

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on February 20, 1991, at 7:15 a.m.

ROLL CALL

Members Present:

Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

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

EXECUTIVE ACTION ON HOUSE BILL 863

Motion: REP. SHEILA RICE, HD 36, Great Falls, moved HB 863 Do Pass.

Motion: REP. SHEILA RICE moved HB 863 BE AMENDED. EXHIBIT 1.

REP. RICE said the first three amendments are stylistic and don't change the bill much. Amendment #4 subsection (c) is added to ensure SBIC will be statewide. Amendment #5 is technical. Amendment #6, Page 17, deals with the tax credit. This allows new credits that may become available through reversion or if the Legislature provides more, they will be captured in the statewide SBIC. Amendments #7 and #8 are technical. Amendment #9 adds some language to be certain that the investments are qualified

investments, which is a timing thing. Tax credits from Montana need to be used by a certain time. Federal dollars have a longer period of time in which to be used.

Discussion:

REP. NORM WALLIN, HD 78, Bozeman, asked if this was Federal Deposit Insurance. Evan Barrett, Butte Local Development Corporation, Butte, explained these are Federal debentures. The Small Business Administration sells debentures that create a pool of capital from which the SBIC is allowed to borrow. It is loaned \$3 federal money for every \$1 of local monies. The money is then loaned out. Three-fourths of the money is federal money from the sale of debentures.

REP. WALLIN asked if there is any guarantee behind this borrowing from the Federal Government. EXHIBIT 2 explains The Small Business Investment Company (SBIC) program. Mr. Barrett said essentially the funds are borrowed by the SBIC for an extended period of time.

REP. WALLIN said it doesn't operate like a bank. Mr. Barrett said there is \$12 million available. It is a small business bank that is backed by the SBA monies to make loans that might be riskier than a bank would make. Basically, banking principles apply.

REP. WALLIN asked if tax credits accrue from losses. Mr. Barrett said tax credits were previously allocated by the Legislature for the use of capital to be an enhancement to capture the federal money. If there are any additional tax credits they could go into the capital companies.

Mr. Barrett corrected REP. RICE'S statement that if there are any additional tax credits they will be allocated according to the statute by the Board of Investments. An amendment on Page 7 would read, "a transaction in the securities of a certified Montana capital company".

Substitute Motion/Vote: REP. SHEILA RICE moved to amend HB 863 as outlined in EXHIBIT 3 (an updated version of amendments discussed as EXHIBIT 1). Motion CARRIED unanimously.

Motion/Vote: REP. SHEILA RICE moved HB 863 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 169

REP. TIM DOWELL, HD 5, Kalispell, said there are loggers in the business who feel they are not being treated fairly at the mills. Problems were related during testimony. A proposed new gray bill addresses this. The cost of the program is based on the value of a load of logs. 1,000 board feet of logs might have a value of \$180. Seven cents each on the value of each 1,000 board feet

of logs is to be assessed to the logger and the mill to pay for this program. Even if the loggers were to pay both of the seven cent fees, the resulting amount of money would be 7/10 of 1% of the value of that load of logs, which isn't anything to be excited about.

REP. DON LARSON thought the bill is fine except it should have a sunset provision after a couple of years. The money would go to the Department of Commerce (DOC). There isn't a new fund or a new bureaucracy created. There will be sufficient data to see if there is a need for a permanent check scaling system. Another amendment is to reduce the fine against a mill for cheating on a scale from \$5,000 to \$1,000 for a second violation and from \$10,000 to \$5,000 on a third or subsequent violation.

REP. STEVE BENEDICT asked CHAIRMAN BACHINI if the Committee could move the amendments conceptually. REP. BENEDICT said it was his understanding that the gray bill was drafted to completely replace the original bill. Mr. Verdon explained the gray bill does not exist at this time. After the Committee accepts the concept, the amendments can be added to it. The only amendment necessary is to strike everything after the enacting clause of the original HB 169 and insert the new material to replace the original bill. **EXHIBIT 4.**

REP. STELLA JEAN HANSEN said if there is a two year sunset on this, there should be a large fine retained, or else sunset it in four years. REP. BENEDICT said he had discussed this with REP. LARSON at great length. For the large mills, the \$10,000 fine would be a significant deterrent. The small mills could not handle a \$10,000 fine. It would put them out of business. A \$5,000 fine is a very healthy fine to a small mill. They tried to come up with a fine that would be strong enough to make them respect it without killing them. REP. S.J. HANSEN thought a timber company would think this was an annoyance. A fine shouldn't be any more of a burden to a small company than a large company.

REP. BENEDICT addressed the fine issue. The fine is per load, per infraction. It could be \$5,000 per load.

REP. ELLIS said he would like to reiterate that some of the scaling procedure is judgment or "art call".

REP. TOM KILPATRICK asked to divide the amendment into two parts, the sunset provision and the fine clauses. He said if the fine is reduced, there is an admission that there will be violations.

Motion: REP. KILPATRICK made a substitute motion to amend the amount of the fine.

REP. WALLIN asked if they ever were paid more for a load of logs than they originally planned. REP. LARSON said it was unlikely. There is so much over-run. REP. BENEDICT said there were

representatives from MLA who could answer this question. He didn't want the fine to be cut. REP. WALLIN asked Mr. Keith if a logger was ever paid for more logs than are actually on the load. Mr. Keith said yes, it can happen.

Vote: REP. KILPATRICK'S amendment to reduce the fine CARRIED, with REPS. STELLA JEAN HANSEN, KILPATRICK, and SCOTT voting No.

Motion/Vote: REP. LARSON moved to adopt the two year sunset amendment. Motion CARRIED with REPS. STELLA JEAN HANSEN, STEPPLER, and SCOTT voting No.

Mr. Verdon explained the gray bill is the substitute bill for HB 169.

Motion/Vote: REP. DOWELL moved the contents of the substitute bill as amended be adopted. Motion CARRIED with REPS. BARNETT and BENEDICT voting No.

HEARING ON HOUSE BILL 672

REP. RUSSELL FAGG, HD 89, Billings, said this bill is a compromise bill drafted by the State Auditor's office, and is introduced at their request. It is an Act to generally revise the laws relating to insurance; establishing consumer protection measures relating to relationships with long-term care facilities, premium increases, and preexisting conditions; and amending several sections in Chapter 33, MCA.

He met with Larry Akey, Life Insurance Industry, and Tom Hopgood, Health Insurance Association of America. The bill has been amended to the satisfaction of the State Auditor's office and the insurance companies. EXHIBIT 5. It is basically a consumer protection bill the insurance companies can support. Pre-existing conditions referred to on Page 2, Section 3, line 13 is changed from 6 months to 12 months following the effective date of coverage of an insured person should a health problem recur. Basically, HB 672 says an insurance company cannot write someone out of an insurance policy for a condition they haven't had for the past five years if it doesn't recur within 12 months of the time the insurance policy is kicked in. The time is going to be changed to twelve months; the reason is for pregnancy purposes. This got very controversial and resulted in the proposed amendments shown in EXHIBIT 5.

Proponents' Testimony:

Dave Barnhill, on behalf of the Commissioner of Insurance, said this bill has the purpose of advancing in important ways the interest of consumers. Some of the provisions are the result of consumer complaints to the office. Others are the result of their research of the Code which revealed the potential for problems. EXHIBIT 6.

Closing by the Sponsor:

REP. FAGG pointed out that Tom Hopgood and Larry Akey were in support of HB 672.

HEARING ON HOUSE BILL 667

Presentation and Opening by Sponsor:

REP. PAULA DARKO, HD 2, Libby, explained HB 667 is an Act to allow the Board of Medical Examiners to hire additional staff and fund any additional position through an increase in the license fees paid by licensed physicians; amending Section 37-3-203, MCA; and providing an immediate effective date. It costs about \$25,000 per year at that time, and since then the workload has increased because of ongoing investigations and alleged problems within the profession. The Board of Medical Examiners has a lot of work to do.

Proponents' Testimony:

Patty England, Executive Secretary, Legal Counsel for the Board, said they need another person to assist them in some of their investigations. These investigations are critical to the public because of the physicians who have problems or are experiencing problems; for example, chemical dependency or chemical abuse, improper behavior, etc. Without proper staff, they cannot do the work in a timely manner. They are requesting they be allowed to assess extra fees on the doctors, and the doctors are willing to pay the fee to police their profession and all other professions that they regulate. The bill is self-explanatory. EXHIBIT 7.

Discussion:

REP. ROYAL JOHNSON said he has served on the Board of Medical Examiners. They do need to hire one more person. Currently, the Board of Medical Examiners is staffed by Patty England, Executive Director and Administrative Assistant, and one part-time secretary. They cannot do the investigative work that needs to be accomplished. During 1989, eight licenses were suspended or revoked. That was seven more than in the past three years. There are 43 investigations currently being done by the Board of Medical Examiners, primarily by Patty. That takes considerable legal time. What they really want is a paralegal person. The money for this bill does not come from the State. It comes from dues assessed the physicians and paid to the Board. The physicians have agreed to it, and the Board of Medical Examiners has agreed to it.

Questions from the Committee:

CHAIRMAN BACHINI said there are some corrections to make to the amendments. EXHIBIT 8. REP. DARKO explained the page number on the last two amendments is incorrect. It should read Page 2

instead of Page 1. **EXHIBIT 8A.** The last two amendments, #6 and #7, allow the Department to handle the hiring rather than the Board. They will take recommendations from the Board of Medical Examiners. There is a fiscal note attached to it. **Patty England** said there will be a graduated fee schedule rather than a flat fee. The doctors will pay proportionately.

REP. BENEDICT asked if it would be possible to insert an open-ended amendment to the bill to hire one staff person and fund an additional position. **REP. DARKO** said she would refer the question to **Patty England**. **Ms. England** said that would be agreeable. She said complaints to the Board of Medical Examiners have increased by 225% compared to June 1988 figures. The demands on the staff are increasing. The statistics show they are doing the job effectively, but as the greater number of complaints come in, obviously, the longer time it will take to get to attend to them. In the meantime, if there are serious problems with a doctor, the public may be in jeopardy.

REP. BENEDICT asked if the number of personnel in the medical community has grown in Montana. **Ms. England** said the number of doctors has been static, between 1350 and 1450 over the last two years. Right now there are 1339 active licensees, 395 out-of-state active licensees and 650 inactive licensees, 102 are retired, 47 are in the military, for a total of 2533 medical doctors in the State. There are 54 podiatrists, 61 acupuncturists, 148 nutritionists and 33 physician's assistants.

REP. PAVLOVICH asked how many doctors leave the State each year. According to his mail, there may not be any left. **Ms. England** said approximately 250 are lost every year. Not all come to the State. Some may plan to come eventually, many seek licensure because they are in the military and have to be licensed for some reason.

Closing by the Sponsor:

REP. DARKO reiterated the fee schedule system. The plan is to apply the fee increase proportionately to the amount the doctors pay as their license fee in proportion to the license fees paid by the other professions they license. The work load has really increased. She concurred in the proposed amendments.

HEARING ON HOUSE BILL 672 (Continued)

Proponents' Testimony:

Steve Brown, Blue Cross/Blue Shield, Helena, said they are a proponent of HB 672, and support the bill as amended. In addition, they would like to offer an amendment for consideration. **REP. FAGG** and the Commissioner's Office does not support this set of amendments. These deal with mandatory pregnancy coverage under Montana's Health Insurance Laws and

Unisex Law. What has developed is the issue of whether the Commissioner of Insurance has the authority to enforce the rules of the Montana Human Rights Commission, stating that if there are unisex laws, mandatory coverage for pregnancy must be included. This amendment would make it clear that the Commissioner of Insurance would have the authority to disapprove insurance forms that do not contain mandatory pregnancy coverage. EXHIBIT 5A. He urged adoption.

Tom Hopgood, Health Insurance Association of America, Helena, said they do not oppose the bill. They do not oppose the amendments offered by REP. FAGG, neither do they oppose the amendments offered by Blue Cross/Blue Shield.

Questions from the Committee:

REP. PAVLOVICH asked REP. FAGG if those were the amendments he did not concur in. REP. FAGG said he wasn't certain how they coincided with HB 388 and, until he had time to study HB 388, he opposed them. It was his understanding that it was going to cause controversy.

CHAIRMAN BACHINI asked Mr. Barnhill to comment on the amendments. Mr. Barnhill said the mandatory maternity coverage law is contained in Title 49. They enforce Title 33. When a company files forms for review by them, they are reviewed for compliance with Title 33 only. They do notify the insurance company in writing that they must also comply with Title 49. The Human Rights Commission has the authority to enforce the violations of Title 49. One reason they are opposed to this is, if they were to review coverages for compliance with Title 49, that would subject the insurance companies to penalties under their code as well. This would penalize the insurance company twice. He is opposed to the amendments proposed by Blue Cross/Blue Shield as they relate to pregnancy coverage.

CHAIRMAN BACHINI closed the hearing.

HEARING ON HOUSE BILL 870

Presentation and Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 88, BILLINGS, said this is another bill from the Medical Examiner's Board. It is an Act to revise the process for making a complaint against a physician or podiatrist by providing that the complaint may be in writing rather than by sworn affidavit; provides renewal dates, revocation dates, removes the limit on fees the board of medical examiners may set and revises requirements and procedures for annual renewals, etc. It allows the Board of Medical Examiners to set some of the rules for the other professions that they do in fact, govern. He referred to Page 4, line 9 which has been changed, "sworn" was deleted and "written" inserted. This allows a person to make a complaint without going to court, without hiring a lawyer, etc.

This allows the MEB to follow up on any complaint they may have received from a supposed aggrieved party.

At the bottom of Page 6, line 24, they changed "shall" to "must". At the top of Page 7, the annual renewal dates are to be set by the Board. Page 7, lines 7 and 8 have been deleted and language inserted stating renewal notices are to be mailed 60 days prior to a renewal date set by the board. Page 7, lines 11-13 state if "the annual renewal fee is not paid by the renewal date set by the Board, the licensee's certificate may be revoked". This gives them a way to revoke the license upon proper notice to whomever has that license. On Page 10, line 8 "sworn" was again changed to "written" complaint.

Section 4 allows the Board to set renewal dates for acupuncturists to renew their licenses, making them responsible for renewing their license within a certain time and providing penalties. On Page 14, line 18, the fee to be charged for physician's assistants is put in line with the other professions. Pages 15 and 16 state how the Board will handle the certificates issued annually and allows the Board to set the dates.

Proponents' Testimony:

Jerome Loendorf, Montana Medical Association, Helena, said they support HB 870.

Questions from the Committee:

CHAIRMAN BACHINI said on Page 15, line 12 there is a \$50 fee mentioned. REP. ROYAL JOHNSON said that had been covered on page 14 where it was deleted and was reinserted on Page 15.

Closing by the Sponsor:

REP. ROYAL JOHNSON asked for a Do Pass.

EXECUTIVE ACTION ON HOUSE BILL 870

Motion/ Vote: REP. PAVLOVICH moved HB 870 Do Pass. Motion CARRIED unanimously.

HEARING ON HOUSE BILL 819

REP. ANGELA RUSSELL, HD 99, LODGE GRASS, explained HB 819 is an act to promote state-tribal cooperation in economic development; providing for Indian representation on the Tourism Advisory Council; requiring the Department of Commerce to work with tribal governments in promoting tourism and economic development; amending Sections 2-15-1816, and 90-1-104 and 90-1-105, MCA. Section 1 deals with the Tourism Advisory Council. The new language is to add representatives from Indian tribal governments to the Tourism Council. She referred to page 2, line 18(g) where new language "encourage regional non-profit tourism corporations

to promote tourist activities on Indian reservations in their regions" has been inserted. Page 3, Section 2, 90-1-104 deals with "Functions of Department of Commerce". New language on line 15 (4) "coordinate the promotion of Indian tourism activities in the state in cooperation with the seven tribal governments and the coordinator of Indian affairs" has been added.

In Section 3, 90-1-105, there is added language, Page 3, line 22 "and Indian tribal governments". This is to provide coordinating services to aid state and local groups in Indian tribal governments. Page 4, lines 6, 7, 8 again add "and Indian tribal governments". Lines 16-19 new subsection (7) is added as provided in Title 18, Chapter 11, part 1, for the promotion and enhancement of economic opportunities on the State's Indian reservations.

REP. RUSSELL brought HB 819 before the Committee because everyone knows tourism is a growth industry. In fact, in the U.S., in 1991, it is estimated \$43 billion will be spent by tourists. Tourism produces revenue from gasoline, food, lodging, etc. Indian tourism in Montana is an important component of the state tourism industry. It is important to have representation from Indian tribal governments. A state-tribal partnership would benefit both parties. The state resources may promote availability of other resources.

Proponents' Testimony:

REP. BOB GERVAIS, HD 9, Browning, said this is a good bill. Both the State and the tribes can benefit from this. There are approximately two million people who go through their reservation in the Glacier Park area every year. These are out-of-state people and if they could be stopped for a short while, it would benefit the reservation people. As it is, the concessions in the Park get the money from these people. He thinks if there are opportunities to offer the tourists so they will stop, if even \$1 per person would be gained that would be \$2 million more than they have now. Many Canadians are visiting. In the past, the State did advertise the fishing in that area, but not too much has been done lately. They have a very high unemployment rate, and this could pull someone off those roles. He hoped HB 819 would be passed.

Shawn GunShous, Montana Alliance for Press and Policy (MAPP), said MAPP is a coalition comprised of womens', education, senior citizens, low income, Native American, labor and conservation groups. They represent over 1,000 Montana households. MAPP supports economic development for the State of Montana and believes that expanding tourism goals to the reservation is good economic policy. North Dakota and other states with large Indian populations are discovering there is a world-wide interest developing in the Native American culture. The arts and crafts of Montana's Native Americans need to have markets developed for their promotion. Forming a Tourism Advisory Council would help

coordinate ideas within the states for tourism. Having Native American representation on that Board would help ensure that all interests are respected.

Sandra Guedes, Department of Commerce, Director of Tourism, said she was neither a proponent or an opponent of HB 819. She did want to present a perspective. She agrees with **REP. RUSSELL** and **REP. GERVAIS** and supports their statements. She does believe in the importance of tourism and the importance of the Indian culture to Montana tourism. The Governor's Conference on Tourism and Outdoor Recreation is being held next month. For the first time, the topic "the historical and cultural side of tourism" will be included. An expert from the OT Tribe, Missouri, will speak on ways Indian arts and culture will be included in the tourism promotion. The Indian activities have always been incorporated into the state tourism program activities and over the past year there has been a concerted effort to give more emphasis to that. She showed a Montana map of which two million copies printed each year. They try to bring movie production companies to come to Montana to film. They participate in trade shows. They also bring in writers and producers, so that in turn Montana will be featured. The overseas market is being aggressively pursued.

The Department does disperse some of the bed tax funds to private, non-profit organizations. Additionally, the regions have the opportunities to undertake cooperative ventures with the tribes and they have done so. Many brochures have been printed which include Indian culture and tribal programs and activities.

Kathleen Fleury, Coordinator of Indian Affairs, said she supports HB 819. It is important that tribal governments are represented. In tourism it is important that the culture of each tribe is represented in its unique and accurate manner. The Department of Commerce has done a lot of work in this area and will continue to work very closely with the tribes. They should be applauded for what they have done.

Questions from the Committee:

REP. PAVLOVICH asked **Ms. Guedes** if the language referring to "coordinate the promotion, etc." be left in the bill, since her office is already doing a lot of these things. **Ms. Guedes** said she would need clarification as to what that means. In terms of coordination, each region works individually with the tribes that pertain to their region. The Department works through the Council people in that tribe. Coordination is definitely taking place. They realize that they need to reach outside of their Department.

CHAIRMAN BACHINI asked **Ms. Fleury** if this legislation is necessary. Can you achieve your goals without legislation? **Ms. Fleury** said she thinks it is important legislation because it would be a law. If there are administrative changes, it is

important. She supports the bill as presented.

REP. WALLIN asked REP. RUSSELL if this couldn't be accomplished with a resolution so there wouldn't need to be a law. REP. RUSSELL replied she did not believe it could be done. The bill is needed because Indian people are capitalized on within the State Tourism Industry, but yet, there are few participants at the policy making management levels. That is where Indian people need to be.

REP. STEPLER said in looking at the book Missouri River Country, there are a couple of pictures that deal with some of the Indian pow-wows at Fort Peck, but points of interest were not marked. He asked if there was representation on the Board, would some of the points of interest be included? REP. RUSSELL said that she had not seen the material that was circulated, but her hope is that if they have representation on the Council, that type of important historical information would be included. Last session she sponsored a bill that passed using a small amount of money from the bed tax to place historical markers of those places of importance to the Indian people throughout the state. Each tribe should erect three historical markers of those areas that are of significance to their tribe.

REP. BARNETT said he was in agreement with the sponsor on this bill. His only question is that "Indian Tribal Governments" is plural; how many representatives would there be? REP. RUSSELL said it does read "Indian tribal governments with representation". Page 1, line 15 says "the Council is composed of not less than twelve members." It would be up to the Governor to determine how many of the individuals should be from tribal governments. REP. BARNETT asked if there is a difference between being on a Board or being consulted. REP. RUSSELL said there is quite a difference between being on a Board and just being asked for information.

REP. SONNY HANSON said he had no problem with the intent, but on Page 4, lines 16-19 (7) it says "Title 18, chapter 11, part 1 will be reviewed for promotion and enhancement of economic development" to see if we can't enter into some cooperative agreements. Does this tie in with the rest of the bill? Title 18 deals with the State-Tribal agreement. REP. RUSSELL said this language was used by the bill drafter so that if tribes wanted to enter into cooperative agreements, they could do so. REP. HANSON said that he thought the tourism bill and the money it generates is strictly for the development of tourism. He thinks this may take tourism money to help develop economic development on the reservation. REP. RUSSELL said the tribes and the state already have cooperative agreements. That is law. This is re-emphasizing it in the whole area of economic development. It is probably okay in the bill where it is.

REP. ELLIS asked if Indian tribes helped compile the book on Custer Country. It was his impression that Indian activities

play a prominent part. Ms. Guedes said each of the six tourism regions has a board of directors. The DOC is not very involved directly with the board, except to provide information and coordination. Several boards include participation of representatives from the tribes. The by-laws call for open access, so no groups may be excluded from being on the board. REP. ELLIS asked if a motel on the reservation would pay the bed tax and would it be under the jurisdiction of that program. Ms. Guedes said they do not collect bed tax from Indian people. Non-Indians would pay the tax.

Closing by the Sponsor:

REP. RUSSELL said she did not know she was excluded from the bed tax. She has been paying it all this time. There are very few hotels/motels on reservations and that varies from reservation to reservation. She does not think Indian people have been as involved as they might be. She would like to see a more positive support. Custer Country is considered to be the Crow Tribe area.

HEARING ON HOUSE BILL 739

Presentation and Opening Statement by Sponsor:

REP. JIM RICE, HD 43, Helena, explained this is an Act revising the law relating to redemption of real property after a mortgage foreclosure sale; changing the rate of interest that accrues on redemption; providing for recovery of reasonable repair and maintenance expenses paid by a purchaser at a sheriff's sale; and amending several sections of Title 25, Chapter 13, MCA.

When a mortgage is foreclosed, and if someone wanted to redeem the property, the Right of Redemption comes in after foreclosure to buy the property back. When a conventional mortgage is foreclosed the original owner of that property has one year to redeem the property. This does not deal with the typical family homeowner mortgages. It deals with commercial income-producing property. This bill addresses who pays the interest, who pays the cost when commercial property is redeemed.

Proponents' Testimony:

Jock Anderson, Montana League of Savings Institutions, Helena, said HB 739 addresses something more than mortgage foreclosures. It actually addresses the redemption statutes in Montana. Those redemption statutes apply any time real property is sold in satisfaction of a debt. Often times, that will rise from foreclosure of a mortgage, but just as often it may rise from efforts to collect on a judgment. When a plaintiff obtains a judgment, the collection process begins and involves the sale of the debtor's property. The manner is set forth in Montana's statutes. It is sold by the sheriff after publication and posting. When the property that is sold to satisfy the debt happens to be real property, then Montana's redemption rights do

apply. Classes of people, called redemptioners, have one year to recapture the property. The way they recapture the property under current law is to pay to the purchaser at the sheriff's sale, the purchase price plus certain costs. It is those additional costs that this act addresses. Redemptioners are defined in the statute as the debtor or the debtor's spouse or the lienholder or the shareholders of a corporation.

Redemption rights have two purposes: one, is to allow the debtor the right to get the property back; and second, redemption rights were the means that many states used to try to guarantee that a fair price would be obtained at the foreclosure sale. If the price is low, the purchaser will know that the likelihood of redemption is high. All bidders have an incentive to bid as close to full market value as is prudent. This act addresses the additional costs which the redemptioner must pay if property is redeemed. Under the current law, when property is redeemed the purchase price must be paid, plus the purchaser is paid six percent for the loss of the use of his money. Secondly, the statute provides the purchaser pay any taxes or assessments that he has paid during the time he owned the property. HB 739 increases the interest from six percent to state the interest will be the same as the interest on a judgment. Under Montana law, that is ten percent in some cases, and where there is a written instrument that the judgment is based on, then it would be at whatever rate of interest is contained in that instrument. The practical effect is to raise somewhat the amount of interest the redemptioner has to pay.

The Montana League of Savings Institution supports that amendment for several reasons. (1) Six percent is not a fair rate of return in this day and age. (2) It creates a situation for setting the interest rate different than the rate on the judgment and would just allow interest to accrue. (3) Historically, it is important to understand that at the time the redemption acts were passed, six percent was the same as the interest on judgments. (4) In 1979, the Legislature determined that six percent was not a fair return, so the rate was changed to ten percent. However, other laws that were pegged on that rate of interest were not changed at the same time, thus there is the disparity that exists today. That disparity will be corrected by this bill.

The other part of the bill adds a Section 3 which says when someone redeems the property, he has to pay to the purchaser the actual cost the purchaser has invested in the property to maintain and repair the property. He wasn't certain if this is a change in current law. The issue has not been addressed in this state. In other states, the courts have found that type of reimbursement is inferred in the statute. When someone redeems the property they not only get the property back, they get all the rents and profits that were accrued while it is in the process of being redeemed. The redemptioner gets the rents, but the person who bid in good faith at the sale and had to maintain the property for one year does not receive credit for the money

he had to spend to fix the property. He said the Montana Savings Institute supports this statute because it makes clear those costs are recoverable.

They think this bill is good on two levels. On a basic level, it is a question of fairness. They think a bidder is entitled to those monies if the property is redeemed. More important to the lending industry is to understand the bankers do not like to be the purchaser at sales per se. The more bidders the better and the higher the bid. This bill is a positive step to remedy the problems.

George Bennett, Montana Bankers Association, Helena, said this is an Association of Montana and national banks. They support the bill. The questions that HB 739 addresses have been raised by Law Review articles and by people who are critical of the present laws on foreclosure. The effect of the bill will be to encourage people to bid at foreclosure sales because they would know that, if the redemption right is exercised, they will receive closer to a market rate of interest and the cost of any improvements made will be refunded. This should work to the benefit of debtors and creditors alike.

Questions from the Committee:

REP. SHEILA RICE asked how often the property is redeemed by the original owner. Mr. Bennett said he estimates probably 20% of the time.

Closing by the Sponsor: REP. JIM RICE closed.

EXECUTIVE ACTION ON HOUSE BILL 739

Motion/Vote: REP. PAVLOVICH moved HB 739 DO PASS.

Discussion: REP. SCOTT suggested the Committee postpone voting on this bill at this time, to which they agreed.

HEARING ON HOUSE BILL 683

Presentation and Opening Statement by Sponsor:

REP. RICHARD SIMPKINS, HD 39, Great Falls, said HB 683 was requested by the Montana Automobile Dealers Association. It is an Act to regulate the use of aftermarket crash parts not manufactured by the original manufacturer of the motor vehicle in repairing motor vehicles by requiring disclosure for the use of those parts; providing penalties; amending Section 30-14-1104, MCA; and providing an effective date. HB 683 defines parts used for replacement on an automobile. The parts should be original or the owner should know the parts are not original. The parts are defined on Page 1, line 21, "the non-mechanical sheet metal or plastic parts that generally constitute the exterior of a

motor vehicle, including inner and outer panels". This bill does not cover engines. This prevents the insurance company from requiring any repair facility to use imported parts. If the bid will be prepared on a repairable vehicle using non-original parts there must be a disclosure statement advising the use of non-original parts included in the bid. It does not limit junkyard sales of original parts from junked vehicles. The parts should have a visible logo telling where they were manufactured. HB 683 is a consumer protection bill, as well as a fair trade bill.

Proponents' Testimony:

Steve Browning, State Farm Insurance, Helena, spoke in support of HB 683. He said the introduction of parts by manufacturers other than the original equipment manufacturers has substantially reduced the cost of parts in the U.S. that are available for repairing cars. This is good legislation, if there is adequate disclosure. The cost of the parts drops with competition. The enforcement and penalties are placed in the Department of Commerce under Title 30. He urged the Committee to place it under Title 33.

Gene Phillips, National Association of Independent Insurers and the Alliance of American Insurers, Kalispell, said HB 683 essentially embodies an agreement between insurance companies and the manufacturers of automobile parts. They support this legislation because it is beneficial to the consumer.

REP. WALLIN, Bozeman, supports HB 683.

Jaqueline Terrell, American Insurance Association, Helena, said they support this legislation. Escalating automobile repair costs and high auto insurance premiums are being attacked by insurance companies, including the use of quality automobile replacement parts manufactured by companies competing with the original equipment manufacturers. Those original manufacturers include the major auto makers. The use of less expensive quality after-market spare parts is due to increased competition. Quality after-market parts which are produced both in the U.S. and abroad have become the target of a campaign by the automotive manufacturing industry to limit, if not totally eliminate, their use.

The American Insurance Association believes consumers have the right to purchase these after-market parts that are manufactured by other than the original manufacturer. They advocate the use of parts manufactured by other equipment manufacturers in repairing automobiles for which the insurance company is reimbursing the insurer. There is a direct correlation between insurance premiums and the cost of repair. The use of these after-market parts will directly affect the cost of insurance to the consumer by reducing repair costs to the insurer. This is responsible legislation because it provides full disclosure to the consumer.

The American Insurance Association requested the amendment that was suggested by Mr. Browning because insurance companies are being regulated by this legislation. Regulation more properly resides with the Commissioner of Insurance. They requested Sections 5 and 6 be amended.

Steve Turkiewicz, Montana Auto Dealers Association, Helena, said HB 683 is a good bill. They are in full support of it. It is something that is needed.

Questions from the Committee:

REP. ELLIS asked what was the thrust of the legislation.

Mr. Browning said this is a disclosure bill. It requires notification to the consumer of which parts are being used to repair a motor vehicle. In the past, car parts changed significantly and so the only people who could manufacture the parts were the original manufacturers. Now that cars aren't changing as quickly, it is possible for genuine competition to result. It is important to know the quality of the parts used.

REP. TIM DOWELL asked how disclosure could save consumers money.

Ms. Terrell said there is a direct correlation between the cost of the parts used and the cost of insurance. HB 683 would usually involve sheet metal and plastic parts, these are generally not mechanical parts. The feeling of the insurance industry is that the consumer should be able to purchase parts from any manufacturer. Even if the consumer does choose the original manufacturer part, the fact is that the option is available, and that will bring down the cost of the parts, and in turn will then bring down the cost of insurance.

REP. SCOTT asked if most of the insurance companies are doing their own estimates for a damaged car. Ms. Terrell said she believed so, but could not say so with certainty. She clarified, the direct riders do. State Farm and Allstate are happy to do that. Other insurance companies may use an adjusting firm, not related to their company. REP. SCOTT asked if there could be a chance for the insurance company to pay the body shop less, the actual repair part is not the major cost. Ms. Terrell asked for clarification of the question. CHAIRMAN BACHINI said he believed the question was, is the labor cost higher than the cost of the part. Ms. Terrell said she did not have expertise in that area. That could vary from type of operation. REP. SCOTT asked if the savings to the insurance company would be passed on to the consumer. Ms. Terrell said absolutely.

REP. MCCULLOCH asked if the estimate stated "parts other than original were used", could the estimate be refused. Ms. Terrell said yes.

REP. DON LARSON asked if the Insurance Commissioner wanted this regulation rather than the Department of Commerce. Mr. Browning said he had not spoken with them. He knows that State Farm would prefer that there be one entity to deal with.

REP. LARSON asked if this is a "buy American" bill and where are most remanufactured parts made. Mr. Turkiewicz said the evolution of after-market parts was an off-site, off-U.S. location. Many problems arose because the quality was poor. In certain instances, insurance companies were requiring the body shops and the owners of the cars to use these less than quality parts. Since that time, there have been quality parts manufactured in the U.S. Also, it is hard to say where all parts for U.S. cars come from, if they are actually manufactured in the United States. Many OEM parts are imported as well. HB 683 legitimatizes the after-market parts if they are up to standard and a disclosure when they are used is given to the consumer.

Closing by the Sponsor:

REP. SIMPKINS said consumer awareness will promote competition. People actually understand if they get a better deal on the repair cost of their car, and it will bring the overall quality up to standards, bids will be more consistent. This should bring the overall quality up to standards. This does not only refer to the insurance company, but includes the body shop. They should work together. Another section could be added if this is desired. In reference to page 3, line 12, he recommends leaving Title 30 there. This is a disclosure bill.

HEARING ON HOUSE BILL 748

REP. MIKE KADAS, HD 55, Missoula, said HB 748 deals with mobile home park space. It is an Act creating a mobile home park operator-resident act; generally regulating the relationship between mobile home park operators and residents; requiring that unless otherwise agreed upon, mobile home rental agreements must be for at least 1 year; restricting imposition of fees by mobile home park operators; establishing permissible grounds for eviction of a mobile home resident; establishing minimum requirements for mobile home park rental agreements; and amending Section 70-24-103, MCA. This ownership situation is unique because these people are both an owner and a renter. The State of Montana has never dealt with this situation. This applies to mobile home parks where people own their home and rent the land it occupies. HB 748 tries to set the legal parameters of the responsibilities of the mobile home owner and guidelines for the land owner. He hoped any problems could be worked out.

Jim Fleischmann, Director, Montana People's Action, said it was members of his organization who are residents of mobile home courts who requested this bill. Mobile home courts are regulated and governed by a set of state administrative procedures that are administered by county health departments. In dispute situations,

the mobile home court residents are covered by the Montana Landlord Tenant Act. There are almost 1,200 licensed mobile home courts in Montana with almost 30 mobile homes per park. Some have 500 mobile homes. A conservative figure would be 60,000-80,000 Montanans live in mobile home parks. Because of the state's economy and the cost of housing, mobile home housing has become the most affordable housing option for many people. Mobile home owners have investments in their homes of \$15,000-\$20,000, some up to \$30,000-\$40,000. There are a significant number of out-of-state park owners. Mobile home parks realize 35-50% profit on rents. They are a lucrative investment. Parks are almost a community in themselves.

HB 748 is needed despite the Montana Landlord Tenant Act because mobile homes are not mobile, 98% of these homes move only once, from the manufacturer to where they reside permanently. The owner places it on a foundation and rivets it to the ground. As a consequence, once a home is installed in a park it is virtually impossible for an owner to respond to unreasonable demands. Frequently, there is no place to go. Spaces are hard to find. Moving a mobile home is a difficult and costly task. Most people are operating with 30-day leases. These leases may be terminated without cause. They have not found any mobile home courts with longer than a 30-day lease. There are a number of provisions in the bill that have been found to be objectionable to the mobile home park owners.

The intent of HB 748 is to supplant, not supplement, the Montana Landlord Tenant Act. There are many fine mobile home parks, and there are those that are not run properly or fairly. Ninety-five percent of those living in parks have been living there a year or more; 95% are already living there with yearly leases. Laws are already in the statutes providing methods of requiring people to leave, and that is in HB 748 also. This asks for a law that governs the relationship between the land owner and the people who have to pay rent to park their home.

Norris Amundson, Montana People's Action, Missoula, said he is testifying from personal experience. Because of the lack of protection for the mobile home owner who rents a trailer space, he had been subjected to abuses and inequities. The health departments lack funds to enforce their regulations. Under HB 748, abuses would be prevented by providing leases longer than month-to-month tenancy. The majority of states in the U.S. have laws that protect mobile home owners who rent trailer spaces. **EXHIBIT 9.**

Lorrie Snyder, mobile home owner, said she is a single mother and in the low-income category. She is stuck where her mobile home is. She had problems with her electricity, but the park owner would do nothing about it except raise the cost at a 2-1/2% increase. She said landowners and mobile home owners need to know their responsibilities and rights. **EXHIBIT 10.**

Percie Jones, renter, said HB 748 is needed because quite a few trailer courts in Montana are run down. It is time for people who do own their own homes to be able to protest poor conditions and be treated fairly by the community. It is time that rights like this come down where everybody is accepted. **EXHIBIT 11.**

Bill McCarty, Montana People's Action, Missoula, said the population in Montana is becoming more mobile all the time. They don't know what is in the lease, or where the lease is. They are asking for a level playing field.

Clyde Dailey, Montana Senior Citizens Association, said HB 748 gives both sides definitions so they know what the rules are and it won't infringe on the rights of the park owners or home owners. Rent increases when they get their mobile home in place, and nothing gets fixed. Rent increases for seniors on fixed incomes can be devastating.

See EXHIBIT 12 - 11 letters addressed to REP. STELLA JEAN HANSEN.

Opponents' Testimony:

Mary McHugh, Helena Mobile Home Park Operators, said there are many things wrong with HB 748. It is totally unnecessary because it is covered someplace else in the law. One provision says there shall be a one year tenancy provision unless the parties contract otherwise. In their opinion, that is an unnecessary provision. There is a provision in the bill for setting limits on security deposits. That is unnecessary because most people don't charge a high fee, it is less than the limit that is set in the bill. There is a provision that allows for the tenant to get back the deposit if the person causes only minimal damage to the property. There isn't a definition of amount of minimal damages.

Section 6 has the most offensive provisions. It limits the charges the operator may set. They feel this limits the right to contract with the tenant and takes control of the business out of his own hands. It says that he can't charge for certain costs. Section 7 sets a limit on the late penalty that the operator can charge if someone doesn't pay the rent. There is a 5% limit. There is no incentive to pay the rent on time. The late fee may not be compounded. Section 9 appears to regulate charges related to site maintenance. It is a confusing provision. Section 10 says the operator cannot amend any of the rules that govern the mobile home park without giving 60 days notice to the tenants. The operators feel that is too lengthy and would prefer 30 days. Section 11 says the mobile home park operator has to warrant the habitability of the park. The Landlord Tenant Act has set out those responsibilities. All operators have to be licensed by the state, by the Department of Health and the individual city boards of health.

Section 12 has numerous offensive provisions. There is language on Page 13, subsection (2) (i), that says the operator has to

maintain the integrity of the foundation of the resident's home. They are responsible for blocking it. That places an entirely new burden on the park owner. It is ludicrous to say he will be responsible for doing that. Section 15 says the operator may only terminate the rental agreement by court process. That is not to the benefit of the mobile home operator or to the tenant. In Section 16, operators cannot interfere with the resident's right to sell the mobile home to someone else. The operator would then have as a tenant whoever purchases the mobile home.

Ms. McHugh described the Montana Landlord Tenant Act. She said it is very clear in the definition of a dwelling unit that the space rented in a mobile home park is covered. There is a specific provision that says it incorporates other laws including contract law, real property law, public health, safety and fire prevention law. Every duty that is imposed in the Montana Landlord Tenant Act imposes an additional obligation in the performance of those duties. There is a provision that says the owner of a mobile home park must disclose the name of the person authorized to manage the premises. It is the duty for the landlord to make necessary repairs and to keep the premises fit and habitable. It allows a tenant, when the landlord does not fix something, to procure repairs and deduct the cost from his rent. There is duty of the landlord to keep the common areas clean and safe.

It gives specific remedies including several month's rent if a rental agreement is used that violates certain provisions of the Landlord Tenant Act. A claim or dispute, if disputed in good faith, may be settled by an agreement. HB 748 does not have that philosophy, if it requires people to go into court to settle their disputes.

The testimony of the proponents speaks of unreasonable fees and practices, but no examples have been stated. There are remedies in the Landlord Tenant Act. This burdensome piece of legislation is not needed.

Tom Hopgood, Montana Association of Realtors, said they strongly oppose HB 748. They strongly support the rights of private property owners and feel this bill places an onerous burden on the private property owners who own trailer parks. They view this bill as an infringement on the right to conduct business. They believe this is an anti-business bill. They believe it is an infringement on contracts.

Lee Reynolds, Mobile City Home Park, Helena, said this legislation does not help the tenant or the landlord. It will increase the cost of rent and will be detrimental to the tenant, the landlord and the judicial system. Mobile home park owners are subject to rules already in place. The Landlord Tenant Act has federally mandated laws. He recommended HB 748 be given a Do Not Pass recommendation.

Stan Clothier, Montana Landlord's Association, part-owner of Spruce Park, Kalispell, said he is concerned with the length of time it takes to evict a non-paying tenant. He referred to Page 15 (2) "a park operator may not institute eviction until 45 days have lapsed from the date the resident receives notice that the rent is delinquent." There are further delays in setting up a trial date. If there is a favorable judgement for the mobile home park owner, the sheriff could, after four months, later move the resident out. In Flathead County, a \$500 bond from a licensed bondsman is required before the mobile home can be moved out. The mobile home mover must be a licensed operator. The \$500 sheriff's fees hopefully will be recovered from the tenant by the sheriff.

If the tenant pays the sheriff the first delinquent month's rent, then the whole process may be repeated for the next month. On Page 18 (5), a resident who is evicted from a park may take 120 days to sell his mobile home in the park. The tenant is still responsible for the rent, but if the tenant is already four months behind, the mobile home park owner may have to let the person live there. It is possible that space may be tied up for eight months. The mobile home park owner needs to make payments, also. On Page 3 (6), it says a mobile home park owner may not use a mobile home park site to display an unoccupied mobile home offered for sale or rent a site to a mobile home dealer for purposes other than accommodation for a residence. There is no recourse, even under the Montana Landlord Tenant Act, if someone puts them in violation. Another problem with the bill is that it places responsibility for keeping mice away from the mobile home park on the mobile home park owner. Park owners can be put in conflict with state law if this legislation is passed.

Daniel Wood, Bozeman Chapter, Montana Landlords Association, represents the 19 mobile home parks in Bozeman and Belgrade. He said the bill is a travesty. It would shut down 80% of the mobile home parks in the Bozeman area. He handles two mobile home parks, and is in agreement with the other opponents. This would cause a tremendous burden on landlords. The 40-45% profit margin proposed was not a reality. They operated on a 10% profit. Expensive repairs, such as septic systems, have to be paid for by the park owner. Their rent had not been increased for four years until last year. He presented a letter from **Larry & Sharon Zieske, Managers of Windsor Park, Billings,** objecting to HB 748. EXHIBIT 13.

Andy Skinner, Lifestyle Homes, Helena, said this bill will hurt the people it is to help. The fixed income people are the ones who complain about other tenants. This bill would require a doubling of the rent to administer and meet the terms and conditions. The person who doesn't want to pay his rent or causes trouble would be protected by this bill.

Bert Fischer, Great Falls Mobile Home Park owner, said he has a small 50 space park. In the Great Falls area there are

approximately 1,500 spaces. At the present time, there are only 40 open spaces. HB 748 will cost additional money and may, in some cases, cause people to lose their park. There is no way they can operate under this legislation. He suggested the Committee shelve this and meet with interested parties to reach a compromise. He thinks this could be worked out under the Landlord Tenant Act.

Ed McHugh, McHugh Mobile Home Park, Helena, said this legislation is unclear; a lawyer would have to be retained. He cited a law in Arizona that states if the landlord is required to sign a one-year lease, the landlord also collects one year's rent. This would not work for the low-income people. This is just one example of the difficulties with the bill. It costs about \$300 to move a trailer. About 10% move in and out of his park each year. A buyer of a mobile home in the park has to be screened. They operate under HUD restrictions. HB 748 is a very bad bill. If there are problems, the law is there already.

Stuart Doggett, Montana Manufacturers Housing and RV Association, said they have a problem with Section 3 which would prohibit mobile home parks from displaying unoccupied mobile homes. Some dealers do own mobile home parks and from time to time they have displayed new units. This may lead to a sale and a new tenant. Section 16 allows a resident to sell a manufactured home, but the mobile home operator would not be allowed to control that.

Ed Eaton, Mobile Home Park Owner, Helena, said he owns a small court, ten or twelve units. If this law should pass, he could not recover the cost of providing the services.

Kaylee Utter, Operator of Two Parks, Bozeman, said they operate at such a narrow margin, this bill would drive them out of business. They would sell the land or find another use for it.

Cecil Walborn, Manager for large Mobile Home Court, said the out-of-state owners are concerned about the additional costs of implementing the bill.

The following spoke in opposition to HB 748:

Fred Naegele, Ronda Carpenter, Glen Watson, Sheryll Hungate, Morris Trout, Howard Egerbreth, Bradley Hall, Leo Keller, Carl Emery.

Montana N. Watts, Montana Mobile Court & Campground Association, Billings, submitted written testimony. EXHIBIT 14.

Questions from the Committee:

REP. LARSON asked **REP. KADAS** if the bill would supplant not supplement the Landlord Tenant Act. **REP. KADAS** said he would ask the Committee to table the bill. It would be extremely difficult to get both sides together. He appreciated very much the

sincerity of the opponents and said they were all really good operators. There are some mobile home parks out there that are not particularly well run and that is where the problems are coming from. The park owners want to protect their trade and are concerned about the bad operators also. He requested that the people who asked that he sponsor the bill work out the differences with those who oppose it. He thinks it would be difficult to do at this late time in the session. It could not be handled in two days.

REP. BACHINI suggested the park operators get together and straighten out their problems with viable solutions, then present legislation to the next session.

REP. SCOTT said people should read the mobile home park rules that were presented to the Committee and ask them if they would like to live under those rules.

EXECUTIVE ACTION ON HOUSE BILL 748

Motion/Vote: REP. SHEILA RICE moved HB 748 BE TABLED. Motion CARRIED with REPS. STELLA JEAN HANSEN and SCOTT MCCULLOCH voting No.

EXECUTIVE ACTION ON HOUSE BILL 683

Motion: REP. PAVLOVICH moved HB 683 DO PASS.

REP. PAVLOVICH asked Paul Verdon to write an amendment for Page 3, Section 5, line 12. He would like a coordination clause to take care of both ends. Mr. Verdon said he had looked at it, but did not know how it fit in with the insurance code.

CHAIRMAN BACHINI suggested passing the bill out of Committee and amending it on the House floor.

Discussion:

REP. WALLIN said there is a difference between the American sheet metal parts and the cheaper parts. HB 683 allows the insured to pay more for better parts. REP. SHEILA RICE asked if the insured person would have to pay the difference if they had a strong buy-American attitude. REP. WALLIN said they would have to pay the difference. The owner will have to fight with the adjuster who is adamant about a low bid. An insurance company guarantees to put the vehicle back as it was originally. They come up with this to get these parts people. The insurance companies have riders.

REP. LARSON spoke in support of the bill. He said it had a good notification requirement. REP. WALLIN said the car dealers wanted to be certain a damaged car would be returned to its original condition with original replacement parts. This bill is a compromise.

Vote: Motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 667

Motion: REP. PAVLOVICH moved HB 667 DO PASS.

Motion/Vote: REP. PAVLOVICH moved HB 667 BE AMENDED. (EXHIBIT 8A) Motion CARRIED unanimously.

Discussion:

Mr. Verdon said adding the word "necessary" would not restrict the hiring. It is still vague.

Motion/Vote: REP. PAVLOVICH moved HB 667 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 672

Motion: REP. BENEDICT moved HB 672 DO PASS.

Motion: REP. SONNY HANSON moved HB 672 be amended. (EXHIBIT 5)

Discussion:

Steve Browning, State Farm Insurance Company, Helena, stated State Farm is a mutual insurance company and everything goes back to the policyholders. Montana always pays dividends. The three amendments conform with what goes on in other states. The third amendment should be noncontroversial. It keeps in line with current motor vehicle registrations and is based solely on that information. The first amendment allows insurance premium notices to be sent every six months and to be based on the actual six months cost. The second amendment tracks with the law in other states and with the national insurance commissioner. Amendment #9 strikes the six months provision and inserts 12 months.

Vote: Motion CARRIED unanimously.

Questions from the Committee:

CHAIRMAN BACHINI asked Mr. Browning if he had checked with the sponsor. Mr. Browning said he would confer with the sponsor and the sponsor could then offer amendments on the floor. EXHIBIT 15. CHAIRMAN BACHINI said he would appreciate that.

Motion/Vote: REP. BENEDICT moved HB 672 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 739

Motion: REP. TUNBY moved HB 739 DO PASS.

Discussion:

REP. SCOTT thought the bill makes it more difficult for people in tough financial situations. It makes it more difficult for the person who is losing his property to recover it. It makes it harder for a person to recover from a bad situation and makes it easy for a loan institution to cash in on a bad deal. CHAIRMAN BACHINI asked if it would hurt the original owners. REP. SCOTT said yes.

Vote: Motion carried with REPS. STELLA JEAN HANSEN, McCULLOCH, SCOTT, and DOWELL voting No.

EXECUTIVE ACTION ON HOUSE BILL 819

Motion: REP. PAVLOVICH moved HB 819 DO PASS.

Motion: REP. PAVLOVICH moved to strike the new language on Page 3, lines 15, 16, and 17. They are not necessary.

Discussion:

REP. STELLA JEAN HANSEN said there has been considerable controversy over what they are doing.

REP. LARSON said the tribes fight among themselves.

REP. KILPATRICK remarked the sponsor was organized. Coordination is certainly not going to hurt. He recommended leaving the proposed amendment in the bill.

REP. BACHINI would support the amendment. They have a representative who works to try to better promote the historic sites in his area. That representative is having the same problem as the tribes. A lady from the Department hopes HB 819 would not pass. She wanted to let them work with the tribes. They were not going to eliminate them.

REP. STEPPLER thought some of the references a brochure depicted were not on the reservation, such as Fort Peck Dam, Medicine Lake. There is a definite problem in The Missouri River Country working with the tribes. That clause is needed to promote coordination of the seven tribes in their own areas. He opposed the amendment, but said the bill is needed.

REP. STELLA JEAN HANSEN commented there was nothing in the information that promoted Indian culture. It was presented definitely from the white man's viewpoint. They should have the chance for some input on these things.

Vote: Motion to amend failed 7-11.

REP. SONNY HANSON mentioned at no time was it brought up about economic development. The subject of this bill according to most of this testimony was for inclusion in the advisory panel of a Native American Indian. Look at Page 3, Sections 3 and 4 which talk about economic development.

Motion:; **REP. SONNY HANSON** moved to amend HB 819, Page 3, Section 3 be stricken in its entirety.

Discussion: **REP. SONNY HANSON** said this Section deals with economic development, and gradually moves into tourism. Section 90-1-105, MCA, deals with planning and economic development. He is very concerned there may be authorization in this paragraph or force exerted. What has been authorized is advertising funds for economic opportunities and that is not the original intent of the bill, and that ought to be a separate subject.

REP. STELLA JEAN HANSEN had never thought in terms of tourism and economic development as being separate. They have that right on their reservations.

REP. McCULLOCH spoke against the amendment. HB 819 talks about state and local groups and includes Indian Tribal governments which are now starting to be included. That is the intent of the bill.

REP. BENEDICT supported the amendment. If the bill is passed, the tribes would have the opportunity to come to the state and start promoting whatever products they wished, except factory made ones. If economic development is removed, we would not be getting into this area.

REP. LARSON spoke against the amendment.

REP. SONNY HANSON reminded the Committee to remember the limitation on the funds being talked about. It is only authorized for promotion of Montana as provided in Title 18.

REP. SHEILA RICE spoke against all amendments before the Committee. The sponsor talked about wanting economic development, and to explore the use of it. It doesn't mandate the use of any of it. Look at the 7 tribal nations.

REP. BACHINI stated the bed tax is earmarked for tourism. There could be a problem with this.

REP. STEPPLER asked if the original motion was to strike Section 3. **REP. HANSON** said yes, it was. If that whole Section is stricken, it becomes nonfunctionable. It does not take it out of law, it simply takes it out of this bill.

REP. STEPPLER thought this was needed. It might be better on

Page 4, line 18, after "opportunities", if it would be agreeable with the Committee, to include the words "for tourism".

Mr. Verdon said that would be violating the bed tax. REP. SONNY HANSON is correct about the use of the bed tax, but nothing in this changes that.

REP. LARSON withdrew his amendment.

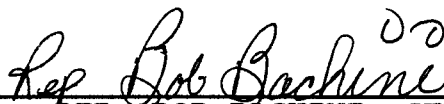
Vote: REP. HANSON'S motion failed 8-10 with REPS. McCULLOCH, STELLA JEAN HANSEN, SCOTT, LARSON, STEPPLER, CROMLEY, DOWELL, KILPATRICK, RICE AND BACHINI voting No.

Motion/Vote: REP. STEPPLER moved to amend HB 819 on Page 4, line 18, following "opportunities" insert "for tourism". EXHIBIT 16. Motion CARRIED with REPS. KILPATRICK, McCULLOCH, STELLA JEAN HANSEN, and DOWELL voting No.

Motion/Vote: REP. PAVLOVICH moved HB 819 DO PASS AS AMENDED. Motion CARRIED unanimously.

ADJOURNMENT

Adjournment: 11:45 a.m.



REP. BOB BACHINI, CHAIRMAN



JO LAHTI, SECRETARY

BB/jl

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE Feb. 20, 1991

[illegible]

HOUSE STANDING COMMITTEE REPORT

2:50
2-20-91
TDB

February 20, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 863 (first reading copy -- white) do pass as amended .

Signed: _____

Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Page 7, line 1.

Following: "transaction"

Strike: "by"

Insert: "in the securities of"

2. Page 15, line 7.

Strike: "and"

3. Page 15, line 15.

Following: "stage),"

Insert: "small business"

4. Page 15, line 16.

Following: "programs"

Insert: ", and projects emerging from economic development programs of Montana certified communities"

5. Page 15, lines 18 through 20.

Following: "limited" on line 18

Strike: remainder of line 18 through "communities." on line 20

Insert: "; and

(c) consider investment opportunities originating in any Montana county."

6. Page 16, line 4.

Strike: "qualified"

Insert: "certified"

7. Page 17, line 23.

Following: line 22

Insert: "(c) If the legislature provides additional tax credits under this chapter after June 30, 1991, or if tax credits become available by reversion to the board by a capital company or by the qualified Montana small business

investment capital company, those additional or reverted tax credits may be allocated by the board to qualified capital companies or to the qualified Montana small business investment capital company in accordance with this chapter and the rules of the board."

8. Page 20, line 7.

Strike: "a partner or shareholder in"

9. Page 24, line 25.

Strike: "and"

Insert: "or"

10. Page 25, line 3.

Following: "chapter"

Insert: "except as provided in subsection (2)(a)"

11. Page 29, line 16.

Strike: "each"

Insert: "the qualified"

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 5

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 169 (first reading copy -- white) do pass as amended .

Signed: Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Title, lines 4 through 10.

Following: "ENTITLED: AN ACT"

Strike: remainder of line 4 through line 10

Insert: "CREATING A TIMBER SCALING CHECK PROGRAM WITHIN THE DEPARTMENT OF COMMERCE; CREATING AND ESTABLISHING DUTIES FOR A TIMBER SCALING REVIEW BOARD; ESTABLISHING FEES TO FUND THE TIMBER SCALING CHECK PROGRAM; CREATING A TIMBER SCALING SPECIAL REVENUE ACCOUNT; AMENDING SECTIONS 76-13-408 AND 76-13-414, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

2. Page 1, line 13 through page 2, line 3.

Following: line 12

Strike: line 13 through page 2, line 3

Insert: " A statement of intent is required for this bill to provide guidance to the department of commerce concerning the adoption of rules to establish a program to check the accuracy and consistency of timber scaling practices in Montana. The legislature directs the department of commerce to adopt rules to periodically monitor timber scale and provide assistance to timber harvesters with complaints regarding timber scaling. The frequency of the scaling checks must be sufficient to act as a deterrent to inaccurate and inconsistent scaling, and equally important, the scaling check program must address the concerns of those whose livelihoods depend on the log scale. It is the further intent of the legislature that the department employ one full-time employee to check timber scaling practices in Montana. This employee must have the authority to conduct unannounced scale checks on public and private property as needed to accomplish the goals of this bill."

3. Pages 2 through 8.

Strike: everything after the enacting clause

Insert:

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 5 and 8], the following definitions apply:

(1) "Board" means the timber scaling review board as provided in [section 4].

(2) "Department" means the department of commerce as provided for in 2-15-1801.

(3) "Handbook" means the National Forest Log Scaling Handbook published by the United States department of agriculture--forest service.

NEW SECTION. Section 2. Timber scaling checks -- department duties. (1) The department, in consultation with the board, shall monitor timber scaling practices in Montana to:

(a) investigate complaints from timber harvesters as provided in [section 5]; and

(b) gather information and facts regarding:

(i) timber scaling practices in Montana; and

(ii) the need for a mandatory state timber scaling program.

(2) The department, upon presentation of credentials, may at reasonable times enter any public or private property to scale timber at locations and in a manner it determines necessary to comply with subsection (1). However, the minimum requirements for a scale check, as provided in subsection (3), must be followed before the department takes action under [section 3].

(3) For the purposes of this section, a scale check must:

(a) be conducted in accordance with the handbook; and

(b) include at least 100 logs and 5,000 board feet. If a variance between the mill scale and the department scale check exceeds the variance established in the handbook, the department shall scale check an additional 250 logs and 10,000 board feet.

(4) After a scale check under subsection (3), a variance between the mill scale and the department scale check that exceeds the variance established in the handbook is a violation of this section.

NEW SECTION. Section 3. Enforcement and penalties. (1) After conducting a scale check under [section 2], if the department determines that a violation has occurred, the department:

(a) shall, for the first violation, work with the mill scaler and the scaler's employer to identify and correct the mill scaling deficiencies;

(b) may, for the second violation, impose a civil penalty not to exceed \$1,000 on the scaler's employer; or

(c) may, for the third or subsequent violation, impose a civil penalty not to exceed \$5,000 on the scaler's employer.

(2) The department shall consult with the board before imposing a civil penalty under this section.

NEW SECTION. Section 4. Timber scaling review board -- membership and duties. (1) There is a timber scaling review board. The department shall consult with the board on at least a quarterly basis regarding the department's duties under [section 2]. The department shall also consult with the board to determine the qualifications for the department scale checker.

(2) The board is composed of three members. The governor shall appoint the members of the board, selecting them on the basis of their knowledge of timber harvesting and scaling practices. Representation on the board is as follows:

- (a) one independent timber harvester;
- (b) one timber industry scaler; and
- (c) one owner of private timberland.

(3) The board shall report to the governor and the legislature by December 1, 1992. The report must contain information regarding the:

- (a) department's performance of its duties under [section 2];
- (b) need for a mandatory state timber scaling program; and
- (c) resolution of the complaints received under [section 5].

(4) Members of the board are entitled to compensation as provided in 2-15-122(5).

NEW SECTION. Section 5. Timber harvester complaints. (1) The department shall give due weight and consideration to any comments or complaints it receives from timber harvesters regarding inaccurate scaling. The department may select a specific harvest or a specific timber purchaser for a scaling check, based on the comments and complaints received.

(2) The department shall keep the identity of the person making the comment or complaint confidential at the request of that person.

(3) The department shall answer in writing each comment or complaint received regarding the department's planned action in response to the comment or complaint.

Section 6. Section 76-13-408, MCA, is amended to read:

"76-13-408. Fire hazard reduction agreement and bond. (1) Before cutting any forest product, constructing or reconstructing any road in contemplation of cutting any forest product, or conducting timber stand improvement, such as but not limited to thinning, weeding, or pruning, upon private lands within the state, the person conducting the work shall provide for the reduction or management of the fire hazard to be created by entering into a fire hazard reduction agreement or a master fire hazard reduction agreement with the department, providing for the full and faithful compliance with all requirements under this part and the faithful reduction or management of the fire hazard in the manner prescribed by law and by rules adopted by the board.

(2) Either the person conducting the work or the purchaser as provided in 76-13-409(2) shall post a bond to the state in a form and for an amount as may be prescribed by the department, but the amount may not exceed \$6 for each 1,000 board feet (log scale) or the equivalent if forest products other than logs are cut.

(3) Either the person conducting the work or the purchaser as provided in 76-13-409(2) shall also pay 7.5 cents for each 1,000 board feet (log scale) or equivalent if forest products other than logs are cut. The full amount of this money must be deposited in the timber scaling account provided for in [section 8].

~~(3)~~ (4) The agreement must provide that:

(a) all fire hazard reduction or management work comprising nonburning methods and preparations for burning must be completed within 18 months of commencement of cutting in the area covered by the agreement; and

(b) all burning work must be completed as specified in the agreement and in compliance with rules adopted by the board.

~~(4)~~ (5) The bond must be released upon the issuance of the certificate of clearance."

Section 7. Section 76-13-414, MCA, is amended to read:

"76-13-414. Fees. (1) In addition to any bond, the department shall charge the contractor fees for administration, inspections, and enforcement work conducted in the exercise of its duties under this part. The fees must be deposited in the state special revenue fund to the credit of the department.

(2) (a) The fee for a fire hazard reduction agreement is \$25 and must be collected by the department upon issuance of the agreement.

(b) In addition, a fee of 60 cents for each 1,000 board feet (log scale) must be charged or an equivalent fee must be charged if products other than logs are cut. This fee must be withheld by the purchaser as provided in 76-13-409(2), except that any fee money withheld for product volumes exceeding 500,000 board feet per agreement in a calendar year must be returned to the contractor by the department.

(3) (a) Fees The fee for master fire hazard reduction agreements must be equal to 100% of the department's actual costs incurred in the administration, inspection, and enforcement of each agreement, and the department shall bill the contractor annually to collect such fees.

(b) In addition, each contractor with a master fire hazard reduction agreement shall also pay to the department 7.5 cents for each 1,000 board feet (log scale) or equivalent if forest products other than logs are cut. The full amount of this money must be deposited in the timber scaling account provided for in [section 8].

(1) The fee provided for in subsection (3) (b) must be paid

annually in conjunction with the fee paid under subsection (3)(a).

(ii) The board may, at its discretion, conduct an audit to determine the volume of forest products harvested by a contractor.

(iii) If the board conducts an audit, the contractor shall cooperate and make available to the board all requested records, inventories, and other information relevant to the audit."

NEW SECTION. Section 8. Timber scaling account. (1) There is a timber scaling account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue from the fire hazard reduction agreement provided for in 76-13-408(3);

(b) all revenue from the master fire hazard reduction agreement provided for in 76-13-414(3)(b);

(c) all money collected under the civil penalty provisions in [section 3]; and

(d) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source intended to be used for the purposes of this account.

(3) Money in the account is available to the department of commerce for the uses set forth in subsection (4). Any unencumbered and unexpended balance in this account remaining at the end of a fiscal year does not lapse but must be carried forward for the purposes of this section until expended or appropriated.

(4) Money in the account may be used by the department only to establish and maintain a timber scaling check program as provided in [section 2].

NEW SECTION. Section 9. [standard] Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 10. [standard] Effective date. [This act] is effective on July 1, 1991.

NEW SECTION. Section 11. Termination. [This act] terminates July 1, 1993.

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 870 (first reading copy -- white) do pass .

Signed: _____

Bob Bachini
Bob Bachini, Chairman

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 683 (first reading copy -- white) do pass .

Signed: Bob Bachini
Bob Bachini, Chairman

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 667 (first reading copy -- white) do pass as amended .

Signed: Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Title, line 5.

Following: "TO"

Strike: "HIRE"

Insert: "FUND"

2. Title, lines 5 and 6.

Following: "STAFF" on line 5

Strike: remainder of line 5 through "POSITION" on line 6

Insert: ", HIRED BY THE DEPARTMENT OF COMMERCE,"

3. Page 1, line 16.

Strike: "Board"

Insert: "Department of Commerce"

4. Page 1, line 18.

Following: "physicians"

Insert: "by the Board"

5. Page 2, line 21.

Strike: "hire"

Insert: "fund"

Following: "staff"

Insert: ", hired by the department,"

6. Page 2, line 22.

Following: "chapter"

Strike: "and increase physician"

Insert: ", by increasing"

7. Page 2, line 23.

Following: "necessary"

Strike: "to fund any additional staff position"

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 672 (first reading copy -- white) do pass as amended .

Signed: Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Page 1, line 21.

Following: "."

Insert: "(1)"

2. Page 1, line 22.

Strike: "individual"

Insert: "individual's"

Strike: "group"

Insert: "an individual group's"

3. Page 2, line 1.

Strike: "(1)"

Insert: "(a)"

4. Page 2, line 3.

Strike: "(2)"

Insert: "(b)"

5. Page 2, line 7.

Following: line 6

Insert: "(2) Subsection (1) does not apply to a premium increase necessitated by a state or federal law, court decision, or rule adopted by an agency of competent jurisdiction of the state or federal government."

6. Page 2, line 9.

Strike: "no"

7. Page 2, line 11.

Following: "services"

Insert: "unless the condition occurred"

February 21, 1991
Page 2 of 2

8. Page 2, line 12.
Following: "person"
Insert: "or"

9. Page 2, line 13.
Following: "within"
Strike: "6"
Insert: "12"

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 739 (first reading copy -- white) do pass.

Signed: Bob Bachini
Bob Bachini, Chairman

2:50
2-20-91
JDB


HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 819 (first reading copy -- white) do pass as amended .

Signed: _____


Bob Bachini, Chairman

And, that such amendments read:

1. Page 1, line 17.

Following: "and"

Insert: "includes at least one member"

Following: "governments"

Insert: ", "

2. Page 4, line 18.

Following: "opportunities"

Insert: "for tourism"

Amendments to House Bill No. 863
First Reading Copy

Requested by Representative Dave Brown
For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 19, 1991

1. Page 15, line 7.
Strike: "and"
2. Page 15, line 15.
Following: "stage,"
Insert: "small business"
3. Page 15, line 16.
Following: "programs"
Insert: ", and projects emerging from economic development
programs of Montana certified communities"
4. Page 15, lines 18 through 20.
Following: "limited" on line 18
Strike: remainder of line 18 through "communities." on line 20
Insert: "; and
(c) consider investment opportunities originating in any
Montana county."
5. Page 16, line 4.
Strike: "qualified"
Insert: "certified"
6. Page 17, line 23.
Following: line 22
Insert: "(c) If the legislature provides additional tax credits
under this chapter after June 30, 1991, or if tax credits
become available by reversion to the board by a capital
company or by the qualified Montana small business
investment capital company, those additional or reverted tax
credits may be allocated by the board to qualified capital
companies or to the qualified Montana small business
investment capital company in accordance with this chapter
and the rules of the board."
7. Page 20, line 7.
Strike: "a partner or shareholder in"
8. Page 24, line 25.
Strike: "and"
Insert: "or"
9. Page 25, line 3.
Following: "chapter"
Insert: "except as provided in subsection (2)(a)"

2/20/91
§63

10. Page 29, line 16.
Strike: "each"
Insert: "the qualified"

Thirty years ago an entrepreneur looking for the capital to launch a small business had very few sources to turn to. There was no institutional resource to back up promising but untried ideas. Again and again, businesses with great potential for innovation failed — or never got off the ground.

To help solve this problem, Congress created in 1958, **The Small Business Investment Company (SBIC) program.** SBICs, licensed by the Small Business Administration, are privately organized and privately managed investment firms, yet they are participants in a vital partnership between government and the private sector economy. With their own capital and with funds borrowed at favorable rates from the Federal government, SBICs provide venture capital to small independent businesses, both new and already established.

The SBIC Program

Substantially all SBICs are profit-motivated businesses. A major incentive for SBICs to invest in small businesses is the chance to share in the success of the small business if it grows and prospers.

Today there are two types of SBICs — the original, or "regular" SBICs, and MESBICs — Minority Enterprise Small Business Investment Companies. MESBICs are Small Business Investment Companies specifically targeted toward the needs of entrepreneurs who've been denied the opportunity to own and operate a business because of social or economic disadvantage.

The name "MESBIC" is widely used to describe this type of SBIC, therefore it is used in this booklet. However, this name is actually incorrect. The correct

name for such SBICs is *Section 301(d) SBICs, or 301 (d)s*. They are so-named because they are organized under Section 301 (d) of the Small Business Investment Act.

MESBICs are one type of SBIC. With a few exceptions, the same rules and regulations apply to both "regular" SBICs and MESBICs. Therefore in general, the name SBIC is used to refer to both MESBICs and "regular" SBICs simultaneously.

Who Benefits from the SBIC Program?

Small businesses qualifying for assistance from the SBIC program are able to receive equity capital, long-term loans, and expert management assistance.

Venture capitalists participating in the SBIC program can supply

ment their own private investment capital with funds borrowed at favorable rates from the federal government.

Most important, the taxpayer benefits. Because SBICs are extremely cost effective, taxpayers save money.

The SBIC Program also provides the taxpayer with more job opportunities. SBIC-financed small businesses are proven job creators. The employment growth rate of these companies is as much as ten times that of other small concerns.

Principal Advantages to the SBIC

An SBIC begins with people who have venture capital expertise and capital, and who want to form a venture capital investment company. By law, an SBIC can be organized in any state, as either a corporation or a limited partnership. Most SBICs are owned by relatively small groups of local investors. Many, however, are owned by commercial banks. Some SBICs are corporations with publicly traded stock, and some are subsidiaries of corporations.

Government Leverage

Within the limits of SBA regulations, a licensed SBIC may borrow money, or may issue debenture bonds, promissory notes, or other obligations. An SBIC in good standing with a demonstrated need for funds can apply to the SBA for the sale or the SBA guarantee of its debentures.

SBICs with private capital of at least \$1,000,000 (the current

minimum required for an SBIC to become licensed) may receive up to three guaranteed debenture dollars for each dollar of the SBIC's private capital. In addition, an SBIC with at least 65% (30% for MESBICs) of its total funds available for investment invested in venture capital can receive an additional, or fourth dollar of leverage per dollar of private capital. However, in no event can any regular SBIC draw down leverage in excess of \$35,000,000. This ceiling does not apply to MESBICs.

The regular SBIC issues its ten year debenture which is guaranteed by SBA. Pools of these SBA guaranteed debentures are formed and participation certificates in the pool are sold through a public underwriting. Under current procedures, the debenture has a ten year maturity and does not allow prepayment during the first five years. The rate of interest on the debenture is determined by market conditions at the time of the sale.

Although repayment of the principal is due in full at the debenture's maturity, an SBIC in good standing may apply for the sale or SBA-guarantee of new debentures in order to refund its maturing debentures.

In addition to leveraging through debentures, a MESBIC qualifies for government leverage through the sale of its preferred stock. The 3% per annum dividend on the preferred stock is cumulative.

MESBICs may also sell a second tier of preferred stock to SBA if they have committed or invested a like amount of funds in qualifying securities of small concerns

such as equity capital or unsecured, subordinated debt instruments.

Like the SBICs, a MESBIC can apply to the SBA for the sale of its debentures. The maximum limits of leverage it can receive are identical to the limits for SBIC debentures.

MESBIC debentures have the following features:

- MESBIC debentures have a ten year maturity.
- MESBIC debentures receive an interest rate subsidy. For the first five years of the debenture's life, its interest rate is equal to three percent below the rate determined by the U.S. Treasury at the time of the debenture's issue (or a minimum interest rate of 3%, whichever is higher).
- The SBA funds MESBIC debentures by buying them outright. Because the debentures have a subsidized interest rate, it is not feasible for the SBA to guarantee the debentures for sale to holders other than itself.

Tax Advantages

Besides the opportunities for government leverage, all SBICs can benefit from a number of tax advantages.

Because of recent changes in the tax laws and regulations, tax counsel should be consulted.

Advantage to Banks

Bank ownership in an SBIC subsidiary can allow the banks to invest in small businesses in which they could not have

otherwise invested, because of banking laws and regulations. A bank may invest up to 5% of its capital and surplus in a partially- or wholly-owned SBIC.

Financing Small Business Concerns

SBICs can obtain financing through a number of means: acquiring private equity capital, publicly selling stock, taking advantage of government leverage, issuing debt securities, and obtaining loans.

In turn, it is the function of the SBIC to act as a financier for small business concerns. Such financing is specifically tailored to the needs of each small business concern. As financier, the SBIC has a variety of options.

Loans

SBICs can make long-term loans to small business concerns (incorporated or unincorporated) in order to provide them with funds needed for sound financing, growth, modernization, and expansion.

An SBIC may provide loans independently, or in cooperation with other public or private lenders. SBIC loans to small business concerns may be secured, and should be of reasonably sound value. Such a loan may have a maturity of no more than twenty years, although under certain conditions the SBIC may renew or extend a loan's maturity for up to ten years.

Debt Securities

An SBIC may elect to loan

money to a small business concern in the form of debt securities — loans for which the small business concern issues a security, which may be convertible into or have rights to purchase equity in a small business concern. These securities may also have special amortization and subordination terms.

Equity Securities

By law, the SBIC must provide equity capital to small business concerns, and may do so by purchasing the small business concern's equity securities. The SBIC may not, however, become a general partner in any unincorporated small business concern, or otherwise become liable for the general obligations of an unincorporated concern.

Licensing Requirements

A corporation or limited partnership may apply to the Small Business Administration for a license to operate as a Federal Licensee under the rules and regulations set forth pursuant to the Small Business Investment Act of 1958, as amended.

With only a few exceptions, there are no restrictions on the ownership of SBICs. Almost any person or organization with a minimum initial private capitalization of \$1,000,000, and an SBA-approved full-time manager who will be in charge of the licensee's operations and who is able to serve the licensee's small business concerns, may be approved for ownership.

For example, SBICs may be:

- Owned and operated by U.S. or foreign operating com-

panies, banks, insurance companies, finance companies, or savings institutions.

- Publicly or privately held.
- Managed under contract by asset management companies or fiduciaries.

- Owned as subsidiaries of other venture capital organizations who want to realize the advantages of the SBIC form of organization while retaining the parent company's autonomy.

Once licensed, each SBIC is subject to annual reporting and on-site examination by the SBA, and is required to meet certain statutory and regulatory restrictions regarding approved investments and operating rules.

Regulatory Requirements

The SBA, in the regulatory process, seeks to minimize its oversight of SBICs. The regulations listed below exist to protect the interests of small business concerns and the integrity of the program, and to insure its overall effectiveness.

Sizes and Types of Businesses

SBICs may invest only in qualifying small business concerns or, if the SBIC has temporary idle funds, certain short-term instruments (Federal Government securities, federally-guaranteed government agency securities, insured S & L deposits, CDs, and demand deposits). SBICs may not invest in the following: other SBICs, finance and investment companies or finance-type leasing companies, unimproved real estate, companies with less than one-half of their assets and

operations in the United States, passive or casual businesses (those not engaged in a regular and continuous business operation), or companies which will use the proceeds to acquire farm land.

Conflict of Interest

An SBIC may not engage in "self-dealing" to the advantage of or with favoritism to its associates. The SBA defines associates broadly to include:

- Certain of its shareholders, officers, directors and employees;
- In the unincorporated SBIC, its members, control persons, and employees.

The SBIC may not directly or indirectly provide financing to any of its associates. It may not borrow money from a small business concern it has financed, nor from the small concern's owners or officers.

Control

An SBIC is not permitted to control, either directly or indirectly, any small business on a permanent basis. Nor may it control a small business in participation with another SBIC, or its associates. In cases of inordinately high risk the SBA may allow an SBIC to assume temporary control, in order to protect its investment. But in those cases the SBIC and the small concern must have an SBA approved plan of divestiture in effect.

Overline Limitations

Without written SBA approval an SBIC may invest no more than twenty percent of its private capital in securities, commitments, and guarantees for any

one small concern. For MESBICs the limit is thirty percent.

Cost of Money

The cost of money on SBIC loans and debt securities issued by small concerns is regulated by the SBA in the interest of the small business concerns, and is limited by the applicable state regulations governing such loans and debt securities, or by SBA regulations, whichever is lower.

Prohibited Real Estate Investments

An SBIC may not invest in farm land, unimproved land, cemetery subdividers or developers, or any small concerns classified under Major Group 65 (Real Estate) of the SIC Manual, with the exception of subdividers and developers, title abstract companies, real estate agents, brokers, and managers.

Investment in real estate-related businesses is limited to one-third of the SBIC's portfolio, and combined investment in real estate-related activities (building contractors, hotels, and lodging places, etc.) is limited to two-thirds of an SBIC's portfolio investments.

Prohibited Relending, Reinvesting

SBICs may not provide funds for a small concern whose primary business activity involves directly or indirectly providing funds to others, purchasing debt obligations, factoring, or leasing equipment on a long-term basis with no provision for maintenance or repair.

However, SBICs and MESBICs may finance Disadvantaged Concerns engaged in relending

or reinvesting activities (except agricultural credit companies, and those banking and savings and loan institutions not insured by agencies of the Federal Government).

Proceeds of Financing

In general, investment funds used to purchase securities must go directly to the small business concern issuing the securities. They should not be used to purchase already outstanding securities such as those on a stock exchange, unless such a purchase is necessary to insure the sound financing of a small concern, or when the securities will be used to finance a change of ownership. The purchase of publicly offered small business securities through an underwriter is permitted as long as the proceeds of the purchase will go to the issuing company.

Minimum Period of Financing

Loans made to and debt securities purchased from small concerns should have minimum terms of five years. Under certain circumstances, loans to disadvantaged concerns may be for minimum terms of four years. The small concern should have the right to prepay a loan or debt security, with a reasonable penalty where appropriate. Loans and debt securities with terms of less than five years are acceptable only when they are necessary to protect existing financings, are made in contemplation of long-term financing, or are made to finance a change of ownership.

Miscellaneous Regulations

In addition to the specific regulations listed here, SBICs are subject to some other regulations regarding activities, operations,

and reporting, which must be followed to insure the continuation of the SBIC license and its related advantages.

The Basics of Setting Up an SBIC

- Commit the necessary capital. To qualify you must have a minimum of \$1,000,000 in private capitalization. SBA may require additional capital in some market areas.

- Prepare a well-structured business plan to be included in the license application, detailing the SBIC's plans for investing in small business concerns. Include information on the proposed types of investments, the types of industries in which the SBIC plans to invest, the developmental stages of these businesses, their geographical locations, and other factors relevant to the investment activities of the proposed SBIC.

- Make sure you have qualified management on your staff. To be licensed, your company must be managed by individuals with a real interest in serving small business concerns, and the necessary expertise to do so. A well-qualified manager would have at least five years of successful experience in a responsible position, in a business involved with investing in business concerns — for example, a venture capital firm, or an investment banking firm. Individuals with comparable experience and educational backgrounds may also be acceptable. A degree in a business related field may be substituted for up to two years of practical experience.

- Obtain an SBIC "Licensing Kit" from your nearest SBA Office or from our Central Office. Be sure to review the Application and instructions, SBA Regulations and Small Business Investment Act of 1958, as amended. The SBA is vitally interested in encouraging responsible individuals and organizations to establish SBICs.

- Although you are welcome to contact SBA yourself with any questions about preparation of required documents, legal counsel is usually advisable because of the complexities of organizing an SBIC.

- Submit a License Application, along with all pertinent exhibits and required forms to the Small Business Administration at its Washington, D.C. Central Office. Enclose a check for the non-refundable filing fee of \$5,000. The application will not be processed until the filing fee is received.

- Expect that the time required to process your application may be as long as four months. A significant portion of that time is needed for background checks of the individuals who will be involved in the ownership and management of your prospective SBIC. During the application process the SBA may find that additional information is necessary and, if so, will notify you in writing. The quicker you reply, the quicker the SBA can process your application.

Obtaining SBIC Financing For Your Small Business

What Types of Businesses Qualify?

SBICs exist to supply equity

capital, long-term loans, and management assistance to qualifying small businesses.

They invest in all types of manufacturing and service industries. Many investment companies seek out small businesses with new products or services, because of the strong growth potential of such firms. Some SBICs specialize in the field in which their management has special knowledge or competency. Most, however, consider a wide variety of investment opportunities.

Only firms defined by the SBA as "small" are eligible for SBIC financing. The SBA defines small businesses as companies whose net worth is \$6.0 million or less, and whose average net (after tax) income for the preceding two years does not exceed \$2.0 million. For businesses in those industries for which the above standards are too low, alternate size standards are available. In determining whether or not a business qualifies, its parent, subsidiaries, and affiliates must also be considered.

Approaching an SBIC

Research the SBICs

If you own or operate a small business and would like to obtain SBIC financing, you should first identify and investigate existing SBICs which may be interested in financing your company. Try to learn as much as possible about those SBICs in your area, or in other areas important to your company's needs. In choosing an SBIC, consider the types of investments it makes, how much money is available for investment, and how much will be available in the future. You

should also consider whether or not the SBIC can offer you management services appropriate to your needs.

The SBA publishes a regularly updated directory listing all current SBIC licensees. The amount of each SBIC's private capital and the amount of government leverage it has received are listed, as well as information on each SBIC's type of ownership and investment policy. A special section in the directory identifies MESBICs, or Section 301(d) SBICs.

Plan In Advance

You should research SBICs and determine your company's needs well in advance — long before you will actually need the money. Your research will take time.

Preparing a Prospectus/Business Plan

When you've identified the SBICs you think are best suited for financing for your company, you'll need to prepare for a presentation. Your initial presentation will play a major role in your success in obtaining financing. It is up to you to demonstrate that an investment in your firm is worthwhile. The best way to achieve this is to present a detailed and comprehensive business plan, or prospectus. You should include at the minimum the following information about your business:

Identification

- The name of the business as it appears on the official records of the state or community in which it operates.
- The city, county, and state

of the principal location and any branch offices or facilities.

- The form of business organization and, if a corporation, the date and state of incorporation.

Product or Service

- A description of the business performed, including the principal products sold or services rendered.
- A history of the general development of the products and/or services during the past five years (or since inception).
- Information about the relative importance of each product or service to the volume of the business and to its profits.

Marketing

- Detailed information about your business's customer-base, including potential customers. Indicate the percentage of gross revenue accounted for by your five largest customers.
- A marketing survey and/or economic feasibility study.

- A description of the distribution system by which the products or services are provided to customers.

Competition

- A descriptive summary of the competitive conditions in the industry in which your business is engaged, including your concern's position relative to its largest and smallest competitors.
- A full explanation and summary of your business's pricing policies.

Management

- Brief resumes of the business's management personnel and principal owners, including their ages, education, and business experience.
- Banking, business, and personal references for each member of management and for the principal owners.

Financial Statements

- Balance sheets and profit

and loss statements for the last three fiscal years or from your business's inception.

- Detailed projections of revenues, expenses, and net earnings for the coming year.

- A statement of the amount of funding you are requesting and the time requirement for the funds.

- The reasons for your request for funds and a description of the proposed uses.

- A description of the benefits you expect your business to gain from the financing — improvement in financial position, increases in revenues, expense reduction, increase in efficiency.

Production Facilities and Property

- Description of real and physical property and adaptability to new or existing business ventures.
- Description of technical attributes of production facilities.

Amendments to House Bill No. 863
First Reading Copy

Requested by Representative Dave Brown
For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 20, 1991

1. Page 7, line 1.
Following: "transaction"
Strike: "by"
Insert: "in the securities of"
2. Page 15, line 7.
Strike: "and"
3. Page 15, line 15.
Following: "stage),"
Insert: "small business"
4. Page 15, line 16.
Following: "programs"
Insert: ", and projects emerging from economic development
programs of Montana certified communities"
5. Page 15, lines 18 through 20.
Following: "limited" on line 18
Strike: remainder of line 18 through "communities." on line 20
Insert: "; and
(c) consider investment opportunities originating in any
Montana county."
6. Page 16, line 4.
Strike: "qualified"
Insert: "certified"
7. Page 17, line 23.
Following: line 22
Insert: "(c) If the legislature provides additional tax credits
under this chapter after June 30, 1991, or if tax credits
become available by reversion to the board by a capital
company or by the qualified Montana small business
investment capital company, those additional or reverted tax
credits may be allocated by the board to qualified capital
companies or to the qualified Montana small business
investment capital company in accordance with this chapter
and the rules of the board."
8. Page 20, line 7.
Strike: "a partner or shareholder in"
9. Page 24, line 25.
Strike: "and"
Insert: "or"

Cx. J
2-20-91
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10. Page 25, line 3.

Following: "chapter"

Insert: "except as provided in subsection (2)(a)"

11. Page 29, line 16.

Strike: "each"

Insert: "the qualified"

EXHIBIT 4
DATE 2/20/91
HB 169

Amendments to House Bill No. 169
First Reading Copy

Requested by Rep. Thoft
For the Committee on Business and Economic Development

Prepared by Michael S. Kakuk
February 20, 1991

1. Title, lines 4 through 10.

Following: "ENTITLED: AN ACT"

Strike: remainder of line 4 through line 10

Insert: "CREATING A TIMBER SCALING CHECK PROGRAM WITHIN THE
DEPARTMENT OF COMMERCE; CREATING AND ESTABLISHING DUTIES FOR
A TIMBER SCALING REVIEW BOARD; ESTABLISHING FEES TO FUND THE
TIMBER SCALING CHECK PROGRAM; CREATING A TIMBER SCALING
SPECIAL REVENUE ACCOUNT; AMENDING SECTIONS 76-13-408 AND 76-
13-414, MCA; AND PROVIDING AN EFFECTIVE DATE AND A
TERMINATION DATE."

2. Page 1, line 13 through page 2, line 3.

Following: line 12

Strike: line 13 through page 2, line 3

Insert: " A statement of intent is required for this bill to
provide guidance to the department of commerce concerning
the adoption of rules to establish a program to check the
accuracy and consistency of timber scaling practices in
Montana. The legislature directs the department of commerce
to adopt rules to periodically monitor timber scale and
provide assistance to timber harvesters with complaints
regarding timber scaling. The frequency of the scaling
checks must be sufficient to act as a deterrent to
inaccurate and inconsistent scaling, and equally important,
the scaling check program must address the concerns of those
whose livelihoods depend on the log scale. It is the
further intent of the legislature that the department employ
one full-time employee to check timber scaling practices in
Montana. This employee must have the authority to conduct
unannounced scale checks on public and private property as
needed to accomplish the goals of this bill."

3. Pages 2 through 8.

Strike: everything after the enacting clause

Insert:

NEW SECTION. **Section 1. Definitions.** As used in [sections
1 through 5 and 8], the following definitions apply:

(1) "Board" means the timber scaling review board as
provided in [section 4].

(2) "Department" means the department of commerce as
provided for in 2-15-1801.

(3) "Handbook" means the National Forest Log Scaling
Handbook published by the United States department of
agriculture--forest service.

NEW SECTION. **Section 2. Timber scaling checks --**

department duties. (1) The department, in consultation with the board, shall monitor timber scaling practices in Montana to:

- (a) investigate complaints from timber harvesters as provided in [section 5]; and
- (b) gather information and facts regarding:
 - (i) timber scaling practices in Montana; and
 - (ii) the need for a mandatory state timber scaling program.

(2) The department, upon presentation of credentials, may at reasonable times enter any public or private property to scale timber at locations and in a manner it determines necessary to comply with subsection (1). However, the minimum requirements for a scale check, as provided in subsection (3), must be followed before the department takes action under [section 3].

(3) For the purposes of this section, a scale check must:

- (a) be conducted in accordance with the handbook; and
- (b) include at least 100 logs and 5,000 board feet. If a variance between the mill scale and the department scale check exceeds the variance established in the handbook, the department shall scale check an additional 250 logs and 10,000 board feet.

(4) After a scale check under subsection (3), a variance between the mill scale and the department scale check that exceeds the variance established in the handbook is a violation of this section.

NEW SECTION. Section 3. Enforcement and penalties. (1) After conducting a scale check under [section 2], if the department determines that a violation has occurred, the department:

(a) shall, for the first violation, work with the mill scaler and the scaler's employer to identify and correct the mill scaling deficiencies;

(b) may, for the second violation, impose a civil penalty not to exceed \$1,000 on the scaler's employer; or

(c) may, for the third or subsequent violation, impose a civil penalty not to exceed \$5,000 on the scaler's employer.

(2) The department shall consult with the board before imposing a civil penalty under this section.

NEW SECTION. Section 4. Timber scaling review board -- membership and duties. (1) There is a timber scaling review board. The department shall consult with the board on at least a quarterly basis regarding the department's duties under [section 2]. The department shall also consult with the board to determine the qualifications for the department scale checker.

(2) The board is composed of three members. The governor shall appoint the members of the board, selecting them on the basis of their knowledge of timber harvesting and scaling practices. Representation on the board is as follows:

- (a) one independent timber harvester;
- (b) one timber industry scaler; and
- (c) one owner of private timberland.

(3) The board shall report to the governor and the legislature by December 1, 1992. The report must contain information regarding the:

(a) department's performance of its duties under [section 2];

(b) need for a mandatory state timber scaling program; and

(c) resolution of the complaints received under [section 5].

(4) Members of the board are entitled to compensation as provided in 2-15-122(5).

NEW SECTION. Section 5. Timber harvester complaints. (1) The department shall give due weight and consideration to any comments or complaints it receives from timber harvesters regarding inaccurate scaling. The department may select a specific harvest or a specific timber purchaser for a scaling check, based on the comments and complaints received.

(2) The department shall keep the identity of the person making the comment or complaint confidential at the request of that person.

(3) The department shall answer in writing each comment or complaint received regarding the department's planned action in response to the comment or complaint.

Section 6. Section 76-13-408, MCA, is amended to read:

"76-13-408. Fire hazard reduction agreement and bond. (1) Before cutting any forest product, constructing or reconstructing any road in contemplation of cutting any forest product, or conducting timber stand improvement, such as but not limited to thinning, weeding, or pruning, upon private lands within the state, the person conducting the work shall provide for the reduction or management of the fire hazard to be created by entering into a fire hazard reduction agreement or a master fire hazard reduction agreement with the department, providing for the full and faithful compliance with all requirements under this part and the faithful reduction or management of the fire hazard in the manner prescribed by law and by rules adopted by the board.

(2) Either the person conducting the work or the purchaser as provided in 76-13-409(2) shall post a bond to the state in a form and for an amount as may be prescribed by the department, but the amount may not exceed \$6 for each 1,000 board feet (log scale) or the equivalent if forest products other than logs are cut.

(3) Either the person conducting the work or the purchaser as provided in 76-13-409(2) shall also pay 7.5 cents for each 1,000 board feet (log scale) or equivalent if forest products other than logs are cut. The full amount of this money must be deposited in the timber scaling account provided for in [section 8].

~~(3)~~(4) The agreement must provide that:

(a) all fire hazard reduction or management work comprising nonburning methods and preparations for burning must be completed within 18 months of commencement of cutting in the area covered by the agreement; and

(b) all burning work must be completed as specified in the agreement and in compliance with rules adopted by the board.

~~(4)~~(5) The bond must be released upon the issuance of the certificate of clearance."

Section 7. Section 76-13-414, MCA, is amended to read:

"76-13-414. Fees. (1) In addition to any bond, the department shall charge the contractor fees for administration, inspections, and enforcement work conducted in the exercise of

its duties under this part. The fees must be deposited in the state special revenue fund to the credit of the department.

(2) (a) The fee for a fire hazard reduction agreement is \$25 and must be collected by the department upon issuance of the agreement.

(b) In addition, a fee of 60 cents for each 1,000 board feet (log scale) must be charged or an equivalent fee must be charged if products other than logs are cut. This fee must be withheld by the purchaser as provided in 76-13-409(2), except that any fee money withheld for product volumes exceeding 500,000 board feet per agreement in a calendar year must be returned to the contractor by the department.

(3) (a) Fees The fee for master fire hazard reduction agreements must be equal to 100% of the department's actual costs incurred in the administration, inspection, and enforcement of each agreement, and the department shall bill the contractor annually to collect such fees.

(b) In addition, each contractor with a master fire hazard reduction agreement shall also pay to the department 7.5 cents for each 1,000 board feet (log scale) or equivalent if forest products other than logs are cut. The full amount of this money must be deposited in the timber scaling account provided for in [section 8].

(i) The fee provided for in subsection (3)(b) must be paid annually in conjunction with the fee paid under subsection (3)(a).

(ii) The board may, at its discretion, conduct an audit to determine the volume of forest products harvested by a contractor.

(iii) If the board conducts an audit, the contractor shall cooperate and make available to the board all requested records, inventories, and other information relevant to the audit."

NEW SECTION. Section 8. Timber scaling account. (1) There is a timber scaling account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue from the fire hazard reduction agreement provided for in 76-13-408(3);

(b) all revenue from the master fire hazard reduction agreement provided for in 76-13-414(3)(b);

(c) all money collected under the civil penalty provisions in [section 3]; and

(d) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source intended to be used for the purposes of this account.

(3) Money in the account is available to the department of commerce for the uses set forth in subsection (4). Any unencumbered and unexpended balance in this account remaining at the end of a fiscal year does not lapse but must be carried forward for the purposes of this section until expended or appropriated.

(4) Money in the account may be used by the department only to establish and maintain a timber scaling check program as provided in [section 2].

NEW SECTION. Section 9. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 10. {standard} Effective date. [This act] is effective on July 1, 1991.

NEW SECTION. Section 11. Termination. [This act] terminates July 1, 1993.

Amendments to House Bill No. 672
First Reading Copy

Requested by Representative Fagg
For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 12, 1991

1. Page 1, line 21.

Following: "."

Insert: "(1)"

2. Page 1, line 22.

Strike: "individual"

Insert: "individual's"

Strike: "group"

Insert: "an individual group's"

3. Page 2, line 1.

Strike: "(1)"

Insert: "(a)"

4. Page 2, line 3.

Strike: "(2)"

Insert: "(b)"

5. Page 2, line 7.

Following: line 6

Insert: "(2) Subsection (1) does not apply to a premium increase necessitated by a state or federal law, court decision, or rule adopted by an agency of competent jurisdiction of the state or federal government."

6. Page 2, line 9.

Strike: "no"

7. Page 2, line 11.

Following: "services"

Insert: "unless the condition occurred"

8. Page 2, line 12.

Following: "person"

Insert: "or"

9. Page 2, line 13.

Following: "within"

Strike: "6"

Insert: "12"

PROPOSED AMENDMENTS TO
HB 672

House Bill 672, first reading copy, is hereby amended to read as follows:

1. Page: 1
Line: 8
Following: "PREMIUM INCREASES,"
INSERT: "DISCRIMINATION IN INSURANCE"
2. Page: 1
Line: 9
Following: "SECTIONS"
Insert: "33-1-502,"
3. Page: 2
Following: Line 19
Insert: "Section 4. Section 33-1-502, MCA, is amended to read as follows:

33-1-502. Grounds for disapproval. The commissioner shall disapprove any form filed under 33-1-501 or withdraw any previous approval thereof only if the form:

(1) is in any respect in violation of or does not comply with this code;

(2) contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract, including a provision in a casualty insurance form permitting defense costs within limits, except as permitted by the commissioner in his discretion;

(3) has any title, heading, or other indication of its provisions which is misleading;

(4) is printed or otherwise reproduced in such manner as to render any provision of the form substantially illegible; or

Ex. 5 A

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HB 672

(5) contains any provision which violates 49-
2-309."

Renumber: all subsequent sections

House Bill 672
House Business and Economic Development Committee
February 20, 1991
David Barnhill

Mr. Chairman, members of the committee, good morning. I'm Dave Barnhill, Deputy Insurance Commissioner, testifying on behalf of Andrea "Andy" Bennett, as a proponent of House Bill 672.

This bill has the purpose of advancing in important ways the interests of consumers. Some of the provisions are the result of consumer complaints to our office; others are the result of our own research of the Code which revealed the potential for problems.

I acknowledge the constructive criticism of Tom Hopgood of the Health Insurance Association of America, Tanya Ask of Blue Cross and Blue Shield, and Larry Akey of the Montana Association of Life Underwriters. These people have been instrumental in drafting the bill now before you.

The bill, if enacted into law, would:

1. prohibit persons who own or work in rest homes from selling long-term-care insurance to residents of the home;
2. limit the frequency of disability insurance premium increases;
3. prohibit exclusion of disability insurance coverages based on dated medical conditions;
4. require 30 days' notice to insureds of premium increases when the increases are pursuant to a rating plan;

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HB 672

5. prohibit underwriting or rating of car insurance based on dated driving records;

6. insurance companies would be able to offer policy loans on group life insurance or annuities;

7. a dependent rider on a life insurance policy could be continued on the payment of the premium for the dependent rider in the event of the suicide of the insured; and

8. strengthen the conversion rights for insureds who have groups covered by group disability insurance.

I am available for questions. Thank you.

DEPARTMENT OF COMMERCE
BOARD OF MEDICAL EXAMINERS

EXHIBIT _____
DATE 2/20/91
HB 667



STAN STEPHENS, GOVERNOR

ARCADE BUILDING
111 N. JACKSON

STATE OF MONTANA

(406) 444-4284

HELENA, MONTANA 59620-0407

Recent History of
Board of Medical Examiners

February 8, 1991

For the years leading up to 1988, the Board of Medical Examiners contracted its legal work out to private counsel. The annual legal budget was \$25,000 per year; at the usual rates, this funding paid for approximately 29 hours per month in legal services. The funded legal time was inadequate to meet the Board's needs. Consequently, at the end of 1987, Montana had a disciplinary rate of only .8 formal actions per 1000 physicians. Montana ranked "dead last" in the nation.¹

In the end of 1987, when its private legal counsel withdrew as counsel of record, the Board elected to try using Department of Commerce staff attorneys instead of outside contracted counsel. At that time, the Board had the raw materials for 3 investigations; there were no pending disciplinary actions. Staff attorneys, working on state salary rather than an hourly basis, were able to complete 2 of the investigations, commence disciplinary actions on them, initiate further investigations of complaints, initiate additional litigation and start working the cases up for adjudication, by the end of 1988.

In November 1989, the staff attorney who had been primarily responsible for the Board's legal work assumed the position of full time Executive Secretary (previously a part-time position held by the president of the Board) and Legal Counsel to the Board. The additional staff time available to the Board over the last three years has helped the Board has increase its disciplinary productivity as follows:

1988

License discipline actions	
Pending	9
Completed with discipline	1
Civil injunction pending	1
Investigations pending	16

¹"6892 Questionable Doctors," a Public Citizen Health Research Group Report, June 1990, by Nicole Simmons, Phyllis McCarthy and Sidney Wolfe. These statistics do not include informal, unreported resolutions of complaints or cases.

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HB 667

1989

License denial actions	
Completed with denial	2
Settled with supervisory/ probationary conditions	3
Civil injunction obtained	1
License discipline actions	
Completed with discipline	5
Completed or settled with supervisory/ probationary conditions	2
Commenced/pending	12
Investigations pending	23

1990

License denial actions	
Completed with denial	1
Settled with supervisory/ probationary conditions	1
Reinstatement/remittance of previous disciplinary conditions	2
License discipline actions	
Completed with discipline	5
Emergency suspensions (1 partial, 1 full)	2
Settled with probationary/ supervisory or other conditions	4

1991 to date

License discipline actions	
Completed	1
Emergency suspension	1
Settled with supervisory/ probationary/other conditions	1
Commenced/pending	12
Investigations pending	26

The statistics for total disciplinary action for 1989 showed 5.52 actions per 1000 licensees, for a national ranking of 21st.² In 1990, the statistics showed a rate of 7.54 actions per 1000 licensees, for a national ranking of 13th.

²Compared to other states' 1987 statistics and rankings--the only statistics and rankings provided by the Public Citizen Report. Actual national figures for 1988, 1989 and 1990 are not available.

Complaints filed with the Board have also increased, as follows:

		% increase
<u>1988</u>	47	
<u>1989</u>	50	6%
<u>1990</u>	69	38%
<u>1991</u> to date	12	
--projection for 1991		
at current rate--	(104)	51%

While the Board's disciplinary productivity has increased in the last three years, its workload has also increased dramatically. The greater number of in-coming complaints means more investigations and actions, if the Board is going to be able to continue to carry out its statutory mandate to protect the public against "unprofessional, improper, unauthorized, and unqualified practice of medicine." Section 37-3-101, Montana Code Annotated.

In order to accommodate the increased demands on its time and efforts, the Board has, in the last three years, instituted a number of new procedures for processing both disciplinary, rehabilitative and licensing activities.

The Board created an Executive Committee which meets by conference call one or more times per month to evaluate complaints and completed investigations. The Executive Committee makes recommendations to the full Board on possible disciplinary action or other resolutions. The full Board continues to make all final decisions, at its bimonthly meetings and conference calls as necessary.

The Board contracted with a private, non-profit corporation to administer the Professional Assistance Program, in lieu of directly managing the program itself. The PAP is a statutorily mandated advocacy program which assists in the rehabilitation of licensees suffering from chemical dependency and related illnesses. The separation of the Board's disciplinary function from its rehabilitative duties was necessary to encourage greater voluntary, early participation by licensees. If diversion to the program is possible without jeopardy to the public or licensee him/herself, disciplinary action can at times be avoided. The rehabilitated physician may then be returned to productive work in the many Montana communities needing medical services.

It should be noted that the Board is charged with supervision not only of physicians, but of five other professions as well: podiatrists, nutritionists, physician assistants-certified, acupuncturists and emergency medical technicians. The Board is responsible for both licensing and regulating the professional activities of all licensees in these professions.

Because the Board's responsibilities for supervision of the physician assistants-certified have grown with the increasing

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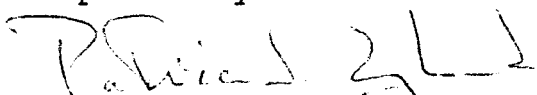
numbers of certified P.A.'s in the state, as well as their increasing medical privileges and duties, the Board created a Physician Assistant Advisory Committee, which assists the Board in all physician-assistant matters. Such matters include initial certification, authorization for prescribing authority, on-going supervision, discipline, rule-making, policy-making, etc. Long hours and cooperative effort by board members, physician assistants-certified, and the federal Drug Enforcement Administration, resulted in a prudent, workable plan for physician assistant-certified prescribing.

To upgrade its screening procedures for new applicants, the Board undertook and completed a thorough revision of its application documents for both physicians and podiatrists. It is hoped that stronger screening procedures may have a "preventive medicine" effect, and result in better protection of the public.

With the advent of the National Practitioner Data Bank as of September 1, 1990, the Board is now responsible for reporting all its own disciplinary activities to the Data Bank, as well as transmitting reports from professional societies, hospitals, peer review entities of health maintenance organizations, and medical malpractice insurers.

The Board will continue to aggressively carry out its duties under Title 37 to "maintain reasonable and continuing supervision" over all licensees under its jurisdiction. The Board believes a great deal has been accomplished in the last few years, and hopes to continue such improvements in the future.

Respectfully submitted.



Patricia I. England
Executive Secretary/Legal Counsel

Ex. 7
2/20/91
HB 667

1989

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1991 to date

License discipline actions	
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The statistics for total disciplinary action for 1989 showed 5.52 actions per 1000 licensees, for a national ranking of 21st.² In 1990, the statistics showed a rate of 7.54 actions per 1000 licensees, for a national ranking of 13th.

²Compared to other states' 1987 statistics and rankings--the only statistics and rankings provided by the Public Citizen Report. Actual national figures for 1988, 1989 and 1990 are not available.

Amendments to House Bill No. 667
Introduced (White) Reading Copy

Requested by Rep. Darko
For the Committee on Business & Economic Development

Prepared by Doug Sternberg
February 15, 1991

1. Title, line 5.

Following: "TO"

Strike: "HIRE"

Insert: "FUND"

2. Title, lines 5 and 6.

Following: "STAFF"

Strike: remainder of line 5 through "POSITION" on line 6

Insert: ", HIRED BY THE DEPARTMENT OF COMMERCE,"

3. Page 1, line 16.

Strike: "Board"

Insert: "Department of Commerce"

4. Page 1, line 18.

Following: "physicians"

Insert: "by the Board"

5. Page 2, line 21.

Strike: "hire"

Insert: "fund"

Following: "staff"

Insert: ", hired by the department,"

6. Page ²~~1~~, line 22.

Following: "chapter"

Strike: "and increase physician"

Insert: ", by increasing"

7. Page ²~~1~~, line 23.

Following: "necessary"

Strike: "to fund any additional staff position"

Amendments to House Bill No. 667
Introduced (White) Reading Copy

Requested by Rep. Darko
For the Committee on Business & Economic Development

Prepared by Paul Verdon
February 20, 1991

1. Title, line 5.
Following: "TO"
Strike: "HIRE"
Insert: "FUND"

2. Title, lines 5 and 6.
Following: "STAFF" on line 5
Strike: remainder of line 5 through "POSITION" on line 6
Insert: ", HIRED BY THE DEPARTMENT OF COMMERCE,"

3. Page 1, line 16.
Strike: "Board"
Insert: "Department of Commerce"

4. Page 1, line 18.
Following: "physicians"
Insert: "by the Board"

5. Page 2, line 21.
Strike: "hire"
Insert: "fund"
Following: "staff"
Insert: ", hired by the department,"

6. Page 2, line 22.
Following: "chapter"
Strike: "and increase physician"
Insert: ", by increasing"

7. Page 2, line 23.
Following: "necessary"
Strike: "to fund any additional staff position"

Stella Jean Hansen

February 20, 1991

Re: HB 748

EXHIBIT

9

DATE

2/20/91

HB

748

Norris E. Amundson

1700 Cooley #68

Missoula, MT 59801

Dear Representative Hansen:

I'm writing to urge your support of HB 748, a bill creating a Mobile Home Park Operator Resident Act to regulate the relationship between mobile home park operators and residents.

As a long time resident of mobile home park, and a mobile home owner, I have seen and experienced many of the abuses which would be prevented by passage of this bill.

As a mobile home owner, I pay Montana property tax. At the same time I enjoy no particular legal rights. The law treats me the same as the tenant who rents an apartment.

By passage of this bill, a far more equitable relationship between landlord and tenant — between landowner and homeowner who rents also. Such passage also will bring Montana into step with most of the rest of the nation.

I thank you for your support, and urge you to vote for this bill.

Sincerely Yours,

Norris E. Amundson

EXHIBIT 10

DATE 2/28/91

HB 748 ~~100~~ 748

Exhibit #10

Lorrie Snyder

Ms. Vlg. W #16

Missoula, Mont 59802

2-18-91

Rep. Stella Jean Hansen,

I am writing to you to let you know I support House Bill # 748.

I am upset that park owners can resale electricity at a higher cost. Park owners can force you to move your home in 30 days for no cause. Park owners can raise your lat. rent unseasonably, yet they do not upkeep the property.

I pay property taxes. Why am I treated like a tenant?

I support house bill # 748

Lorrie A. Snyder

Percie Jones
1700 Cooley #56
Missoula, Mt
59802

EXHIBIT 11 2-18-91
DATE 2/20/91
HB 748

To: Rep Stella Hansen

I am writing this letter in regards of the bill that's being ran through the right channels. I support HB 748 for the reason of the fact that, trailer house owners are in great need of protection from Trailer Park owners. They pay their taxes but are treated far less then that. This bill not only gives protection for the renter and a homeowner that does pay taxes, It also provides protection to the one that is doing the renting out of the space. I feel that its time to pass a bill like this so everybody has a fair deal.

Thank you for taking
the time out to do what
is right Percie Jones

Ethel Fessel
1700 Cooley #56
Missoula, MT.
59802
(406) 549-6894

EXHIBIT 12 2-19-91
DATE 2/20/91
HB 748 Exhibit #612

To whom it may concern:

In regards to the Bill HB748,
I support this Bill fully because I
feel the rights of all concerned would
better be protected by the passing of
this bill. Its about time a Bill like
this is passed, to stop the abuse
by owners of Trailer Courts, and the
renters will know where they stand. I
feel that everyone would benifit from
the passing of it.

Thank you for doing your
part in the decision of
this bill. HB 748

Cordially, a renter & trailer
owner.

Ethel Fessel

Ethel Fessel

1700 (00104) #14
Msk, MT 59802

DATE 2/20/91
HB 748

To whom This May Concern:

HB 748:

As a mobile home owner who recently moved to Missoula, I urge you to consider positive action on this bill. I moved from Scobey MT to continue education for my family, and, due to a serious lack of affordable housing I bought a trailer house. It seems to me that many of the tenant obligations were not clear, also it seems that owner obligations on lease agreements are not specific, and tenants are forced into arbitrary, adverse charges.

It also has become apparent that many larger mobile home lots are out of state owned, and therefore should be under closer legislative scrutiny. In more difficult times, our population has become more mobile than in past times, and new urban problems are developing.

Thank you

Reed McIntyre

TESTIMONY OF DEBBIE ENTZEL
PROVIDED TO THE HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE
FEBRUARY 20, 1991

My name is Debbie Entzel and I live in Westview Park, a mobile home park in Missoula County. I own my mobile home and have lived in Westview for 12 years.

Several years ago our park was purchased by a development company from Washington state. When they purchased our park, they wrote us a letter stating that they were going to make specific improvements in the park and that the rent was going up. The rent went up but the improvements were never made. The company did the same thing two years later. When residents asked the park manager why the improvements weren't being made, we were told that the company didn't have the money. We learned later that they were building condominiums in Yakima so apparently they had enough money to do that. Essentially, we were given a reason for raising our rent which was never justified.

The reasons that many of us don't move is that moving is costly and mobile home spaces in Missoula are very hard to find. Recently a gravel pit was established next to Westview Court, directly across the street from my home. The pit is noisy, and often dusty. Yet neither I nor my neighbors have moved.

If ever there was a reason for moving, you would think that the establishment of a mining operation across the street would be it. However, the fact that neither myself or my neighbors have moved is a reflection of just how costly moving is. Also, several of us have looked for places to relocate our homes and been unable to find spaces. We are not tenants who can pack our things into boxes and find a new apartment. I have almost \$20,000 invested in my home on its current location.

I feel that HB 748 has been a long time coming. I strongly urge your support. Mobile home court residents are taxpaying, homeownership citizens and we deserve more protection than the Landlord-Tenant Act provides.

Dear Stella Jean Henson

I support H.B. 748 I am a mobile home owner. I have been for over 10 years. Buying a mobile home wasn't what I really wanted, but a mobile home was a little more within my price range for a home.

But there are many problems with owning a mobile home. For one there are too many zoning laws for mobile homes, to put anywhere. So a person only option to live is in a trailer park or court.

Then there are problems with moving into a trailer park or court. The 30 day lease I don't like, it has too much fine print.

Your lease says what you and your court is responsible for. But the court can decide to change it, and there is nothing you can do about it.

Your lease can be terminated at any time for any reason, then you would be force to move in 30 days. Just because your home says (Mobile) in front of it.

Does not mean it is that easy to move it. I have seen some take a normal house off its foundation, raised wheels under it, and moved it to another foundation. (OVER)

Would that be considered a mobile home.
Thank you for taking the time to read,
What I feel to be a very important issue.

Sincerely,
Lee A. Mack

Stella Hansen

Rep. Stella Jean Hansen

I am writing in strong support of H.B. 748. I own a home on a lot in Travis Valley. I believe we need this legislation for protection from abuse of eminent domain & any harassment of our out of state Park owners. Our Park has not been maintained very well. This winter and to move my home would cost too much money. If there were another spot in another Court in case of 30 day eviction. Please help us with this

Sincerely

Ron Giff

245 N. Travis

Marionet 59802

728-1139

EXHIBIT 12
DATE 2/20/91
HB 748

2-19-91
330 N. Travis
Missoula MT 59807

Dear Representative

Stella Jean Hansen

I am in full support of
House Bill 748.

I own a mobile home but
don't consider it as "MOBILE".

I park it on a lot and pay
rent the same as a lot of
people would pay; if renting
a home. It is my home
even though it was a lot
cheaper. I don't have a lot
of rights that owning a home
would have.

There are too many stipul-
-lations when renting a lot to
live on and have to abide
by rules. We do need
more than 30 days leases.

A more standard set of
rules which don't change
all the time.

Sincerely
Mildred A. Keller

EXHIBIT 12

DATE 2/20/91

HB 748 2-18-91

House Bill 748

Dear Representative Stella Jean Hansen

I am in full support of House
Bill 748.

Mobile Homes are not as mobile
as most people think there is
a lot of different cost to moving
a mobile home.

We are and will continue
to be more popular because of affordability.

We also need to have
rights just like home owners
giving us a lease for more than
thirty days and spelling out our
rights

Sincerely
Patrick D. Zeller

230 N. TRAVOIS
MISSOULA MONTANA 59802
(406) 721-7050

Rep. Stella Jean Hanson

I am writing you as a member of the Business and Economic ^{Development} Committee.

I own a mobile home and live in one of the larger trailer courts in Missoula. We are of the opinion that it is finally time the residents of mobile home courts, having a large investment in their homes, ~~and~~ protected by law the same as homeowners.

It is very costly and time consuming to re-locate a home and we feel it is a dire necessity we be protected from eviction and unfair treatments by park owners.

We need all rules and regulations spelled out in large print in order to be informed at time of rental.

Please do your best to support this legislation

Sincerely,

Joanne Koenig
309 S. Surrey
Missoula, MT

Representative Stellanor Hansen,

I am writing to you asking that you support H.B. 748.

Since 1976 I have owned a mobile home at Travis Village in Missoula. The ownership of the court has changed several times while I have lived there. With each change of ownership one wonders what unreasonable demands the new owners may make on the renters. I feel the renters have no rights and that I am at the mercy of the new owner.

The fact that the owner can evict one without good cause does not make a person feel too secure.

We need to have the rights of the mobile home owners spelled out more clearly.

Sincerely,
Clara H. Lizotte
141 S. Travis
Missoula, Montana 59802

DEAR Ms. Stella Kan Hansen,

I am writing to you concerning House Bill 748. The mobile home park operator - resident act.

I know you are on the House Business & Economics Development Committee and would like to be informed of the people in support of House Bill 748.

This bill is most important to mobile home owners. All mobile home owners are taxpayers but because of no limitations or laws. Mobile home owners have no control or rights in the courts in which they live. The actual cost of moving their homes is so astronomical it limits "mobility". Unfortunately the current ~~contracts~~ 30 day leases give no just cause for evictions and no protection for mobile home owners.

Thank you

Paul Stevens
4617 Chandler
Missoula, MT 59802

EXHIBIT 1a
DATE 2/20/91
HB 748

Richard + Susan Schwarz
1700 Cooley #16
Missoula, MT
59802

Dear Representative Hansen;

I support HB 748 because I
live in a trailer court and feel
that I should have more legal
rights. I hope that you will work
for passing this bill.

Sincerely,

Richard Schwarz
Susan Schwarz

EXHIBIT 13
DATE 2/20/91
HB 748

Windsor Park

Mobile Home Community

February 18, 1991

House Business & Economic Development Committee
Rm. 312-3
Helena, MT

RE: House Bill 748

We wish to protest this house bill as discriminating against mobile home parks and mobile home park owners.


We feel there are quite a few items in this bill that are unfair. Among them are:

- Display of an unoccupied mobile home for sale or rent.
- 1 year term of rental agreements.
- Interest on security deposits.
- Fees or charges other than monthly rent charge.
- Late payment charges.
- Change of rule not effective for 60 days.
- Specifically determining changes in rent.
- Cancellation of lease by tenant within 7 days.
- Responsibility of damage to vehicle due to street condition.
- Maintain the integrity of the foundation of a resident's mobile home.
- Eviction procedures for nonpayment of rent increased to 45 days notice.
- 30 day sheriff eviction notice.
- Evicted tenant has 120 days to sell mobile in the park.
- Sale or lease of park notification.

We feel that this bill should be thrown out and a new bill should be studied to make laws that would benefit both the mobile home park & owners and the tenants. As it is now, the landlords have very few laws to help them recover unpaid rents or to support the rules of the parks.

Thank you for your consideration in this matter.

Sincerely,


Larry & Sharon Zieske
Managers

☆ MONTANA ☆

MOBILE COURT & CAMPGROUND ASSOC.

P.O. BOX 14 • HEADQUARTERS - BILLINGS, MONTANA 59103-0014

February 20, 1991

EXHIBIT 14
DATE 2/20/91
HB 748

TESTIMONY BEFORE:

HOUSE BUSINESS & ECONOMIC DEVELOPMENT
COMMITTEE

SUBJECT: House Bill 748

Presented by Montana N. Watts

Page 3, SECTION 3, (6) is discriminating against the Dealers and Parkowners and interfering with their way of making a living. A Dealer so long as he pays the rent on a space should be entitled to the same rights as any other resident. A Parkowner should have the right to use his own property as they see fit; that should include leaving mobiles that parks own set on park property. This also interferes with the sale of mobile homes by dealers and parkowners.

Page 4, SECTION 4, (1) this is not fair to a resident or parkowner to bind either to a year contract. We have a lot of tenants that stay 3 to 6 months; that are construction people. A 30 day agreement, we now have, is more satisfactory to both parties.

Page 4, SECTION 5, (1) The 5% interest to be paid to the tenants on security deposits would cause a lot more bookkeeping and in the long run would cost the Tenants more as we would have to raise rates to off set the bookkeeping.

Page 5, SECTION 5, (3) To determine 15 days ahead of a termination as to what all charges are would be absolutely impossible. In the 15 days they could cause so much damage. Giving ^{refund} notice within the 30 day period after the departure is far more reasonable as a lot of the time a resident will not leave his forwarding address and it takes time to locate them. If they have bad credit or in trouble they will not leave addresses.

Ex. 14

2-20-91

Page 6, SECTION 7, A 5% late charge is not enough to make anyone pay on time. HB 740
Some would be late each month and then pickup at the end of the month and leave.
Usually owing electric and utility bills that they wind up skipping out on.
It needs to be high enough to make them pay.

Page 8, SECTION 10 (4) Who determines what an emergency is? Because of raises
in utility bills we need to give 30 day notices in advance. What good is a 60
day notice instead of a 30 day only it lets some of the residence get away with
infractions a little longer.

Page 10, SECTION 11 (n) The only reason they want the parkowners to give an eviction
reason is to create more chances for a law-suit. According to this they don't
have to give any reason for why in return. Where both parties have to give
the 30 day notice and no reason why, works good for both parties and is fair.

Page 11, SECTION 11, (q) If a resident is allowed to cancel the agreement with
in the first seven days, and say they have moved into the court, then this
leaves the parkowner without a signed rental agreement. Does this mean the
resident would have to move off of park property? If the Parkowners can also
cancel the agreement in seven days and not let the tenant move in until the 8th
day, then we could consider going along with this; but this will only make it
hard on a tenant who wishes to move in right away.

Page 12, SECTION 12, (ii) Parkowners should not be held responsible, because a
resident could damage his-self, or personal property some other place and say
it happened on park property. Who's going to prove what. This would only create
more law-suits.

(g) A resident should be held responsible for any infestation in his own mobile
home on the inside; not try to hold the parkowners responsible.

(i) The parkowner should not be held responsible for any foundation that a mobile
home is placed on. A residence furnishes his own blocking and skirting. How he
puts it up is his responsibility. Also if he over waters and lets water seep
under the mobile that causes unleveling that should be his problem not the park-
owners.

(k) It is already in the state health rules governing the disposal of garbage
rubbish and waste.

(4) This is taking control away from the parkowner as to what he can do or afford
and if you have someone get irrate at you he could cost you a lot of money.
This is like letting the resident take over and run your parks.

Page 14, SECTION 13, This does not state what the emergencies could be nor what a reasonable time would be to enter premises to do the work. In some case like electrical problems or water leaks one might have to work all night close by.

Page 15, SECTION 14, (2) We was definitely discriminated against when they changed from a 3 day eviction notice to a 15. There is no other rental business that has did this such as apartments or houses etc. We are against a 45 day eviction notice as by the time the process is done they can get in debt to you for at least two months.

(4) Every resident should be held responsible for any person living with them or visiting them. It's too easy for them to say they knew nothing about it or didn't think that they were coming back. If they are held responsible they'll learn to pick there company.

Page 16, SECTION 15, (1) If we have to go through the court process each time to terminate the rental agreement and evict some one it will only add a heavier burden on the taxpayers to hire more judges and processors to handle the case load. We are again singled out and discriminated against as no other business has to do this. (2) Looks like this is being done to create more lawsuits in telling the resident to come back on the Parkowner in what ever way they can.

Page 17, SECTION 15, (4) By making a sheriff wait 30 days on serving an eviction notice from the date of the court order is just another stall. This will not get rid of the resident off of court premises if you want them off. This part should be at the parkowners discretion.

Page 18, SECTION 16, (1) This is taking control of the parks away from the parkowners and the resident would sell to anyone whether desirable or undesirable just to get rid of the mobile. As to posting of signs the state and federal highways do not allow signs just any place so why should we have. If you would allow this to go on you would have a rapid deterioration of the mobile home courts.

Page 19, SECTION 17, This whole section should be throwed out as the parks are governed by state and federal laws and what difference does it make who you sell to or advertise by.

The Parkowners feel that House Bill 748 should be defeated due to discrimination against the mobile home industry and could create law-suits.

*By letter to Sen. 15-
This will be presented on floor
sponsor's agenda*

Amendments to House Bill 672, proposed by Steve Browning, on behalf of State Farm Insurance Companies, February 20, 1991, before the House Business and Economic Development Committee.

EXHIBIT 15
DATE 2/20/91
HB 672

1. Page one, line 23.
Following: "a" on line 23
Strike: 12
Insert: 6

2. Page one, line 25.
Strike: 12
Insert: 6

3. Page two, line 13.
Strike: 6 months
Insert: two years

4. Page six, line 25.
Following: "adverse"
Insert: "solely on"

5. Page seven, line one.
Following: "is"
Insert: "more than"

Alternately

3. Page two, line ten.
Following: "received" on line ten
Insert: "or for which there existed no symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment"

Amendments to House Bill No. 819
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 20, 1991

1. Page 1, line 17.

Following: "and"

Insert: "includes at least one member"

Following: "governments"

Insert: ", "

2. Page 4, line 18.

Following: "opportunities"

Insert: "for tourism"

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECON. DEVELOPMENT

COMMITTEE

BILL NO.

HB 667

HB 683

DATE FEB. 20, 1991

SPONSOR(S) REP. DARKO

REP. SIMPKINS

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
GENE PHILLIPS	NAT. ASSOC. LTD. INS. ALLIANCE AMER. INS.	HB 683		X
Jerry T. Zander	MT. MED. ASSN	H 667		✓
Jaqueline Terrell	Am. Ins. Assoc.	HB 683		X w/amt
Karl Emery	MT Landlord Assoc	HB 748	✓	
Steve Brown	State Farm Insurance	HB 683	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECON. DEVELOPMENT COMMITTEE BILL NO. HB 819
 DATE FEB. 20, 1991 SPONSOR(S) REP. RUSSELL REP. R. JOHNSON HB 870

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Bob FERRAIS	H.D. 9	819		✓
Shawn Gushens	MAPP	819		✓
Tookie Welker	MAPP	819		✓
Jan T. Zandy	mt. med assn	870	⊗	✓
Marciana Dancy	H.I.A.	819		✓
Norma M. Parker	RAPP/MAPP	819		
Angela Russell	HD 99	819		✓
Kathleen M. Fleury	COORDINATOR T. H. H. Affairs	819		✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECON. DEVELOPMENT COMMITTEE BILL NO. HB 739
 DATE FEB. 20, 1991 SPONSOR(S) _____ REP. JIM RICE _____

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
GEORGE T. BENNETT	MONTANA BANKERS ASSN	739		X
Jack Anderson	MT League of Soc. Inst.	739		X

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HOUSE OF REPRESENTATIVES

1 of 3

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. HB 672
HB 748DATE FEBRUARY 20, 1991 SPONSOR(S) REP. FAGG REP. KADAS

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
RONDA Carpenter	Income Property Owners Mngs	748	✓	
VERN L. FISCHER	" " " "	748	✓	
Dave Barnhill	Insurance dept	672		✓
Daniel Wood	Bozeman Landlords Assn	748	✓	
Kaylie Utter	Mob. Home Park operator	748	✓	
Sheryl Hengate	Skyline P. Ct	748	✓	
Steve Brown	Blue Cross - Blue Shield	672		✓ w/ amendment
Glen C. WITTS	Montana Mobile Credit	748	✓	
M. Pauline Eggebrecht	" "	748	✓	
E. Howard Eggebrecht	" "	748	✓	
DORIS Van Doast	" "	748	✓	
MAURICE KRAUT	Mob. Home Park op.	748	✓	
Val Salerno	Self-Built			✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

283

BUSINESS & ECON. DEVELOPMENT COMMITTEE

BILL NO.

748

DATE FEB. 20, 1991 SPONSOR(S) REP. KADAS

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Montana N. W. Co.	Montana Mobile LRV Parks		✓
ED EATON	SELF		✓
ANDY SKINNER	LIFESTYLE HOMES		✓
LARRY AXET	MT ASSOC OF LIFE UNDERWRITERS	40622 X	
Ed McHugh	McHugh Mobile Home Park		✓
Orvil Walborn	Countryside Village MHA		✓
Jim Fleischmann	MT People's Action	✓	
Norris Amundson	Mont People's Action	✓	
Percie Jones	renter	✓	
Lorrie Snyder	Mobile Home Owner	X	
Phil Kuning	MSCA	X	
Bill McCarty	MT Peoples Action	X	
Lee Reynolds	Mobile City Home Park 1421 1st St		X
Clyde Dailey	MSCA	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

3 of 3

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO.

748

DATE FEB. 20, 1991 SPONSOR(S) REP. KADAS

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
William C Miller	Pebble Garden Court		X
Andrew Nappelle	Self		X
Bradley Hall	Mobile park assoc.		X
Stuart Duggan	MT Manufactured Housing + RV Association		X
Steve Thompson	Executive Mt Landlord Assoc Kalispell		X
STAN COTTER	MONTANA LANDLORD'S ASSOC KANSBOW, MT		X
Mary McHugh	Helena Mobile Home Operators (Ed McHugh)		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.