

MINUTES OF THE MEETING  
BUSINESS AND INDUSTRY COMMITTEE  
MONTANA STATE SENATE

March 14, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on March 14, 1983, at 10:05 a.m., in Room 404, State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF HOUSE BILL 670: An act to increase the fees for licensing of weighing devices and to provide a late renewal fee.

Representative Harrison Fagg stated this was by request of the Council on Management. It deals with setting scale charges and licensing fees for weighing devices. The last scale fee increase adjustment was in 1973. This will raise approximately the amount of money it costs to check these scales. It increases \$66,661 per year in income.

PROPOSERS TO HOUSE BILL 670: Dave Evenson, representing the Council on Management, stated this bill is a result of management recommendations. He gave handouts to the Committee from the Council. (Exhibits 1 and 2)

Gary Delano, Bureau of Weights and Measures, stated they are in support of this bill.

There were no further proposers and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Goodover asked could you brief us on what this specifically refers to? Mr. Delano stated this relates to all scales that are used commercially in the State of Montana, live-stock scales, grocery scales, coal mine scales, and others.

Senator Goodover asked people who have these scales do not file an annual filing? Mr. Delano stated it is a licensing fee that requires one test per year. If there is more testing required they will charge for it.

Senator Kolstad asked and this fiscal note was based on how many scales you tested this particular year? Mr. Delano stated yes.

Senator Kolstad asked do you feel there would be \$66,661 at this time? Mr. Delano stated yes but it may change.

Senator Fuller asked for instance in Buttreys Foods for each scale it costs \$5? Mr. Delano stated yes.

Senator Severson asked on the small scales you check them once a year? Mr. Delano stated yes. The law allows them to test them more if necessary.

Senator Goodover asked has the date been changed from March to July 1st? Do you have to check the scale before the fee is due? Mr. Delano stated yes, the license expires December 31st and the license is due January 1st, then they can be tested anytime of the year.

In closing, Representative Fagg stated this will not bring in 100% but it will bring in 70% of the cost.

The hearing was closed on House Bill 670.

ACTION ON HOUSE BILL 670: Senator Dover made the motion that House Bill 670 Be Concurred In. Senator Fuller seconded the motion.

The Committee voted unanimously, by voice vote, that HOUSE BILL 670 BE CONCURRED IN.

Senator Dover will carry this bill on the floor.

CONSIDERATION OF HOUSE BILL 696: An act to amend section 82-13-105, MCA, to increase license fees for petroleum measuring devices.

Representative Harrison Fagg stated the last time fees were raised was in 1977. This again collects approximately 70% of the costs. The fees are rather modest again. There is a substantial impact of about \$27,000.

PROPOSERS TO HOUSE BILL 696: Gary Delano, Bureau of Weights and Measures stated this is our best effort to comply with the Governor's Council on Management. The last fee raise was in 1977.

There were no further proposers and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Dover asked why didn't you raise it on vapor meters? Mr. Delano stated there are so few in the State. They only need to be tested once every ten years.

Senator Severson stated on the previous bill you doubled the rate in every instance. This particular area is not bringing in the amount? How come you didn't double it? Mr. Delano stated the last increase on scales was \$10. This was six years ago. They tried to justify the cost with the time taken to test these devices.

Senator Severson asked timewise and expensewise how does it compare to checking scales? Mr. Delano stated timewise it is about the same as far as testing the propane meter or scale. The only difference is with scales you have to drive a lot more miles to test a livestock scale than a meter.

Senator Fuller asked how many meters are not in compliance? Mr. Delano stated about 10% of the meters. Propane meters may go a little higher.

Senator Christiaens stated you mentioned that some of them have only a need to be tested every ten years. Are there any others not tested annually? Mr. Delano stated tanks. Once a mark is set it is set permanently.

Senator Christiaens asked do you follow it up to see if they have the same size tank? Mr. Delano stated if they are used. There are so few used in the state.

Senator Kolstad asked then your office makes that determination whether or not they will be checked? Mr. Delano stated yes.

The hearing was closed on House Bill 696.

ACTION ON HOUSE BILL 696: Senator Dover made the motion that House Bill 696 Be Concurred In. Senator Goodover seconded the motion.

The Committee voted unanimously, by voice vote, that HOUSE BILL 696 BE CONCURRED IN.

Senator Dover will carry this bill on the floor.

CONSIDERATION OF HOUSE BILL 701: An act to increase fees for the supervision and examination of banks providing for rulemaking authority and providing an immediate effective date.

Representative Harrison Fagg stated this deals with getting a schedule that covers the cost of banking examinations. This again came from the Council on Management. The original attempt was all amended out. The Department of Commerce wrote an amendment allowing them to set their own rules. Now we have an amendment from the bankers with an effective compromise of 12¢ to 14¢ to raise the fees. They feel this would raise the proper amounts of money. Representative Fagg asked do you want to raise the fees on the inspection or do you want the Department to set the formula.

PROPOSERS TO HOUSE BILL 701: Dave Evenson, Council on Management, gave the committee two handouts entitled "Individual Recommendation Report" from the Council. (Exhibits 1 and 2) They felt the fees could raise 90%. This program is a training ground for banks. They suggested an amendment to the bill. The bill was amended from earmarked to the general fund. They want to go back to the earmarked fund.

Bob Wood, Department of Commerce, stated the Department supports the attempt of the Governor's Council on Management to have fees raised which supports the program. They support the amendments especially the effective date.

OPPOSERS TO HOUSE BILL 701: John Cadby, Montana Bankers Association, stated they are concerned about this bill because it establishes rule-making authority for the Department of Commerce where before the fees were set by statute. It is their preference that they be set statutorily. He handed the committee a substitute bill. (Exhibit No. 3) This reasserts the examination fee and increases it to 14¢. The last time these fees were increased was in 1979 from 10¢ to 12¢. At that time we understood the Department had increased costs and feel some kind of increase is justified and therefore propose this change. Everytime an examination is performed it is performed on the federal reserve scale and there is an inflation index in that scale. The question to answer is what percentage of the total cost should be borne by the bank. The only reason they are regulated is to protect the depositors funds. The department is performing a public service. Because of that the public should bear some portion of the cost of examining banks. What that portion should

be is up to you to decide. They think their substitute bill allows for revenue, will allow for increased costs and a fair share of the cost to perform that service.

Les Alke, Commissioner of Financial Institutions, stated it is important to them to see where the fees are going to be deposited. If this goes into the earmarked revenue fund this 14¢ would not cover the cost of their department; however, if the intent is to go into the general fund and have the state subsidize this they would have no complaints. They need to know whether it will be general or earmarked funds.

There were no further proponents nor opponents.

QUESTIONS FROM THE COMMITTEE: Senator Fuller asked if his amendment would be costing the banks less? Mr. Cadby stated our amendment increases the cost to the banks. It increases the examination fees. It increases the supervision fee by 100%. It increases from 10¢ to 14¢. The cost to the bank is greater.

Senator Severson asked what percentage do you suppose this is? Mr. Alke stated at the present time it is 62% of total cost for all functions. This proposal is only 1/6 increase in the bankers examination. At the rate of 14¢ per thousand their larger banks would be paying more than national banks are paying. The larger banks are on a sliding scale. The smaller banks are paying a great deal more than larger banks.

Senator Goodover asked in your explanation of the bill you indicated the current fee schedule for banks. Are there any recommended screening? Representative Fagg stated no there isn't. Originally the idea was to model the banking schedule and give the Department rulemaking authority. Mr. Alke stated at the present time we do by rule set the fees. We try to set the supervision and examination to cover the cost of the examination. In the case of savings and loan their fees are set by statute. The smallest savings and loans pay 15%.

Senator Goodover asked you didn't address any others? This is just bankers? Mr. Alke stated yes, this is only to bankers.

Senator Goodover asked if this type of procedure were set up to cover them all in one could this be used as a base for a bill and be amended to say that all of the funds would replace the tax on banks? Mr. Alke stated it would then have to go into the general fund, I am sure.

Senator Fuller asked on the committee that studied this was there any banker involved in this study? Mr. Evenson stated there were some bankers involved. Mr. Wood stated there were no bankers of those who made the direct examination of the departments function.

Senator Boylan stated I think we just keep changing more things that eventually the consumer is paying for.

Senator Christiaens stated I see very little with the substitute bill by bankers regarding savings and loans and credit unions. Mr. Alke stated that is handled by separate law. Under the present law they

will just about cover their costs. They are a very small part of our operation.

Senator Goodover asked what is your reaction to the substitute bill proposed by the banks? Representative Fagg stated he is opposed to the action. You could make a change to handle all the problems. Line 20 after "fee" you could put in an amendment not exceeding a specific amount. The general fund amendment would then have to stay on. You could on line 18 after "trust company" put in "savings and loans and consumer loans" and then they would be setting the fee on all of these. These two types of amendments would seem to be the best for both parties. Mr. Alke stated I don't know how you can amend savings and loans and credit union laws.

Senator Goodover asked what about the first amendment? Mr. Alke stated as long as it is a general funded operation, I think that makes sense.

Senator Goodover asked that Les Alke work with Representative Fagg and come up with an amendment to make this bill fly. Representative Fagg stated he would be happy to. They could then come up with a compromise percentage.

The hearing was closed on House Bill 701.

CONSIDERATION OF HOUSE BILL 464: An act to adopt a variable contract law authorizing life insurance companies to establish separate accounts to provide for variable life insurance policies and variable annuity contracts.

Representative Andrea Hemstad stated Senator Gage had all her paperwork and testimony.

PROPOSERS TO HOUSE BILL 464: Jane Mitchell, Montana Insurance Department stated they support this bill. Her written testimony is attached to the minutes. (Exhibit 4) (Letter to Norma Seiffert from Daniel J. McCarthy. Exhibit 5)

There were no further proponents and no opponents.

The hearing was closed on House Bill 464.

ACTION ON HOUSE BILL 464: Senator Dover made the motion that House Bill 464 Be Concurred In. Senator Lee seconded the motion.

The committee voted, by voice vote, 8-2 with Senators Regan and Goodover voting no, that HOUSE BILL 464 BE CONCURRED IN.

CONSIDERATION OF HOUSE BILL 465: An act to generally revise and clarify the laws relating to insurance; changing form filing requirements; clarifying provisions relating to reinsurance agreements and bulk reinsurance; providing that Inland Marine Insurance is taxed at 2 3/4 percent of net premiums written; clarifying that self-governing local governments may not tax or license insurers or agents; deleting the requirement for filing supporting data on rate changes by insurers,

rating organizations, and advisory organizations; defining a "managing general agent" and providing for licensure; clarifying when insurance information may be obtained about an individual; clarifying the policy amount that must be offered on termination of a group life policy; and providing that a policy clause on conformity with state statutes be mandatory.

Representative Andrea Hemstad stated she was the sponsor of this bill.

PROPOSERS TO HOUSE BILL 465: Jayne Mitchell, Montana Insurance Department, stated they support this bill. Her written testimony is attached to the minutes. (Exhibit 6) She gave the committee a proposed amendment to this bill stating the reason this is necessary in Montana it has loose requirements for adjusters. (Exhibit 7) They do not need to be bonded. They prefer people hire an attorney if there is a claim settlement problem.

Lester H. Loble, II, American Council of Life Insurance, stated they support this bill with his proposed amendment. His written testimony is attached to the minutes. (Exhibit 8)

Roger McGlenn stated they rise in support of House Bill 465. They would oppose an amendment to take self-governing bodies out of the list prohibited from charging taxes and licensing insurers and their agents. They support the amendment offered by the Department of Public Adjustors.

Glen Drake, Health Insurers Association of America, stated they support the bill as amended by Mr. Loble and urge the adoption of the amendment.

Bill Verwolf, City of Helena, stated they support the bill in its entirety. They offered a proposed amendment to the bill. (Exhibit 9)

Al Thelen, City of Billings, stated they support the bill with an amendment to eliminate the restrictions that prohibits self-governing local government from imposing a tax on insurance companies. (Exhibit 10)

OPPONENTS TO HOUSE BILL 465: Glen Drake, American Insurance Association, stated the proposed amendment would remove the preemption that the state has the right to tax the premium tax. If we accept this proposal we are going to have all the local governments filing premium taxes. The proposal as made would apply to all premiums. It would be disastrous to the public. He urged that the amendment not be adopted.

There were no further proponents nor opponents.

QUESTIONS FROM THE COMMITTEE: Senator Christiaens stated Mr. Drake has just testified in opposition to the premium tax. That is not what I heard you testify. Mr. Verwolf stated his understanding is the local governments do not have the authority to put a rate on the premiums. What we are saying is if we license these as a business we don't feel these businesses should be treated any differently than any other business. Mr. Thelen stated in regard to the business license they have the option as to how they declare this. It is related to both issues. Our method

is related to the agent and he pays on that basis. He doesn't see where it would be treating any of them different.

Senator Goodover asked are you collecting the money now both in Helena and Billings? Has it altered the premiums at all? Has it gone up? Mr. Verwolf stated in Helena it might be undetectable up to 10 employees we charge \$45. There would be very little impact. Mr. Thelen stated whether it affects premiums I can't answer that.

Senator Lee asked can we get the industry response to that? Mr. McGlenn stated he represents the agents. It would not affect them. Insurance unlike other professions are more mobile. We would be concerned if the entire section was struck. We have nothing to do with rates.

Senator Gage asked were these amendments offered in the House? Ms. Hemstad stated no.

Senator Christiaens asked can you tell me how managing agents were handled previously? Ms. Mitchell stated we just licensed them as an agent. That is why we put the amendment in.

Senator Christiaens asked who and what has been excluded in your investigation process? Ms. Mitchell stated that is kind of a privacy act. Last session they asked the Legislature to pass a privacy act to give information to consumers. This section can be best explained by showing you the code. Basically, last session it said that the insurance institutions could not divulge information unless the insurer asks the reasons. This would make them ask the questions. This would protect the consumer more because it requires that they ask the questions.

Senator Christiaens asked how would I as a consumer go about finding information that was reported on me on this type of situation? Ms. Mitchell stated you can demand it from the insurer.

Senator Christiaens asked are all types of insurance written investigated? Norma Seiffert stated yes for the most part.

Senator Gage asked do you also have a fee for doctors and lawyers offices? Mr. Verwolf stated yes they do. Their license fee covers everyone doing business in the city of Helena. This was enacted a little over a year ago.

Senator Severson stated I have always felt that an adjustor was an independent person. Can you clarify that? Ms. Mitchell stated it would be an independent adjustor to adjust for a fee. We have not permitted adjustors to contract out. As a consequence, the consumer is better served by hiring an attorney. If the adjustor works for a company then the company is responsible for his actions.

Senator Severson asked is this a change? Ms. Mitchell stated no, it is not a change.

Senator Fuller stated it seems to me that the responsible thing for all to do is set up some kind of public adjustor system. Mrs. Seiffert

stated we can do this on our own. We can do it for the people free of charge. Ms. Mitchell stated our law makes no provision for examining an adjustor. They have no recourse for these people. There is no way of policing them.

Senator Fuller asked in section 6 what you are doing is deleting the requirement? On what basis can you determine if the rate is inadequate? Ms. Mitchell stated county examination.

Senator Fuller asked aren't you deleting the authority of getting that data? Ms. Mitchell stated we can call the insurer.

Senator Lee took over for Senator Kolstad.

Senator Gage asked would amending section 4 clear out of this bill exceed the scope of this bill? Staff Attorney Greg Petesch stated you can always amend a section of the bill. You would have to amend the title also.

In closing, Representative Hemstad pointed out that the bill had no amendments in the House and under the way it was passed would increase revenue \$223,000 in 1984 and \$234,000 in 1985.

The hearing was closed on House Bill 465.

ACTION ON HOUSE BILL 465: Senator Fuller made the motion that the proposed amendments from the City of Helena and the City of Billings Be Adopted. Senator Regan seconded the motion.

Senator Dover stated he has problems with this.

Senator Lee stated there is some question whether they are legally able to assess these licenses in Helena and Billings. We are going against the original intent of the law. There is a question whether they can do it or not.

Senator Gage asked does the State of Montana assess a license against insurers? Staff Attorney Petesch stated there is a fee for becoming licensed. Most professions have that. Insurers do pay a license fee to the state right now.

Senator Regan stated I think there is a question of licensure but there is no question to set fees.

Staff Attorney Petesch stated if you strike this you are not doing away with it you are putting it back to the status quo.

Senator Lee stated if we strike section 4 in its entirety the language will remain the same. If you strike it there is a question whether you accomplished anything. This section existed before self-governing powers.

Senator Regan stated it is my understanding that attorneys enjoy a special status within the State that is not quite the same as anyother profession. Therefore, if the power to tax or levy a fee is challenged



by attorneys they will win that time but that does not mean that all other cases will follow. It would depend on the basis of the court ruling. They will not decide a constitutional issue if there is a way to resolve it otherwise.

Senator Lee asked why don't you strike the rest of the language out? Why are we just striking self-governing government? Mr. Thelen stated they have merged.

Senator Regan stated if we do not strike that section we have preempted the power of the court to resolve the issue. As long as the case has been filed we should wait until a decision is made. I think it is another reason for us to strike that section in its entirety.

Senator Regan amended Senator Fuller's motion to amend House Bill 465 by striking section 4 in its entirety, lines 11 through 22 and ask Staff Attorney Petesch to address anything in the bill to bring it into conformity.

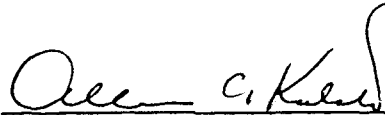
The Committee voted, by Roll Call Vote, 4-5 with Senators Dover, Gage, Goodover, Lee and Severson voting no. The motion failed.

Senator Regan made the motion that House Bill 465 Be Not Concurred In. Senator Christiaens seconded the motion.

The Committee voted 3-6 with Senators Boylan, Dover, Fuller, Gage, Lee and Severson voting no. The motion failed.

The Committee decided to pass consideration for the day.

ADJOURN: There being no further business, the meeting was adjourned at 11:10 a.m.

  
ALLEN C. KOLSTAD, CHAIRMAN



# STANDING COMMITTEE REPORT

..... March 14 ..... 19 83 .....

MR. PRESIDENT .....

We, your committee on ..... BUSINESS AND INDUSTRY .....

having had under consideration ..... HOUSE ..... Bill No. 464 .....

HEMSTAD (GAGE)

Respectfully report as follows: That ..... HOUSE ..... Bill No. 464 .....

BE CONCURRED IN  
~~XXXXXX~~

*g e*

STANDING COMMITTEE REPORT

March 14 ..... 19 83 .....

MR. PRESIDENT .....

We, your committee on BUSINESS AND INDUSTRY .....

having had under consideration ..... HOUSE ..... Bill No. 670 .....

FAGG (DOVER)

Respectfully report as follows: That..... HOUSE ..... Bill No. 670 .....

BE CONCURRED IN

~~XXXXXX~~  
~~DO PASS~~

STANDING COMMITTEE REPORT

March 14

19 83

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 696

FAGG (DOVER)

Respectfully report as follows: That HOUSE Bill No. 696

BE CONCURRED IN  
~~DOXFASEX~~

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3-14-83 House Bill No. 465 Time \_\_\_\_\_

NAME	YES	NO
PAUL F. BOYLAN	✓	
B. F. CHRIS CHRISTIAENS	✓	
HAROLD L. DOVER		✓
DAVID FULLER	✓	
DELWYN GAGE		✓
PAT M. GOODOVER		✓
GARY P. LEE, VICE CHAIRMAN		✓
PAT REGAN	✓	
PAT M. SEVERSON		✓
ALLEN C. KOLSTAD, CHAIRMAN		

Mimi Fancher  
Secretary

GARY LEE, VICE-CHAIRMAN  
Chairman

Motion: Amendment by Fuller (Regan)  
4-5 Motion failed.

(Include enough information on motion -- put with yellow copy of committee report.)

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3-14-83 House Bill No. 465 Time \_\_\_\_\_

NAME	YES	NO
PAUL F. BOYLAN		✓
B. F. CHRIS CHRISTIAENS	✓	
HAROLD L. DOVER		✓
DAVID FULLER		✓
DELWYN GAGE		✓
PAT M. GOODOVER	✓	
GARY P. LEE, VICE CHAIRMAN		✓
PAT REGAN	✓	
PAT M. SEVERSON		✓
ALLEN C. KOLSTAD, CHAIRMAN		

Mimi Fancher  
Secretary

GARY LEE, VICE-CHAIRMAN  
Chairman

Motion: Do not Concurred In.  
3-6 Motion Failed

(Include enough information on motion -- put with yellow copy of committee report.

## INDIVIDUAL RECOMMENDATION REPORT

Report No. and Name 15d FINANCIAL BUREAU		Recommendation No. 1	
Team Leader Fitzpatrick		Team No. 4	Page 1 of 2
Team Member R.L. Thomas		Date Prepared 4/13/82	Date Revised 4/21/82
<input type="checkbox"/> EXECUTIVE ACTION <input checked="" type="checkbox"/> LEGISLATIVE ACTION <input type="checkbox"/> CONSTITUTIONAL ACTION			
<input checked="" type="checkbox"/> Annual <input type="checkbox"/> One Time		ECONOMIC SUMMARY <input type="checkbox"/> Improved Effectiveness <input checked="" type="checkbox"/> Added Income <input type="checkbox"/> Added Cost         \$ 235,000	
<input type="checkbox"/> Annual <input type="checkbox"/> One Time		<input type="checkbox"/> Saving <input type="checkbox"/> Improved Effectiveness <input type="checkbox"/> Added Income <input type="checkbox"/> Added Cost         \$	

## Statement of Recommendation

Revise the statutes to give the Banking Board authority to set fees to cover the cost of operating this Bureau.

## Problem, Solution, Benefit

Problem

Fees for supervision and examination of financial institutions have been established by statute, however these fees do not cover the costs of operating this Bureau. Payments of fees are made to the State Treasurer for credit to the General Fund.

<u>Fiscal Year</u>	<u>Expenses</u>	<u>Income</u>	<u>Deficit</u>
1981-1982 (est)	\$575,815	\$340,000	\$239,815
1980-1981	\$477,006	\$342,106	\$134,900
1979-1980	\$435,444	\$309,119	\$126,325
1978-1979	\$415,408	\$227,178	\$188,230

Solution

Each state chartered bank and credit union pays an annual supervision fee. They also pay an examination fee whenever this Bureau conducts an examination. If the Bureau accepts a federal agency's examination, the banks and credit unions only pay the supervisory fee.

The current fee schedule for banks (\$400 supervision fee and 12 cents for examination of each \$1000 of total assets) and for credit unions (based on a sliding



Report No. and Name 15d FINANCIAL BUREAU		Recommendation No. 1	
Date Prepared 4/13/82	Date Revised 4/21/82	Page 2	of 2

Problem, Solution, Benefit (Continued)

scale of assets) should be increased and a fee for savings and loans should be established (presently nothing is charged) so that enough revenue is generated every year to cover the expenses of servicing these institutions. The fee should be set by the State Banking Board and earmarked to the Financial Bureau for the purpose of conducting their business and improving the overall quality of the staff and examination services.

Benefit

The most obvious benefit is that the Bureau would receive an additional source of income, which is justified because the banks are benefitting directly from examination services and supervision. Furthermore, the banks have been benefitting indirectly because almost all bank examiners have taken jobs in state banks whenever they terminate from this Bureau. Additional funds would be made available to provide more formalized training for examiners, to upgrade the EDP examination capabilities and to increase salary levels. Overall, the quality of examinations would be improved and the turnover rate of examiners could be reduced. Furthermore, funds could be provided to increase the level of reimbursement for travel expenses. This would remove one source of complaint from the examiners and could help lower the turnover rate.

## INDIVIDUAL RECOMMENDATION REPORT

Report No. and Name 15a DIV. OF BUSINESS & PROFESSIONAL LICENSING		Recommendation No. 5																													
Team Leader Bill Fitzpatrick		Team No. 4	Page 1 of 2																												
Team Member Gene Hess		Date Prepared 4/23/82	Date Revised 4/26/82																												
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## Statement of Recommendation

Revise licensing fees charged by the Bureau of Weights and Measurements.

## Problem, Solution, Benefit

Problem

The fixed licensing fees charged by the Bureau of Weights and Measures have not been revised since 1973 for scales and miscellaneous fees and 1977 for petroleum measurement devices. As shown by the chart on the following page, the percentage of the total expenditures of the Bureau of Weights and Measures recovered in the form of licensing and miscellaneous fees has declined from 71% in 1974 to 39% in 1981.

Solution

The Montana Legislature should set the percentage of expenditures that the Bureau of Weights and Measures should recover in their operations at 70%. The Bureau should then be given the authority to set its fees to recover that percentage of its total expenditures. This percentage would recognize the bureau's pre-packaged commodities function which is of direct benefit to the consumer, but does not generate any income and that portion of the scales and measurement devices function that protect the consumer.

Benefit

Implementation of the recommendation could result in increased revenue of approximately \$120,000 if the recovery percentage was set at the 1974 rate using 1982 FY expenditures as a base. 1982 FY expenditures x 70% - 1982 expenditures x 1981

rate:  $(387,332 \times .70) - (387,332 \times .39) = \$120,000$

ADDITIONAL INFORMATION  
 WEIGHTS AND MEASURES BUREAU  
 1974-1981  
 Thousands \$

STATE FILES  
 Team 4  
 Report #15a  
 4/23/82  
 III-2

Year	License Fees Scales (1)	% Total Expend.	License Fees (1) Petroleum Devices	% Total Expend.	Misc. Income	Fees (1)	% Total Expend.	Total (1) Income	Total (2) Expend.
1974	\$63.7	43	\$32.9	22	\$9.1		6	\$105.7	\$148.9
1975	66.0	41	32.5	20	9.1		6	107.6	159.3
1976	66.5	35	33.3	17	9.4		5	109.2	190.9
1977	68.0	35	33.3	17	9.0		5	110.3	197.1
1978	68.5	29	47.6 (3)	20	8.2		3	124.3	237.0
1979	68.7	27	48.0	19	9.7		4	126.4	255.6
1980	68.4	24	46.6	17	4.7 (4)		2	119.7	280.0
1981	68.2 (5)	22	46.4	15	6.6 (5)		2	121.2(5)	310.2

(1) Calendar year income

(2) Fiscal year expenditures

(3) License fees were adjusted by legislature

(4) Budget constraints restricted services

(5) May increase slightly due to 1981 fees collected in 1982

HOUSE BILL NO. 701  
(SUBSTITUTE BILL)

INTRODUCED BY FAGG, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE FEES FOR THE SUPERVISION AND EXAMINATION OF BANKS; AMENDING SECTION 32-1-213, MCA; PROVIDING-FOR-RULEMAKING-AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Amend House Bill No. 701, Third Reading Bill, by striking everything after the enacting clause and inserting:

Section 1. Section 32-1-213, MCA, is amended to read:

"32-1-213. Payments to be made by banks, investment companies, and trust companies. For the credit of the general fund of the state, each bank, trust company, or investment company under the supervision of the department shall pay to the state treasurer, on or before June 30 of each year, a supervision fee of ~~\$400~~ \$500.

An examination fee ~~of 12-cents~~ of 14 cents for each \$1,000 of total assets as of the date of the examination shall be paid at the conclusion of the examination.

Section 2. Effective date. This act is effective on passage and approval.

-End-

State Auditor - Insurance Department  
Testimony - HB 464

This is the model bill drafted by the National Association of Insurance Commissioners (NAIC). The act provides for the issuance of variable life and annuity contracts and enables the Insurance Commissioner to establish certain guidelines for the regulation of such products.

Most jurisdictions approve these products. Thirty two states have adopted the NAIC model variable law or similar laws. Thirteen other states and the District of Columbia have adopted modified versions of the model or independent legislation. Texas and Georgia have retained much of the model language but make separate provisions for life insurance and annuities. Only a few states, including Montana, have no legislation on this subject. We have contacted the states which authorize the sale of these products. Of those responding most said they had virtually no problems with this legislation.

Variable life insurance contracts have death benefits which increase or decrease depending on investment results. In no event, will the death benefit fall below a guaranteed minimum equal to the face amount of insurance specified in the policy. Variable life insurance policies have cash values which also increase or decrease depending on investment results but there is no guaranteed minimum cash value.

Variable annuities have annuity benefits which vary according to the investment experience of an account maintained by the insurer.

This legislation, in conjunction with the enactment of regulations, based on the NAIC Model will give the Insurance Department effective control of these products for the protection of Montana Residents.

We feel that we should allow the use of these products in Montana; if the public wants to buy the products they should have the opportunity.

# STATE POSITIONS RELATIVE TO THE MODEL VARIABLE CONTRACT LAW

32 states have adopted the NAIC Model Variable Contract Law, or similar laws. 13 other states and the District of Columbia have adopted either significantly modified versions of the model, or independent legislation in this area. Of that group of states, Georgia and Texas have retained much of the model language, but have separate provisions for life insurance and for annuities. Five states, Indiana, Montana, New Mexico, Rhode Island, and Utah have no legislation in this area. A tabulation of state positions appears below.

State	Adopted NAIC Model		Other Legislative or Administrative Action
	Yes	No	
Alabama	Title 28A, Chapter 34 Sections 754-759, effective January 1, 1972		
Alaska		X	Title 21, Chapter 21, Section 21.21.320, effective 1966
Arizona		X	Title 20, Chapter 3, Section 20-536.01, effective 1967/1970
Arkansas	Title 66, Chapter 33, Sections 66-3337 through 66-3340, effective 1975		
California	Part 2, Chapter 5, Article 5, Sections 10506-10506.1, effective 1964, amended 1968, 1971		
Colorado	Title 10, Article 7, Sections 10-7-402 through 10-7-405, effective 1963		
Connecticut	Title 38, Chapter 680, Sections 38-154a through 38-155, effective 1967/1971		
Delaware	Title 18, Part 1, Chapter 29, Section 2932, effective 1953		
D.C.		X	Title 35, Chapter 5, Section 35-541
Florida		X	Title XXXV, Chapter 627, Sections 627.801-627.807
Georgia		X	Title 56, Chapter 56-10, Section 56-1038(life) and 56-1040(annuities), effective 1969
Hawaii	Title 24, Chapter 431, Section 431-563, effective October 27, 1969		
Idaho	Title 41, Chapter 19, Sections 41-1936 through 41-1939, effective		
Illinois	Chapter 73, Article XIV½, Sections 857.21 through 857.62		
Indiana		X	None to date
Iowa	Title XX Chapter 508A, Sections 508A.1-508A.5, effective 1973		
Kansas	Chapter 40, Article 4, Sections 40-436 through 40-438, effective 1967/1972		
Kentucky	Chapter 304, Subtitle 15, Section 304.5-390		
Louisiana	Title 22, Part XXXII, Section 1500, effective 1966		
Maine	Title 24-A, Chapter 29, Section 2537, effective 1970		
Maryland		X	Article 48A, Subtitle 21, Section 362, effective 1970 1973

Chart Source

Official NAIC Model Insurance Laws,  
Regulations and Guidelines,  
Volume I Page 260-4.

State	Adopted NAIC Model		Other Legislative or Administrative Action
	Yes	No	
Massachusetts	Mass. Gen. Laws c. 175, Section 132G, 132H, effective June 11, 1968		
Michigan		X	Chapter 500, Chapter 9, Section 500.925, effective 1963/1974
Minnesota	Chapter 61A, Sections 61A.13-61A.21, effective 1969		
Mississippi	Title 83, Chapter 7, Sections 83-7-27 through 83-7-49, effective 1968		
Missouri	Title XXIV, Chapter 376, Section 376.309, effective 1969		
Montana		X	None to date
Nebraska		X	Chapter 44, Article 22, Sections 44-2201 through 44-2221, effective 1969
Nevada	Title 57, Chapter 688A, Section 688A.390, effective 1971		
New Hampshire		X	Chapter 408, Sections 408:23-408:41, effective 1968
New Jersey	Title 173, Subtitle 3, Sections 17B:28-1 through 17B:28-14, effective 1971		
New Mexico		X	None to date
New York	Article IXa, Section 227, effective 1971		
North Carolina	Chapter 58, Article 6, Section 58-79.2, effective 1965/1973		
North Dakota	Title 26, Chapter 26-11.1, Sections 26-11.1-01 through 26-11.1-05, effective 1971		
Ohio		X	Title XXXIX, Chapter 3905, Section 3905.20, effective 1959
Oklahoma	Title 36, Chapter 2, Section 6061, effective 1959		
Oregon	Sections 733.220-733.230, effective 1973		
Pennsylvania	Chapter 2, Article IVa, Section 406.2, effective 1967/1974		
Rhode Island		X	None to date
South Carolina	Title 38, Chapter 33, Sections 38-33-10 through 38-33-50, effective 1968		
South Dakota	Title 58, Chapter 58-28, Sections 58-28-13 through 58-28-31, effective January 1, 1977		
Tennessee	Title 56, Chapter 3, Sections 56-312 through 56-320, effective 1967		
Texas		X	Articles 3.72 and 3.73, effective 1971
Utah		X	None to date
Vermont	Title 8, Subchapter 6, Sections 3855-3859, effective 1971		
Virginia		X	Title 38.1, Chapter 8, Sections 38.1-408, and 38.1-443, effective 1966/1976
Washington	Title 48, Chapter 48.18A, Sections 48.18A.010-78.18A.900, effective 1969		

Model Regulation Service - March 1976

State	Adopted NAIC Model		Other Legislative or Administrative Action
	Yes	No	
West Virginia	Chapter 33, Article 13A, Sections 33-13A-1 through 33-13A-5, effective July 5, 1977		
Wisconsin		X	Section 611.25, Wisconsin Statutes effective 1971
Wyoming	Title 26.1, Chapter 16, Section 26.1-367, effective 1967		
Puerto Rico*		X	None to date
Virgin Island*		X	None to date

\*Research not yet verified



MILLIMAN & ROBERTSON, INC.  
CONSULTING ACTUARIES

TWO PENNSYLVANIA PLAZA NEW YORK, N. Y. 10001

212/279-7166

February 1, 1983

Ms. Norma E. Seiffert  
Chief Deputy Insurance Commissioner  
Montana Insurance Department  
P.O. Box 4009  
Capitol Station  
Helena, Montana 59620

Dear Ms. Seiffert:

At the request of Life of Montana, I have prepared the attached statement concerning the Model Variable Contracts law; I understand that hearings concerning legislation to enact this law in Montana are scheduled shortly.

By way of background, I should say that I have been involved with the development of many different types of contracts and separate accounts which have been put into effect under the versions of this statute that are in force in other states, and have also worked on insurance company filings with the Securities and Exchange Commission in order to obtain the Commission's acceptance of such products. As my statement indicates, I believe that the types of products which the model variable contract law enables are, in general, consumer-oriented products which should be made available to purchasers of insurance and which are available, in varying degrees, in almost every state.

I will be happy to provide further information if it would be helpful to you.

Yours sincerely,

Daniel J. McCarthy

DJMCC/m  
attachment

1983 FEB 14 11 40 AM '83

## THE NAIC MODEL VARIABLE CONTRACT LAW

The Model Variable Contract Law, developed in 1970 by the National Association of Insurance Commissioners, achieves two separate objectives.

First, for domestic companies, the law enables the establishment of separate accounts. Such accounts are typically used for any of the following purposes:

1. To hold assets invested in "unit investment trusts" or "management companies" (both terms having meanings established by the Investment Company Act of 1940) for the funding of variable annuities or variable life insurance contracts.
2. To hold assets invested, at the discretion of corporate pension managers holding group annuity contracts, in special funds which further the objectives of the pension plan (the earliest accounts of this type were common stock funds; more recently, such funds as long-term bond funds, money market funds, and - in certain specialized cases - real estate funds have come into use).
3. To hold assets associated with "guaranteed investment contracts"; these contracts, widely used in

the group pension field, enable a corporate pension policyholder to invest a portion of the pension fund assets in a contract providing a specific rate of interest for a specific time period. (When separate accounts are used for "fixed dollar" benefits of the type described in this paragraph, states typically require a company to agree that, for solvency testing purposes, the separate account and the general account are considered as one.)

Second, for all companies operating in the state, the law enables the approval of contracts of the types described in (1) through (3) above for sale to the public in the state involved (in this case, Montana).

For many years, the issue of variable annuity contracts was restricted to a fairly small number of companies, and the issue of variable life contracts to fewer yet. However, this pattern has been changing and can be expected to change more rapidly in the coming years. Among the reasons for the changes are:

1. The sale of insurance and annuity products by sales representatives of securities brokerage firms.
2. The desire of many purchasers to have a more direct role in designating the medium of investment of their

insurance funds than is possible in other contracts.

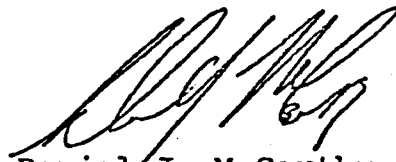
3. The popularity of "Universal Life" contracts, which is leading to the development of a product called "Universal variable life" or, more simply, "Universal Life II". This product, for which the NAIC developed a model regulation at the end of 1982, is expected to be offered for sale by 1984 after companies and industry groups develop ways of offering it in a manner which complies with federal securities laws.

Products offered under the variable contract law are consumer-oriented products. In particular, variable annuities and variable life insurance contracts are subject to stringent SEC regulation concerning sales loads and other charges, and they tend to be lower cost contracts (from the consumer's point of view) than their counterparts which are not subject to federal regulation. Other contracts (such as the pension contracts previously referred to) which would be authorized by the passage of a variable contract law are most frequently used in the corporate pension (group annuity) field, which is very competitive.

Only four states, including Montana, have not passed either the model variable contract law or some other legislation designed to accomplish the same purpose. In certain of these states, a

similar result has been achieved by regulation or administrative ruling; however, the passage of the law sets a framework within which the Insurance Commission can provide appropriate regulation, and is much more desirable than regulation in the absence of law.

Even if domestic companies have no current plans to establish separate accounts or offer products requiring the use of such accounts, there is still a benefit to Montana consumers from the enactment of this legislation, because it will provide the Insurance Commission with a basis upon which to approve life insurance and annuity products involving separate accounts, and thereby to broaden the kinds of insurance vehicles available to meet the needs of consumers.

A handwritten signature in dark ink, appearing to read 'D. J. McCarthy', with a stylized flourish at the end.

Daniel J. McCarthy, F.S.A.

Testimony of the Montana Insurance Department  
on House Bill 465

This act is a so called "housekeeping bill" to amend certain statutes which we have found to be inconsistent with other statutes and/or troublesome to administer. This housekeeping bill is also intended to correct an inadvertant change in the law which occurred during during the 1981 legislative session.

age 2, lines -9  
Section 1. 33-1-501 - Filing and approval of forms. The section deletes an exemption from filing for "specifically rated inland marine risks." This exemption has been a source of problems for the department. The department has been unable to adequately define the terms "specially rated inland marine". Therefore, the companies have been claiming that this exclusion applies to a large range of policies which we feel it is in the public interest to have filed.

age 4, lines 3-25  
Section 2. 33-2-119. An amendment to make revocation or suspension of an insurer's certificate of authority discretionary when the insurer has reinsured 90% of its risks in another insurer. This section was amended in 1981 to prevent fronting, in which an insurer fronted for, or reinsured its entire risk in, another company which did not meet our licensing requirements and which did not have a Montana certificate of authority. Using this process companies could circumvent compliance with Montana law. For example, in 1980, the Department discovered that a company had reinsured all its risks in an offshore Bermuda captive which was not licensed in Montana.

age 6, lines -8  
Because the 1981 law was mandatory and not discretionary, it affected legitimate and bonafide reinsurance agreements. The enactment of the law inadvertantly affected legitimate and bonafide reinsurance agreements. The Department then made the determination that any direct writer must retain at least 10% of the risks written.

At least one group did have a legitimate program of pooling its risks among the members and affiliates in the group. They had problems with the 10% requirement on that it was not always financially sound to retain at least 10% of each risk in some of the smaller companies. Because the law is mandatory and not discretionary, we are, under the present statute prohibiting a business practice which affects many legitimate companies and may in some cases be beneficial to Montana policyholders. Backing risks by more assets within a group is desirable in some cases. We need the discretion to evaluate each case and make a decision based on the particular facts involved.

Section 3. 33-2-705. Report on premiums and other consideration - tax. When the new definition of marine insurance was passed by the 1981 legislature the premium tax section 33-2-705(4) was mistakenly amended to include inland marine. Prior to 1981, inland marine had been taxed at 2 3/4% of net premiums written. The 1981 amendment included inland marine to be taxed with wet marine at 3/4 of 1% of gross underwriting profit. Therefore the tax rate and tax base are less than they were prior to 1981. This amendment is proposed to return the tax rate and tax base to the level they were at prior to the inadvertent change in 1981.

Section 4. 33-2-707. Pre-emption of taxing. Amendment to make the state of Montana's pre-emption of taxation in matters relating to insurance specifically applicable to self-governing local governments. This was made necessary by a recent Attorney General's Opinion which stated that the mere existence of a state statute pre-empting taxation of a profession or industry by a municipality or city does not necessarily prevent a self governing municipality from imposing such a tax. However the Attorney General did say a statute which made such a prohibition expressly applicable to self-governing municipalities would be applicable to such self-governing local governments.

Section 5. 33-2-1211. Bulk Reinsurance - Foreign or alien insurers. An amendment to make hearings on the approval of bulk reinsurance agreements of foreign or alien insurers discretionary. The Montana Insurance Department has the power to review bulk reinsurance agreements of foreign or alien insurers before they become effective. In many cases, the transaction is routine or has already been reviewed by another state. This amendment would give the commissioner the discretion to hold a hearing if he considers it necessary. It outlines the factors to be considered in deciding whether a hearing is necessary.

Section 6. 33-16-203. Rates filed. Amendment to delete the requirement that insurance companies file supporting data along with rates in the Insurance Commissioner's office. The Montana Insurance Department does not regulate rates unless they are excessive or inadequate. Further we do not have an actuarial staff person to evaluate the supporting data so the requirement that supporting data be filed simply results in unnecessary paper work.

Section 7. 33-17-102(1)(a) Amendment to clarify that adjusters act on behalf of the insurer. The Montana Insurance Department has never allowed the licensing of public adjusters who for a fee settle claims on behalf of consumers. We believe that members of the public are best served by having a licensed attorney, who can file suit if necessary, to settle claims on their behalf. An attorney would, in order to be licensed, have the minimum skills necessary to assist the consumer. Insurance companies hire adjusters on their behalf, but insurance companies have the expertise to evaluate the qualifications of the adjuster. This amendment simply clarifies existing departmental practice. Section 7 also provides a definition of managing general agent.

Section 8. 33-17-103, Section 9. 33-17-201. Amendment to clarify that persons acting as managing general agents must be licensed as agents and appointed by the insurers represented. Managing general



agents are independent contractors who hire, fire and train local agents. Many of them do some soliciting of insurance. Most are compensated on a commission basis, that is their commission is based on the volume of premium written. The Montana Insurance Department has been requiring that managing general agents be licensed and appointed in the same fashion as regular agents. An exception to the requirement that managing general agents be licensed as insurance agents and appointed by the companies represented, is made for supervising salaried officers, supervising salaried employees and other persons or entities controlled by the insurer provided they solicit only with, or in conjunction with, duly licensed agents of the insurer. This amendment will clarify our authority to license managing general agents and will clarify the exemption to the licensing requirement.

Section 10. 33-19-304. Information concerning previous adverse underwriting decisions. An amendment to clarify that an inquiry is necessary both when information is requested concerning a previous adverse underwriting decision and when information is requested concerning coverage obtained through a residual market mechanism. The statute as formerly written resulted in some confusion because it was not clear that an inquiry was necessary under subsection 1 as well as under subsection 2.

Section 11. 33-20-1210. Amendment to provide that the amount of an individual policy provided upon termination of a group life policy may be limited to the smaller of 10,000 or the amount of protection ceasing because of the termination or amendment of the policy less the amount of life insurance for which the policyholder becomes eligible within 31 days. The prior wording stated "the amount of such individual policy may not exceed the smaller of (1) the amount of the person's life insurance protection ceasing because of termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible

under any group policy issued or reinstated by the same or another insurer within 31 days after such termination and (2) 10,000. The word "or" makes sense in conjunction with the words "smaller of" and we have been interpreting this section as if it said "or".

Section 12. 33-22-229. Conformity with state statutes. Amendment  
to make conformity of policy provisions; to state statutes mandatory.

/me  
LEGIS-GCB-IL1,2,3,4,5

Section 7 33-17-102

(1)(c) Public adjuster means an adjuster employed by and representing the interests of the insured. No person or entity shall act as a public adjuster in this state.

POSITION OF AMERICAN COUNCIL OF LIFE INSURANCE  
ON MONTANA H.B. 465

---

Statement of Position

H.B. 465 proposes a number of changes to the Montana Insurance Code and, for the majority of those changes, the Council appears as a proponent. With respect to one change, the Council urges that either the change not be made or that substitute language be inserted. This recommendation concerns Section 1 of the bill which would amend Section 33-1-501 of the Montana Insurance Code. The Council submits that the modification proposed in lines 3 and 4 of page 2 of the bill not be made.

Analysis

The modification proposed on page 2 of the bill would require that any certificate of insurance delivered or issued for delivery in Montana would have to be filed with and approved by the Montana Insurance Commissioner. Curiously, Subsection 6 of Section 33-1-501, MCA, exempts "policies or contracts not issued for delivery in this state or delivered in this state" from the form filing requirement. The result of these two provisions is that an insurance company would be able to issue a group contract in another state without seeking any prior approval by the Montana Insurance Department; however, the certificates of insurance which summarize parts of that group contract would have to be filed with the Montana Department if one such certificate were to be delivered in Montana. Such a requirement is far more onerous than may appear at first blush.

The standard practice of insurance companies issuing group contracts is to provide the certificates describing that contract to the employer/policyholder. (In fact, Insurance Codes expressly provide for this practice. See Section 33-20-1208, MCA.) The employer then assumes the responsibility for providing the certificates to all employees covered under the group plan. Let us consider the following situation which is not uncommon to group contracts:

Insurance Company A located in Minnesota issues a group contract to Company B located in South Dakota.

The group contract would have to be filed with and approved by the South Dakota Insurance Department.

Insurance Company A sends the certificates of insurance to Company B for distribution to Company B's covered employees. Company B has a field office in Billings, Montana, which is staffed by three employees, each of whom is covered by the group contract and each of whom receives a certificate of insurance.

Should H.B. 465 become law, the three certificates in the above example would have to be filed with and approved by the Montana Insurance Department. That insurance department has no jurisdiction over the contents of the master policy and since the certificates are distributed by the employer, Insurance Company A has no way of knowing that three certificates were distributed by the employer to employees in Montana. Should this situation be repeated

hundreds of times, the only alternative available to insurance companies is to submit every group certificate to the Montana Department for approval. It is difficult to imagine any benefit which would be derived by this practice and the disadvantages would include additional administrative expense for both the Department of Insurance and the insurance companies.

Presumably, the Department would review each certificate before approving that form. However, the parameters of that review are completely undefined since the Montana Insurance Department would have no control over the contents of the group policy. The contents of the certificate (which are based upon the policy) would also be beyond the Department's jurisdiction. Since the insurance company has no obligation to file the group contract in Montana, the Department would be unable to compare the certificate with the policy. In short, this bill would present substantial economic burdens to both insurers and to the state without any demonstrable advantage to the Montana consumer.

#### Alternative

The Council certainly recognizes that there may be occasions when the Department may on a case-by-case basis wish to examine a group insurance certificate. In order to grant the Department this authority without becoming entangled in an administrative jungle, the following language could be inserted as Subsection 7 of Section 33-1-501, MCA, and as a substitute for the proposed change in the first sentence of that section:

*INSERT  
AT P<sup>4</sup> following  
inc 8 as a  
new subsection  
(7).*

"(7) As to group insurance policies effectuated and delivered outside this state, but covering persons resident in this state, group certificates which are delivered or issued for delivery in this state shall be filed with the commissioner upon his request."

The Council suggests that the use of this alternative language would provide the insurance department with sufficient authority to examine certificates of insurance while avoiding a burdensome and costly procedure which would provide little benefit to the citizens of Montana.

CITY OF HELENA

TESTIMONY ON HB 465

There are two bills before this Legislature (HB 465, and HB 699) that include a proposal to extend the prohibition of local government licensing to those local governments with self government powers. We did not testify against these bills in the House of Representatives committee hearings because this change was a minor portion of a larger bill, and was not noticed in time.

While we agree that local governments should not be regulating the industries involved through ethical or professional requirements for licensing, there is no reason that these businesses should be exempt from a local general business license. Local governments issue general business licenses under police powers and to aid in financing the extra costs associated with services provided to business areas. The exemption of these businesses does not seem appropriate where their neighbor's business, for example a retail store, is required to be licensed.

The local government licenses in no way duplicate or expand the regulatory function performed by the State in its licensing requirements for these professions.

The local government also does not license the individuals but the business itself.

We recommend, therefore, that the provision prohibiting licensing by local governments in each of these bills be amended out in its entirety.

We are not opposed to any other sections of these bills.

The amendments we propose are as shown on the attached sheet.



PROPOSED AMENDMENTS  
TO HB 465

Page 1, Title of Bill, Line 10, and 11

Following: written; Delete "Clarifying that self-governing local governments may not tax or license insurers or agents."

Page 1, Title of Bill, Line 10, and 11

Following: written; Insert "Removing prohibition of local government from requiring business licenses;"

Page 1, Title of Bill, Line 20

Following: 33-2-705, Delete "33-2-707,"

Page 1, Title of Bill, Line 22

Following: 33-22-229, MCA. Add "Repealing section 33-2-707."

Page 11, Lines 11 through 22

Delete entire Section 4 (and Section "33-2-707.") from the proposed bill.

CITY OF BILLINGS  
TESTIMONY ON HB 465

There are two bills before this Legislature (HB 465 and HB 699) that include a proposal to extend the prohibition of local government licensing to those local governments with self-government powers. We did not testify against these bills in the House of Representatives committee hearings because this change was a minor portion of a larger bill and was not noticed in time.

While we agree that local governments should not be regulating the industries involved through ethical or professional standards for licensing, there is no reason that these businesses should be exempt from a local general business tax. Local self-governments use general business taxes under police powers and to aid in financing of local government. The exemption of these businesses does not seem appropriate where their neighbor's business, for example a retail store, is required to be licensed.

During 1982, Billings revised its business tax to include all businesses, eliminating the previous "untouchables", so that this tax is paid on a system of equity. This was accomplished by the use of self-government powers. HB 465 would be a first step toward developing a new list of "untouchable" businesses that would be exempt from local taxes.

The local government tax and/or license in no way duplicates or expands the regulatory function performed by the State in its licensing requirements for these professions.

The local governments do not tax or license the individuals, but the business itself.

We recommend, therefore, that the provision prohibiting licensing by local governments in each of these bills be amended out in its entirety.

We are not opposed to any other sections of these bills.

The amendment we propose on HB 465 is shown on the attached sheet.

PROPOSED AMENDMENTS  
TO HB 465

Page 1, Title of Bill, Line 10, and 11

Following: written; Delete "Clarifying that self-governing local governments may not tax or license insurers or agents."

Page 1, Title of Bill, Line 10, and 11

Following: written; Insert "Removing prohibition of local government from requiring business licenses;"

Page 1, Title of Bill, Line 20

Following: 33-2-705, Delete "33-2-707,"

Page 1, Title of Bill, Line 22

Following: 33-22-229, MCA. Add "Repealing section 33-2-707."

Page 11, Lines 11 through 22

Delete entire Section 4 (and Section "33-2-707.") from the proposed bill.

3-14-83

COMMITTEE ON Business & Industry

# VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Norma Jeffert	Mt. Ins Repl	HB 464		
Samuel Mitchell	MT Ins. Dept	HB 465	✓	
Keith Wimmer	MT. Bankers Assn	HB 464	✓	
John Caddy	" " "	465		
Roger McGlenn	INDEPENDENT INSURANCE AGENTS ASSOCIATION OF MT.	H 3701		
LES LOBLE	Am. Council of LIFE INS	465	✓	
Bob Wood	D of Commerce	701	AMEND	✓

(Please leave prepared statement with Secretary)

(This sheet to be used by those testifying on a bill.) 610 & 696

NAME: Gary Delano DATE: 3-14-83

ADDRESS: 1424 9th ave.

PHONE: 449-3163

REPRESENTING WHOM? Wt. & Man.

APPEARING ON WHICH PROPOSAL HB. 670 & HB. 696

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: None

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: ROBERT J. WOOD DATE: MARCH 14

ADDRESS: DEPT. OF COMMERCE

PHONE: 449-3494

REPRESENTING WHOM? Commerce

APPEARING ON WHICH PROPOSAL: HB 701

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: The department Supports the attempt  
of the Governor's Council on Management  
to have fees raised which Support the  
Program.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: JOHN CADDY DATE: 3-14-83

ADDRESS: 706 HARRISON

PHONE: 443-3536

REPRESENTING WHOM? MT BANKERS ASSN

APPEARING ON WHICH PROPOSAL: HB 701

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? X OPPOSE? \_\_\_\_\_

COMMENT: PROPOSE SUBSTITUTE BILL

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Jayne Mitchell DATE: 3/14/83

ADDRESS: Mont Ins Dept Mitchell Bld Helena MT

PHONE: 449-2996

REPRESENTING WHOM? Mont Ins Dept

APPEARING ON WHICH PROPOSAL: HB 464, 465

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



(This sheet to be used by those testifying on a bill.)

NAME: LESTER H. LOBLE II DATE: 3/14/83

ADDRESS: P.O. Box 176 Helena

PHONE: 442-0070

REPRESENTING WHOM? Am. Council of Life Insurance

APPEARING ON WHICH PROPOSAL: \_\_\_\_\_

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? ☒ OPPOSE? \_\_\_\_\_

COMMENT: ATTACHED

Restore EXISTING STATUTORY LANGUAGE on p2, line 3;  
delete amendatory language on p2, line 4.

Add amendment on page 4 of Attached Statement by  
inserting that language on p4, following line 8  
as a new ~~sub~~ subsection (7).

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Roger McGLENN DATE: 3-14-83

ADDRESS: Rm 5593

PHONE: 442-9555

REPRESENTING WHOM? INDEPENDENT INSURANCE AGENTS ASSOC. OF MD

APPEARING ON WHICH PROPOSAL: HB-465

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: WE RISE IN SUPPORT OF HB-465

AS IT IS WRITTEN. WE FEEL THIS BILL IS  
LARGELY HOUSEKEEPING IN NATURE.

WE WOULD OPPOSE AN AMENDMENT TO TAKE  
SELF-GOVERNING-BODIES OUT OF THE LIST  
PROHIBITED FROM CHARGING TAXES AND LICENSING  
INSURORS AND THEIR AGENTS.

WE WOULD SUPPORT THE AMENDMENT  
OFFERED BY THE DEPARTMENT ON PUBLIC ATTORNEYS.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Bill Venwolf DATE: 3-14-83

ADDRESS: Helena, MT.

PHONE: 442-9920

REPRESENTING WHOM? City of Helena

APPEARING ON WHICH PROPOSAL: HB 465

DO YOU: SUPPORT?            AMEND? X OPPOSE?           

COMMENT: As shown in the attached statement.

Amend to remove the prohibition for licensing by  
local governments.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Al Thelen DATE: \_\_\_\_\_

ADDRESS: Po Box 1148

PHONE: \_\_\_\_\_

REPRESENTING WHOM? city of Bellevue

APPEARING ON WHICH PROPOSAL: \_\_\_\_\_

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? ☒ OPPOSE? \_\_\_\_\_

COMMENT: We support the bill with an amendment to eliminate the restriction that prohibits local govt. from imposing a tax on insurance companies

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.