cascade County and Great Falls, and is actively involved in programs to attract industry to the area, wishes to go on record in support of House Bill 654, "An Act to Revise the Law Pertaining to Railroad Bonds..."

The amendments to existing law proposed by this bill will, in our opinion, facilitate the development in Great Falls of a proposed railcar building facility for covered hopper cars and/or coal cars, as future market studies indicate. Without the amendments it is doubtful that revenue bonds would be available for this very worthy project.

Thank you for accepting our written testimony in favor of House Bill 654.

Sincerely,


Jack R. Hill
Executive Director

711-44-10

SUGGESTED AMENDMENT TO HOUSE BILL 395

1. Amend page 2, line 3.

Following: "construction"

Insert: "In determining utility plant values for rate purposes, the commission shall include utility plant under construction: *may or its disc.*

(a) when it is pollution control related;

(b) when it is an alternative or renewable energy production facility; or

(c) when the utility demonstrates, under such reasonable standards as the commission may adopt by rulemaking, that such inclusion will produce a lower total revenue requirement over the life of the plant, including the remaining construction period, than traditional methods of determining utility plant value."

STATEMENT OF INTENT

The primary purpose of House Bill 395 is the removal of the legal obstacle which has prevented the Public Service Commission's consideration of the merits of the construction work in progress (CWIP) concept. House Bill 395 also is intended to require that the CWIP concept be implemented because of evidence that it can provide significantly lower aggregate utility costs in the long run.

There is convincing evidence that the savings to consumers and ratepayers under the CWIP concept are real and significant and that the allowance of CWIP in rate base will lower the rate base of major plant investments made by the utilities of Montana, lower the cost of capital to those utilities, and thus, lower the long-term cost of utility service to existing, as well as, future consumers.

The construction of certain types of utility facilities should be encouraged and the character of others should be recognized for special treatment. Facilities which are not production in nature, such as pollution control facilities, and production facilities which utilize alternative or renewable resources should be encouraged and CWIP treatment can provide an additional incentive for their development and lower costs for their construction.

Facilities which are pollution control related or which utilize alternative or renewable resource technology are appropriately given CWIP treatment because their construction accrues to the general public welfare and CWIP treatment

should be accorded in all cases as an incentive and as a means of obtaining lower construction and capital costs.

To carry out these purposes and to assure a fair and proper consideration of the merits of the issue before the Commission on a case-by-case basis, it is appropriate to amend HB 395. The amendment creates three classes of utility construction work in progress that are to be included in utility rate base: pollution control facilities; renewable and alternative energy facilities; and facilities the inclusion of which in rate base is demonstrated to produce lower aggregate costs.

The amendment is intended to require the Commission to follow, in part, the Federal Energy Regulatory Commission's policy by including all pollution control related plant under construction in utility rate base (18 CFR Section 2.16). The Federal Commission has followed this practice since 1976. The federal policy allowing CWIP treatment provides a sound basis for similar treatment by this state's commission.

The amendment also mandates that utility facilities which are alternative or renewable resource in character be accorded CWIP treatment during construction. CWIP treatment for these facilities is justified as a matter of sound policy. The long-term benefits of increased renewable and alternative energy production accrue to the benefit of the general public and should be encouraged by the additional incentive of CWIP treatment.

Finally, as to all other types of utility plant under construction, the amendment requires CWIP treatment in instances where the utility demonstrates, under such reasonable standards as the Commission may adopt, that the aggregate cost to the consumer of inclusion in rate base is less, over the entire life of the plant, including the remaining period of construction, than the aggregate cost under traditional ratemaking methodology. It is contemplated that the Commission would adopt rules which would establish reasonable criteria that the utilities could follow in presenting evidence which demonstrates the degree of savings produced by CWIP treatment and that such rules would be so drafted as to allow a fair, case-by-case consideration of the merits of the CWIP concept.

VISITORS' REGISTER

HOUSE

By 2

COMMITTEE

BILL

Date _____

2/17/81

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME ROGER MCGLENN BILL No. 574 & 710
ADDRESS HELENA DATE 2-17-88
WHOM DO YOU REPRESENT IND' INS. AGENTS OF MT.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME W. J. Murphy BILL No. 652
ADDRESS Suite 415 - Long Beach DATE 2-17-81
WHOM DO YOU REPRESENT National Trade Commission
SUPPORT 65A v OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME W. W. W. W. W. BILL No. 706 ^{HR 574 710}
ADDRESS W. W. W. W. W. DATE 2-17-81
WHOM DO YOU REPRESENT Mr. F. D. W. W. W.
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Tom Downie BILL No. 654
ADDRESS 3030 N. Montana DATE 2/17/81
WHOM DO YOU REPRESENT Mont P. R. Assn
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Bob Stephens BILL No. 101
ADDRESS 11111 DATE 2/1/68
WHOM DO YOU REPRESENT Michigan State University
SUPPORT / OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME

J T Mular

BILL No.

654

ADDRESS

Butte MT

DATE

2/17/81

WHOM DO YOU REPRESENT

BPO Rudy Darts

SUPPORT

X

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Alfred W. G... .. BILL No. ...

ADDRESS ... DATE ...

WHOM DO YOU REPRESENT ...

SUPPORT ... OPPOSE ... AMEND ...

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*I am not a member of the ...
... ..
... ..
... ..*

NAME WARREN L. TAYLOR BILL No. 654
ADDRESS P.O. Box 406 GREAT FALLS DATE 2-17-81
WHOM DO YOU REPRESENT MONTANA RAILCAR COMPANY
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Ann Scott BILL No. 194
ADDRESS East Tall DATE 1/1/61
WHOM DO YOU REPRESENT Mail Union
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: