

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on March 15, 1991, at
10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 530

Presentation and Opening Statement by Sponsor:

Representative Vivian Brooke, sponsor of the bill, stated that there was some technical changes made to the bill to put it into the correct section of the code. HB 530 clarifies that insurance companies could not exclude from coverage or consider an application for people with genetic conditions, or developmental delay, or developmental disability. If a family has a down syndrome child, and wants basic healthcare coverage for that child's perhaps, broken arm, or other necessary hospitalization that is not related to the genetic condition, that insurance companies will be clear that they should consider the application, and they should not exclude from coverage those children, and also for life insurers.

Proponents' Testimony:

John Opitz, chairman of the department of medical genetics

at Shodair children's hospital in Helena, Montana, representing himself as a genetic healthcare provider, stated that this bill enacts an equal protection clause. It establishes the principal of equal protection coverage for equal risk.

Chris Volinkaty, a lobbyist for the forty six non profit providers in the state who provide services to the developmentally disabled as well as the consumers of that service, stated that when a developmentally disabled child is born to a family it is very devastating emotionally to that family. If they are middle income people, it is extremely devastating financially. This bill would make a small step for those families that are trying to support these children. It is modeled after the Arizona law, and provides regular childcare insurance, just like it would a regular child without any problems.

Tom Hopgood, representing the health insurance association of America, stated that they are in concurrence with this bill.

Susan Witte, chief council for Andy Bennett, commissioner of insurance, stated that they support HB 530.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Gage asked about page three, line twenty two, that references developmental delays. Is there somewhere that establishes what the 'norm' is.

John Opitz replied that this puts them in line with federal guidelines. It puts them in the same definitions used in the federal guidelines.

Closing by Sponsor:

Representative Brooke closed by saying that this is a good business bill. When people move to Montana from out of state, it guarantees families that when they drop their healthcare coverage in one state, perhaps they would be able to pick it up again in Montana under this coverage.

HEARING ON HOUSE BILL 169

Presentation and Opening Statement by Sponsor:

Representative Bob Thoft, sponsor of the bill, stated that the bill sets up a model check scale program in the state. One check scaler will be employed with the department of commerce, probably under the department of weights and measures, and this person's job will be to answer complaints from loggers on log scales. The program will be paid for by a fee of seven and a half cents per thousand of board feet. Board feet are worth to two hundred to three hundred dollars, this is a pretty modest fee. There are penalties in the bill. The first problems with

the mill will be worked out between the loggers and the mill. The second violation, there will be a thousand dollar civil penalty. Third violation, there will be a five thousand dollar civil penalty.

Proponents' Testimony:

Representative Barry "Spook" Stang stated that he represented a large logging community in western Montana. As he was going door to door, one of the biggest concerns of the loggers was the fact that they could haul their logs to a mill that is roughly sixty miles away from the one that is located in their town, they could haul that same load of logs one hundred and twenty miles round trip, haul it for the same price, and come home and still make more money than they could hauling it to the mill in their own back yard. It is only fair that we pass a bill that gives the people that are hauling logs into these mills, someone that can check on the scaler in that mill.

Paulette Bailey, a log scaler of eleven years, stated that she is representing herself, and does not answer to any timber company, logging operations, or scaling organizations in regards to this bill. Scaling is a determination of the volume of lumber in a log, usually expressed in board feet. The logger harvests the trees, takes them into the mill, and they are then scaled by a scaler. The scaler measures the length and the diameter of the tree using a scale stick. A tree of a certain length and a certain diameter has a given number of board feet, and the scaler then deducts for defects in terms of cracks, etc. They then come up with the net scale in terms of board feet. The problem arises when the logger believes that he has more board feet in net scale than the scaler says the load of logs has. These problems can be compounded by a practice that is very commonly used in mills called sample scaling. Sample scaling is used because the mills cannot scale every load, so they will pick randomly one out of three, or five, or ten, or twenty, to be scaled. The scale of that load is then applied to the other two, or four, or however many the sample is.

Richard Smith, an independent logger from Stevensville, Montana, stated that the mills have figured out how to make a finer blade so they do not use as much sawdust. They use the sawdust, they use the bark. All of these products are really merchantable, because it is in the use of the mill. It reduces costs. We would like to see fairness. If you are want to shut the timber industry down, you make all of the trucks haul by scale.

Sherman Williams, an independent logger, stated that this problem has been around for a lot of years. There has been attempts to get something done with it before, and it has always been beat down. He has always heard of this problem, and this is quite serious. He has had loads sent in that he has scaled himself, and when he received his scale slips back, there was eight hundred feet cut right off the top. The logger gets beat, and the state gets beat.

Opponents' Testimony:

Don Allen, executive vice president of the Montana wood products association, spoke in opposition of the bill (See Exhibit 1, and Exhibit 1A).

Mike Atwood, speaking as an individual who not only buys logs but sells logs to mills in Montana, spoke in opposition of the bill (See Exhibit 2).

Ernie Nunn, forest supervisor, Helena national forest, and representing the northern region forest service, and the United States department of agriculture, spoke in opposition of the bill (See Exhibit 3).

Jack Mahon, operations manager of r-y timber, inc., spoke in opposition of the bill (See Exhibit 4).

Patrick O. Connell, resource manager of rocky mountain log homes in Hamilton, Montana, spoke in opposition of the bill (See Exhibit 5).

Donald Rummell, resource tech and scaler for Darby lumber in Darby, Montana, spoke in opposition of the bill (See Exhibit 6).

Keith Oleson, executive director of the Montana logging association (MLA), stated that they rise in opposition to this bill with great difficulty. The MLA board had a meeting and with one exception, the board voted opposition to HB 169. The one exception suggested that they should remain neutral. They are not opposed to a check scaling program in Montana, they are opposed to the funding mechanism in this bill. This bill uses the hazard reduction program to fund the log check scaling program. That puts a fee on those mills which pay by the ton. Mills that pay by the ton should be rewarded and not penalized.

Questions From Committee Members:

Senator Williams asked if there was anybody from the state lands at the hearing today, and do they support this bill.

Tim Murphy, with state lands, stated that they are here today mainly for information purposes. They are neutral on this bill.

Senator Thayer stated that nobody has mentioned that this will fund only one FTE to solve all of the problems that are going on.

Keith Oleson stated that part of the debate today, is what is going to be the demand for this person's services. If one person is in place, then it would be his intent to respond to complaints. If there were no complaints, then he would do some checking of consistency.

Senator Williams asked in Jim Wallace's option, is scaling usually right on.

Jim Wallace, a scaler from the department of state lands, stated that the scalers are usually a little bit high, probably two to three percent, and they are usually very consistent.

Senator Lynch submitted a letter for the record from Patrick L. Smith, who could not attend the hearing in opposition of HB 169 (See Exhibit 7).

Closing by Sponsor:

Representative Thoft closed by proposing an amendment (See Exhibit 8). The Montana logger's association used to be an association to protect these kinds of people, now they protect the mills, because that is where the bulk of their money comes from. This bill has a lot of merit. They have been trying to get log scale legislation through this body since 1975, and the mills have been able to kill it everytime it comes up. The federal government going broke by contributing three and a half cents to this program is absolutely ludicrous. One FTE can go find out what the problems are and can start doing something about it. Maybe the mills will start treating the independent loggers fairly with their scale.

HEARING ON HOUSE BILL 241Presentation and Opening Statement by Sponsor:

Representative Tim Whalen, sponsor of the bill, stated that HB 241 is a bill that provides an information gathering system so that we can methodically obtain necessary information. Not only to regulate, but also to understand what is going on as far as how insurance is being written in the state of Montana, claims that are being paid in Montana, how much money insurance companies are paying lawyers to beat claims in Montana, how much is being paid to administer claims so that we can get a handle on the when the insurance company comes in and makes representation about the state of the insurance industry, and ask legislature to help out with the insurance industry that we have that information available to us.

Proponents' Testimony:

Gary Neeley, an attorney from Billings, Montana, stated that he has represented the Montana medical association since the mid 1970's. The type of legislation on the books that pertains to medical malpractice insurance is similar to this type of legislation that is brought here. This bill is absolutely essential to the legislative process, joint committees, interim committees, and the committee structure itself. He submitted more information (See Exhibit 9).

Opponents' Testimony:

Jacqueline Terrell, representing the American insurance association, spoke in opposition of the bill (See Exhibit 10).

Gene Phillips, representing the alliance of American insurers and the national association of independent insurers, stated that there are several problems associated with this bill.

On page four, at line thirteen through nineteen, for one company they don't keep that for each state. They have net investment income for the company as a whole. It is not kept on a state by state basis. On page five, line thirteen, the question here is whether this applies to any use by anyone. Incurred expenses in all of the categories requested are certainly not allocated to particular classes. Any attempt to segregate any information in those classes would provide no benefit of any kind. On page five, line seventeen, this would be an entirely arbitrary allocation with absolutely no value.

Brian Donahue, general manager of the USFth insurance in Helena, Montana, stated that this bill will ultimately drive up the cost of insurance for their customers. His company, along with others, are evaluating their long term strategies on a state by state basis. Today Montana is looked upon as a good place to do business. Our system is working well, and the consumer is being treated fairly. It is a very competitive climate in this state. Vote against this bill to preserve the favorable business climate in Montana.

Roger McGlenn, executive director of the independent insurance agent's association of Montana, stated that he does not represent insurance companies, but he represents independent insurance agents across the state. Much of this data that is being requested in this bill is available to the Montana insurance department, and any other concerned person or group in the United States or in this state today. The national association of insurance commissioners (NAIC), have accelerated reports (See Exhibit 11). These reports contain much of what is requested by this bill, and provide the flexibility to request other things as the needs occur.

Jacqueline Terrell, stated that Steve Browning, representing state farm insurance, asked her to stand and state his name in opposition of the bill.

Questions From Committee Members:

Senator Williams asked if Gary Neeley represents MMA.

Gary Neeley replied that he was appearing as an individual on this bill today.

Senator Williams asked what the auditor's department is going to do with all of this information.

Susan Witte, representing the state auditor, Andy Bennett, replied that they will store the information, file it.

Senator Williams asked Representative Whalen why a fiscal note was not attached to the bill.

Representative Whalen replied that the insurance commissioner indicated when the bill was in the house that it was going to cost fifty or sixty thousand dollars.

Senator Kennedy asked why it will cost so much to get the information if it is so readily available.

Gary Neeley replied that the information is readily available to the carriers, but not to the public.

Senator Noble asked how many calls do the commissioner's

office get wanting to know this information.

Susan Witte stated that there are many calls on medical liability insurance.

Senator Williams asked Susan Witte if this will add to the commissioner's office, what will they need if this bill is passed.

Susan Witte replied that they would need one file clerk, and four file cabinets is what the commissioner figured she would need for this bill. That is why there is a fifty dollar fee.

Senator Lynch asked why is it necessary that we get information from all fifty states rather than our state.

Representative Whalen stated that the bill doesn't require that you get information from all fifty states.

Senator Thayer stated that the insurance commissioner in the past has always brought us bills that conform to the model legislation that has been drafted by the national association, if this bill is so important to the insurance commissioner, why wasn't the bill drafted along model lines.

Representative Whalen stated that model legislation doesn't necessarily serve this state in reasoning.

Closing by Sponsor:

Representative Whalen closed by saying that this is an extremely important piece of legislation. It is time that we have the information presented to us to determine whether or not what we did was appropriate. If that information is available to us we can determine whether or not insurance carriers are treating our insured in the state in a fair manner.

HEARING ON HOUSE BILL 203

Presentation and Opening Statement by Sponsor:

Representative Sheila Rice, sponsor of the bill, stated that this bill makes a change in laws regarding usuary. The bill adds the words, on page one, line sixteen, "or a mutual stock or insurance company" to section thirty one, line one, one, one. By adding mutual and stock insurance companies we simply level the playing field. Mutual stock insurance companies are important lenders in Montana, especially in the agriculture sector. This is important because in order for the agriculture lenders to continue lending in Montana they need to be on the same competitive basis as banks, savings and loans, etc. Section two of the bill, was added by legislative council to make the language consistent.

Proponents' Testimony:

Art Matteucci, representing traveler's insurance company,

stated that he has an affidavit from Thomas Ellis (See Exhibit 12). Insurance companies perform the same function as the other lenders listed under the definition of regulated lenders. There is no reason to exclude insurance companies from this group of entities which are exempt from usuary statutes.

Gene Phillips, representing the national association of independent insurers and the alliance of American insurers, stated that they support the legislation.

Jacqueline Terrell, representing the American insurance association, stated that this bill simply allows insurance companies to lend to businesses in the same way that a bank or credit union can lend to a company, business, or an individual. Montana's usuary laws are directed to contract or loans between private individuals, so there was a purpose to those being regulated in a different manner. This bill will encourage investment in Montana, it will be good for business in Montana, and it will be especially good for agriculture in Montana.

Opponents' Testimony:

Representative H.S. Hansen stated that initially this bill was presented as very simple bill. Reclass insurance companies so that they would be on a level playing field as a regulated lender. That bill does not do this. This bill puts money in the insurance company's pocket. All that we are talking about with this bill is usuary section of law. Under the definition section, we are saying that we are going to make the insurance company a regulated lender.

Questions From Committee Members:

Due to time running out, Senator Lynch stated that this hearing will continue starting with the questions section, on Monday, March 18, at 10:00 a.m.

Closing by Sponsor:

Continued Monday, March 18, at 10:00 a.m.

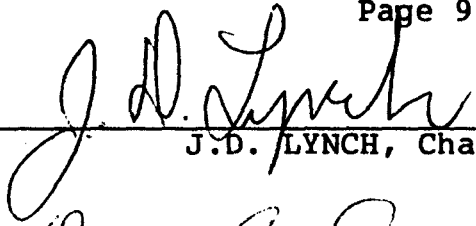
ADJOURNMENT

Adjournment At: 12:30 a.m.

SENATE BUSINESS & INDUSTRY COMMITTEE

March 15, 1991

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J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

JDL/dia

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Raymond Goss	JHR Logging	HB 169	✓	
Hermon Williams	Self	HB 169	✓	
Richard J. Smith	Smith-Ballou-Smith Logging	HB 169	✓	
Ernie Noon	Forest Service	HB 169	✓	✓
GENE PHILLIPS	NAT. ASSOC. IND. INS ALLIANCE AMER. INS	HB 203	X	
"	"	HB 241		X
Fredder Matteucci	Travelers Ins Co	HB 203	✓	
Jim Kambel	Public Safety Div / DOC	HB 169	Information	
Jack Mahon	R-Y Timber	HB 169		X
Patrick O. Conwell	Rocky Mountain Log Homes	HB 169		X
Mark Wilkinson	Champion International	HB 169		X
Graig F. Thomas	Champion International	HB 169		X
John Opitz	Self	HB 30	✓	
Billy L. Dean	Plum Creek Lumber Co.	HB 169		✓
Mike Atwood	Brand Lumber	HB 169		✓
Don Bunnell	Darby Lumber	HB 169		✓
Paulette Bailey	Self	HB 169	✓	
Ellen Roberts	Self	HB 169	✓	
Benny Alan	Dist 52	HB 169	✓	
Cris Volinthy	DD Lobbyist	HB 530	✓	
Tom Hopyard	HIAA	HB 530	✓	
Jacqueline N. Terrell	Am. Insurance Assoc.	SB 203	✓	
Jacqueline N. Terrell	Am. Insurance Assoc	HB 241		✓
WARRY AKEY	MT ASSOC OF LIFE UNDERWRITERS	HB 203	✓	
WARRY AKEY		HB 530	✓	
Steve Browning	State Farm Insurance	HB 241		✓

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of MARCH, 1991.

Name: PATRICK CONNELL

Address: 284 COOPER
HAMILTON MT 59840

Telephone Number: 363-3798

Representing whom?
ROCKY MOUNTAIN COG HOMES

Appearing on which proposal?
HB 169

Do you: Support? Amend? Oppose?

Comments:

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 3/15/91

BILL NO. HB169

LOG SCALING STUDY

Final Report to the 52nd
Montana State Legislature

*Prepared by the Environmental Quality Council,
December, 1990*

I. INTRODUCTION

This is the Environmental Quality Council's final report to the 52nd Legislature regarding the EQC Log Scaling Study. While making no recommendations regarding log scaling practices in Montana, the Council believes that the study provided a needed forum for interested persons to discuss the issues in an open and informal fashion.

This report will briefly review the background and purpose of the study and present a summary of the public comments received by the Council. A brief review of log scaling programs in neighboring states is also provided. The Council hopes that this report will lead to a better understanding of the issues involved.

A. Background

Log scaling, in brief, is the measuring of a log to determine the amount of timber in that log. A number of different units of measurement exist but the most common is the "board foot", i.e. a piece of timber one foot long, one foot wide and one inch thick. Loggers, and for the purposes of this report the term "loggers" includes anyone whose financial return depends directly on log scale, have expressed concern about the accuracy of log scaling in Montana.

Bills authorizing state regulation of log scaling have been introduced during past legislative sessions, but none have been enacted.

The 45th Legislature (1975) requested that the Legislative Council prepare a memo detailing log scaling practices in other timber producing states and outlining potential log scaling regulatory programs. No legislative action followed.

A proposal requesting an interim study to:

. . . undertake a comprehensive study of log scaling in Montana to determine the practicality of establishing a certification procedure for scalers in Montana, acceptable uniform standards of measurements, and regulatory procedures for log scaling. . . .;

was defeated in the 47th Legislature (1981).

Lastly, the 51st Legislature (1989) appropriated \$5,000 to the Environmental Quality Council:

(f) or the purposes of conducting public hearings on problems associated with log scaling practices and their effects on the economic health of the timber industry and on the timber resource in Montana

B. Purpose

Working within the broad guidelines set by the 51st Legislature, the Council developed a three phase log scaling study plan.

The goals of the study were to:

1. provide a public forum for interested Montanans to convey their views on log scaling issues to Council members;
2. generate information on current log scaling regulations in other timber producing states; and
3. ensure that log scaling practices are conducted in a manner that is consistent and fair to all persons involved.

C. Study Structure

The first phase of the study involved gathering information on current log scaling practices in Montana and framing issues that would be addressed by participants at the public meetings. The Council hoped that by stating and publicizing the relevant issues, the public meetings would be more focused and more productive.

The following is an excerpt from the public meeting notices:

The purpose of the public hearings is to provide a public forum for interested people to present their views on log scaling to the Council. The Council will use these hearings to decide what further action is needed on this matter during the 1991 legislative session. Anyone having an interest in log scaling issues is strongly encouraged to attend. The involvement of people affected by log scaling is crucial to the success of this study.

The study is currently focused on the following questions. These questions should be used only as a starting point for the public hearings. If there are other areas of concern involving log scaling in Montana it is important to let the Council know.

1. Are log scaling practices inconsistent in Montana?
 2. If log scaling practices are inconsistent, where are the problems? Is scaling inconsistent -
 - A. Within the mills?
 - B. Between the mills?
 - C. Between federal, state and private scalers?
 3. What is causing the inconsistency?
 - A. Type of scale used?
 - B. Harvesting of smaller timber?
 - C. Inadequate scaling?
 - D. Intentional mis-scaling?
 4. How widespread is the problem?
 - A. Mainly a small mill problem?
 - B. Mainly a large mill problem?
 - C. Is the problem occurring statewide or is it localized or isolated?
 5. How can the problem be corrected?
 - A. Changing to cubic and/or weight scale?
 - B. Independent check scaler program?
 - C. Increased flexibility in mill contracts?
 6. Who should correct the problem, and who pays?
 - A. Voluntary agreement within the timber industry?
 - B. State regulatory program?
 7. If log scaling practices are not inconsistent, can the perception of inconsistency be removed by increased communication within the timber industry?
 8. Are there other concerns with log scaling that should be addressed?
-

The second study phase consisted of scheduling, publicizing and conducting the three public meetings. The Council attempted to ensure that the meetings were well publicized by sending out press releases to all area radio and television stations, weekly and daily newspapers, and timber trade publications. Information regarding the meetings was also sent to all interested persons on the Council mailing list. The meetings were all scheduled for Saturday mornings to facilitate maximum participation by interested persons.

The following is a summary of meeting locations, dates and approximate attendance:

Location	Date	Approximate Public Attendance
Missoula	April 28th	75
Livingston	June 16th	25
Kalispell	August 4th	25

Different reasons for the relatively low attendance in Livingston and Kalispell have been suggested. Some observers believe that any problem, perceived or actual, with log scaling is a localized problem. This theory is supported by the fact that many of the people attending the Livingston and Kalispell meetings were from the Missoula area and had attended the Missoula meeting. Other reasons for the low attendance at the last two meetings were logger frustration and the lack of confidence in reaching a solution. However, the Council also received unsubstantiated reports of logger intimidation, i.e. threats of decreased employment opportunities if the logger attended the public meetings.

The last phase of the study involved the compilation and review of the comments generated at the public meetings and of the relevant information from other timber producing states.

II. SUMMARY OF PUBLIC COMMENT

Note: The following is a summary of public comments received by the Council at the public meetings. It is included here to encourage a better understanding of the issues. While the information below is a fair representation of the comments received, the Council can take no position on the factual accuracy of the views expressed by the meeting participants.

A. Loggers

From the comments received in the three public meetings, the apparent underlying problem with log scaling in Montana is that the loggers do not trust the mills to give them an accurate scale. The specific problems, and potential solutions, mentioned most often are listed below.

1. The scaling is not fair.

(a) Overruns - Most mills actually realize between one and one half and two board feet (BF) for every BF for which the logger is paid. Many of the loggers said they felt that the mills are "stealing" this wood from them.

What is causing the overrun?

(i) Scribner decimal "C" scale - This scaling method, the most commonly used in Montana and other states, is outdated and cannot accurately scale the new smaller diameter logs. Decimal "C" was originally designed to include taper and defect, but this is now figured separately and subtracted from the gross scale without any corresponding "credit" given to the logger. Additionally, the saw kerf in the decimal "C" was designed at 1/4 inch, the kerf is now 1/8 inch, again with no corresponding "credit" given to the logger.

(ii) Cull logs - Any log that has over 50% defect is a cull log and most mills will not pay for it. However, some mills can still use the cull logs for chips, etc. The logger cannot get the cull logs back.

(b) Mis-scaling - The scalers are not independent. They are paid by the mills, and even if they do not intentionally mis-scale the logs, there will be pressure to make sure that their "employer" comes out on top. This perception of potential bias may be the largest reason for the distrust between the loggers and the mills.

(c) No recourse for a logger with a complaint. If a logger complains about a scale, the logger must complain to the mill. If the mill does not agree, or does not fully agree, with the logger about an incorrect scale, the logger can go to no one else. It is also difficult for a logger to challenge the mill on a particular scale because of the "yard" practice of putting a scaled load on the deck, with other logs, as soon as possible.

After a scaling problem has developed, it is possible for a logger to employ, often at the logger's expense, a check scaler on a particular load of logs, but this does not solve the problem of the first questionable load. And even if the mill is "caught" with a bad scale, the logger can do nothing about it. A legal action, or even complaining too loudly, will only get the logger "black-balled" in the area.

2. The scaling is inconsistent. Despite the dissatisfaction with the decimal "C" scale, most loggers agreed that if the scale was consistent, they could live with it.

What is causing the inconsistent scaling?

(a) Mis-scaling - (See 1.(b) above)

(b) Inaccurate scaling - Montana has no scaler certification process to ensure that all scalers are at least minimally proficient.

(c) Destination dependant scaling - Loggers have noticed that logs of similar quality will be scaled differently depending on the ultimate use of the logs. A BF of one tree should be the same as a BF of any other tree. It should make no difference whether the log is being sent out of state, sent out of the country, used for log homes, veneer, poles, posts, 2x4's etc.

3. How can the problem be corrected?

Most loggers stated that getting paid by weight is more consistent than the decimal "C" method. However, most loggers also stated that, for various reasons, they do not support a state law requiring pay by weight. There were many comments regarding the shift to the "cubic" scale. This would remove some of the problems with decimal "C", e.g. failure to account for taper. But regardless of the type of scale used, if the mills are not consistent, the loggers felt that the underlying problem of mistrust would remain. The following potential solutions were suggested at the public meetings.

(a) Use independent scalers, paid by both the loggers and the mills. This would remove the appearance of bias on the part of the scalers.

(b) Create a state agency, with enforcement power under the Weights and Measures Bureau of the Department of Commerce, to randomly spot check scalers. Even using independent scalers, most loggers want someone to go to if there is a disagreement over the scale. This state check scaler must have the authority and ability to ensure that the loggers get a fair scale.

B. Montana Wood Products Association (MWPA) Comments

The MWPA, generally representing the mills, believes that the underlying mistrust between the loggers and the mills stems from an incomplete understanding of both the scaling practices and the important role individual contracts play in the entire scaling process.

1. Overruns

Responding to specific logger comments, the MWPA emphasized that overruns, taper, and the new narrower kerf, are all included into the calculations that determine the total cost of a timber sale. For example, while it is true that the mills commonly receive one to two times as much timber as they pay for by scale - this "extra" timber is included in the equation that determines how much the mill pays per BF. In other words, if the mills reduced their overrun, i.e. actually received the same amount of timber that was scaled, the purchase price of that timber would decrease. So while the logger would get a higher scale, the timber would be worth less and the logger would end up with the same amount of money.

2. Cull logs

The MWPA stated that a log must now contain at least 66% defect, i.e. unusable timber, before it will be classified as a cull log. MWPA also stated that the cost of handling a cull log through a mill exceeds the value recovered.

3. No recourse when scaling problems arise

The MWPA stated that, to their knowledge, all major log yards in Montana are open for check scaling. When buying timber from state, federal or large industrial entities, the mill scale is regularly check scaled by the sellers. The mill scale is usually higher, to the mills disadvantage, than the check scale. There are consultant foresters and check scalers available in Montana but there has been little interest on the part of independent loggers to pay for use these services.

4. Scaler proficiency

The MWPA agreed that Montana has no scaler certification program, but went on to say that many scalers in Montana have been licensed in other states, attend periodic scaling workshops, and belong to professional scaling societies.

5. Contracts

The MWPA emphasized that most of the problems identified by the loggers could and should be addressed through the contracting process. The contract can specify the type of scale used, establish appropriate taper, reserve the right to use a check scaler, etc.

6. Education

The MWPA informed the Council that it would sponsor an education program involving landowners, loggers, mills, and scalers, to provide information on scaling practices and the importance of contracts. Representatives of the Montana Loggers Association also supported the program.

III. OTHER SCALING PROGRAMS

The following is a brief review of the scaling programs in other timber producing states. More complete information on these programs is available from the Council staff.

A. Idaho

Idaho requires that all log scalers be licensed by the state. The licensing procedure involves a written and practical application test. Licensed scalers are checked every two years by state check scalers to ensure compliance with state standards. If the licensed scaler is located in another state, the scaler must travel to Idaho every two years for relicensing. A Board of Scaling Practices, funded by log purchasers, oversees the licensing and scaling standards.

B. Oregon

Scaling bureaus, independent of either industry or public agencies, scale logs in Oregon. The timber purchaser is required to pay the scaling bureau.

C. Washington

Washington also uses independent scaling bureaus. But log scaling costs are split between the purchaser and the seller.

IV. CONCLUSION

After receiving the public comments regarding log scaling practices in Montana and information regarding log scaling regulation in other states, the Council decided to prepare this report and transmit it to the 52nd legislature with no final recommendation. The Council decided that, while a problem exists, the scope of the problem was insufficient to warrant further Council action. The Council hopes that the information included in this report will assist individual legislators to better understand the issues.

TESTIMONY OF DON ALLEN
EXECUTIVE VICE PRESIDENT
MONTANA WOOD PRODUCTS ASSOCIATION
BEFORE SENATE BUSINESS AND INDUSTRY COMMITTEE
MARCH 25, 1991
REGARDING HB 169

Mr. Chairman, Members of the Committee:

For the record my name is Don Allen and I am the Executive Vice President of the Montana Wood Products Association headquartered in Helena.

MWPA's membership includes Montana wood products facilities including small, medium and large sized operations which account for over 90% of the log processed in the State, several secondary manufacturers, and a substantial number of businesses which are dependent on a healthy forest products industry.

We totally agree with the conclusion reached by the EQC to make "no final recommendation" (I have furnished the Committee with copies of the EQC Report. For the most part the proponents you have heard from today were the ones who testified at three EQC hearings. The industry participated in the three hearings held last year by the EQC.

The EQC studied many important issues during the interim and has recommended several significant pieces of legislation to this Legislature. I think it is worthy to note that the Council concluded that while there are some concerns related to log scaling "The problem was insufficient to warrant further action".

Representative Jim Elliott during floor debate, stated that after attending the EQC hearing in Kalispell, He ran an ad in four newspapers in his area and received only one call from a logger that thought there was a problem.

We recognize and appreciate the fact that the concerns of the proponents are sincere and that some problems exist in understanding the complexities of scaling itself but more importantly we believe that most of the distrust that exists results from a lack of knowledge and the understanding of the requirements of the various mills which are reflected in the contracts between the mills and logging contractors. We have pledged to conduct a series of ongoing workshops (starting late this spring) which include loggers, foresters, and landowners to bring about a better understanding of scaling and contract provisions.

We strongly object to suggestions that loggers have been deliberately shortchanged by scaling practices by the mills. One and a half years ago, when this charge first surfaced, I stated that if there was evidence that any mill had committed a crime that charges should indeed be filed. Any business regardless of size

or what product or service it is involved in cannot long survive if it has a policy of dealing unjustly or dishonestly with those they buy from to sell to.

We have always expressed a willingness to seek a method of addressing the real issue i.e., dispute resolution. Our suggestions in that regard have not been well received by the proponents and now HB 169 is before you.

Speaking of Forest Service lands, undoubtedly the Forest Service, the Bureau of Indian Affairs, and the State Lands Department will file for exemption from provisions of HB 169. This will leave private and fee timber with the burden of financing the costs of implementing the legislation.

Others will address specifics of these general points in the bill"

- o The frequency that the one check scaler called for in the bill cannot possibly conduct enough check scales to serve as deterrent as specified in the bill (p.2, line 14). As with all earmarked funds pressure will always be to hire more people and guess who will have to pay for the additional costs of a growing bureaucracy. If it is indeed a statewide problem and legislation is needed (which we do not think it is) then general fund dollars should pay the cost.
- o The 7 1/2 cents/1000 bd. ft. funding should not have to be paid on logs purchased by the ton - which is about 70% of the total
- o Check scales by independent firms have indicated that scales run high most of the time so the scales will undoubtedly go down (i.e.: less dollars to the logger) if a qualified check scaler is hired by State.
- o The Department of State Lands already has a check scaling system in place with expertise. No need to create new bureaucracy.
- o Log scaling requirements in Montana re by contract. By allowing only F.S. handbook provision would limit needed flexibility necessary in contracts (to meet specific mill needs) and in fact, would probably nullify existing contracts.
- o The bill imposes requirements that depart from language in F.S. handbook but then contradicts by saying the handbook will be abided by.
- o The bill is unclear about what is meant in regard to public property.

This legislation will add one more negative impact on the industry, the timber area communities, and the families who work in or depend on the wood products industry. It will in fact, hurt those it would supposedly help. This at a time when the industry is struggling as mills close or curtail operations.

The Forest Service has been meeting only 57% (compared with over 80% in Idaho) of its allowable sale quantity (ADQ) targets in Montana resulting in High stumpage prices, which along with recent market pressure is causing serious concerns.

I respectfully urge you to give this bill a do not pass recommendation.

Mr. Chairman:
Members of the Committee:

My name is Mike Atwood, as a person who not only buy's logs but sells logs to mills in Montana. This bill takes away my ability to get a cash adjustment if I hire a check scaler and prove that I have been short changed by the mill. It does nothing for me as a log seller.

In addition, I will have to pay for an unnecessary State Scaler. I recently sold several hundred loads of logs to a mill. I wanted ^{to} ~~my~~ check scaler and the mill agreed to split the cost of a qualified check-scaler and agreed to adjust if necessary to zero. The present system gives me, as a log seller that opportunity. The result was satisfactory.

In scalers terminology, this bill is a "Cull", it is full of defect, and it is certainly not worth buying. It doesn't do anybody any good, and it belongs out in the bone-yard.

Mills are closing all over Montana, this is not a time to place unnecessary burdens and increase the State bureacracy on the backs of the industry.

Thank you,

STATEMENT OF
ERNIE NUNN, FOREST SUPERVISOR, HELENA NATIONAL FOREST
NORTHERN REGION FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

SENATE BUSINESS & INDUSTRY

Before the
Business and Industry Committee
State of Montana - Senate

EXHIBIT NO. 3
DATE 3/15/91
BILL NO. HB 169

Concerning HB 169

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 of July 1, 1991 and a termination date of July 1, 1993."

March 15, 1991

CHAIRMAN LYNCH AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to offer our views on HB 169. The bill, as we interpret it, is proposed to ensure accurate and consistent timber scaling practices in Montana; something which already exists on National Forest timber sales. The bill, as presently written, makes no distinction between private and federal government timber. We recommend that language be included in the bill which excludes Federal government timber from these requirements. Rationale for this is that the government is presently doing what this bill is intended to do. Guidelines have been set up to scale and check scale federal government logs using the National Forest Log Scaling Handbook. Standards have been established for scalers, as well as a system for adjustments when scalers are outside established standards.

Another consideration would be relative to associated costs of implementing this bill on National Forest lands. The bill calls for the establishment of a fee of 7.5 cents for each thousand board feet of timber. Based on harvest figures for FY 1990, this translates into a reduction of approximately \$37,000 of Forest receipts. This would in effect be duplicating a cost for a service which our agency presently provides on national forest lands, thus increasing purchaser costs for harvesting timber. This would cause lower stumpage rates which would then ultimately translate into reduced receipts to the counties for schools and roads.

The use of the National Forest Log Scaling Handbook has been adopted as a guide by many Federal and State agencies and independent scaling organizations. Should this bill be enacted, with our recommended amendments, we would encourage the continued use of this handbook.

Mr. Chairman, this concludes my formal testimony. I would be happy to answer any questions the committee may have.

HB169 Timber Scaling Check

Mr. J. D. Lynch, Chairman, Senate Committee on Business & Industry, and members of the committee:

I am Jack Mahon, Operations Manager of R-Y Timber, Inc., a lumber mill at Townsend, MT. This bill did not start out as a good bill and the fact that it has been drastically changed is poor testimony to its need in the first place. Ironically, it still is not a good bill, even after the changes.

There is no widespread problem with log scaling in Montana. In fact the Environmental Quality Council, after hearings across the state this past year, found no reason to recommend a bill. Also, the Department of State Lands' audits of check scales found that state-wide average log scale is 3% high.

Even as this modified bill now exists, it would hurt those it seeks to protect.

For example:

Item 1. A second offense overscale of logs (note, I'm talking overscale) would cause the mill to be fined \$5,000. Where is the benefit to the logger? All he gets is the privelege of having to be audited. Also, the fine reduces the mill's ability to pay an adequate contract rate.

Item 2. The \$0.075/MBF fee to the state, while it isn't a large amount, reduces the profitability of the mill and its ability to pay the logger an adequate contract rate.

There is no explanation in this bill as to whether logs would be checked in the woods by the State and then compared to scale in the millyard. If this were done, it would not be a valid comparison. It would be impossible for the mill scaler to be within tolerance. Also, if the logs were chosen in the woods by the State, it would violate the random sampling procedure universally used in log scaling, so that in extending the sample scale to determine the total scale, you would not have a valid total scale. I think it is a shame to force this bill on the seller and buyer. The existing system is working well for all concerned. What we all need from the legislature is more thought to what can be done to encourage business and industry and make them more profitable. They need flexibility, and this bill certainly would not enhance the

ROCKY MOUNTAIN LOG HOMES



A Division of
MONTANA
SUNDOWN LTD.

PATRICK O. CONNELL
Resource Manager

P.O. Box 252
Granbook, BC VIC 4H8
CORP. OFFICES
1883 Highway 93 South
Hamilton, MT 59840
(406) 363-5680
FAX (406) 363-2109

TESTIMONY OF PATRICK O. CONNELL B.SC.RC
FORESTER
ROCKY MOUNTAIN LOG HOMES - HAMILTON, MT
BEFORE SENATE BUSINESS AND INDUSTRY COMMITTEE
MARCH 15, 1991
REGARDING HB 169

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 5

DATE 3/15/91

BILL NO. HB 169

Mr. Chairman, Members of the Committee:

For the record my name is Patrick O. Connell and I am the Resource Manager of Rocky Mountain Log Homes in Hamilton.

Rocky Mountain Log Homes is a Hamilton based Montana corporation directly employing up to 70 people at our manufacturing facility and up to nearly half again as many through logging services contracts. My firm had in 1990 \$7 million combined in domestic and international sales, and is recognized as the largest house log manufacturer in Western North America and in the top 5 firms nationally.

I have been retained as Resource Manager by Rocky for over three years, and have over 22 years experience in the woods. I am a graduate forester from the University of Montana, Class of 1973 and have held various chairs within the State Society of American Foresters. I successfully passed my first scaling school held here in Helena in 1974 and have, along with other duties, practices the art of scaling since. For the last five years, I have been licensed by the State of Idaho as a scaler.

Neither my company or I personally support this ill prepared and badly worded piece of legislation. Three fundamental definitions are lacking:

1. **Scaler:** Under this bill there is no basis of ability to scale, or required qualifications for an individual to measure up to to effectively earn the title of scaler.
2. **Handbook:** The US Forest Service Handbook speaks to Scribner Dec. C limited either by 16ft or 20ft maximum scaling segments. Furthermore, this handbook includes smalian cubic measure, and 1/4 inch international scale. This legislation doesn't speak to the fundamental technique, much less such options as standard or actual taper.

3. **Check Scaler:** Any individual that reviews another's original scale performance may be comparing scales. This activity doesn't make a check scaler. Nor is such a position's qualifications adequately defined. Check Scaling often requires a consensus of opinion, and a single check scaler precludes a consensus of experiences.

This legislation, while pointing to the US Forest Service scaling handbook as a guide, rejects the same manual's basis for a check scale: 200 logs and 10 mbf.

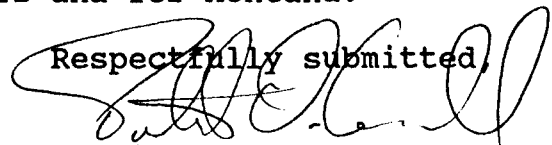
Reading the bill, I assume this bill covers all sources of timber. Rocky Mountain Log Homes acquires wood from Wyoming, Idaho, Eastern Oregon as well as Montana. We already pay Idaho State a scaling fee for wood obtained from that state. This bill creates confusion and conflict with the existing Idaho law.

Forcing a scaling technique for a special products firm will result shortly with its closure. The handbook, using Scribner Dec C dictates a scale volume to a 5.6" small top log. There are NO houselogs produced this small. A 10" raw log in our business could produce a 9" diameter finished houselog. This same raw log with 50% rot would have net scale; however, none of our customers want a log that is 50% rotten! We can't sell it, we can't buy it. Special product firms must be able to continue offering a premium price for specific, market sensitive resource. Further, such firms must continue to be able to refuse payment for logs inappropriate for special manufacture.

I will speculate that many very small businesses in Montana that currently purchase logs would go out of business with this legislation enacted. Mom and Pop firms that may now acquire logs by load or linear foot may neither have the expertise or ability to afford the expertise to buy on Scribner scale due to the size of their business.

In closing accurate scale responsive to purchase or service contracts is good business. This bill is bad for the logger, for manufacturers and for Montana.

Respectfully submitted,



Patrick O. Connell B.Sc.RC
Forester

TESTIMONY OF DONALD RUMMELL
RESOURCE TECH AND SCALER
DARBY LUMBER - DARBY, MT
BEFORE SENATE BUSINESS AND INDUSTRY COMMITTEE
MARCH 15, 1991
REGARDING HB169

Mr. Chairman, Members of the Committee:

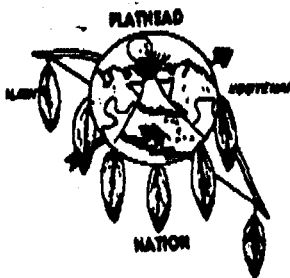
I have a total of 37 years of scaling experience - 27 years with U.S.F.S. I have been check scaled by 11 different U.S.F.S. check scalers by all the company that buy and sell logs in Western Montana and three different logging and sawmill Associations. Also by third party check scalers. I have also done check scaling on F.S. Scalers, and company scalers that DSL sells logs to. In the 37 years I have had 2 check scale out of bound both of these U.S.F.S. check sales. In my check scaling of other scalers, I have never found a case of deliberate cheating. Any difference in the scale was a case of missing defect or mistaken understanding of the contract.

The statement was made at the EQC meeting in Missoula by third party check scaler that in the majority of his check scale made that the company scaler was high.

This law will override the contract and drastically reduce the flexibility to do business between buyer and seller.

Will not hold small logger. It is my opinion that the scale will go down. The cost of this bill will be paid by the seller or

logger "Quote the purchaser of the slash permit will pay the 7 1/2 cents also how will it be audited by the State.



**THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION**

P. O. Box 278
Pablo, Montana 59855
(406) 675-2700
Fax (406) 675-2806

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 7

DATE 3/15/91

BILL NO. HB 169



Joseph E. Dupuis - Executive Secretary
Vern L. Clairmont - Executive Treasurer
Bernice Hewankorn - Sergeant-at-Arms

TRIBAL COUNCIL MEMBERS:
Michael T. "Mickey" Pablo - Chairman
Laurence Kenmille - Vice Chairman
Elmer "Sonny" Morigeau, Jr. - Secretary
Joe Dog Felsman - Treasurer
Louis Adams
Lloyd Irvine
Patrick Lathend
Henry "Hank" Baylor
Antoine "Tony" Inoshola
John "Chris" Lozeau

March 15, 1991

Senator J.D. Lynch
Chairman
Business and Industry Committee
Montana Senate
State Capitol

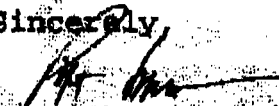
Re: Hearing on House Bill 169

Dear Senator Lynch:

I am sorry that I am unable to attend the hearing on House Bill 169 this morning. Would you please include the testimony of the Confederated Salish and Kootenai Tribes as part of the record of the hearing. As you can see by our testimony, the Tribes are opposed to the bill in its present form.

Thank you.

Sincerely,


Patrick L. Smith
Tribal Attorney

Enclosure: testimony

TESTIMONY**House Bill 169**

The Confederated Salish and Kootenai Tribes of the Flathead Nation harvest on an annual basis some thirty-eight million (38,000,000) board feet of timber per year. The Flathead Reservation, located in western Montana, contains a vast amount of forest land and the Tribes vigorously manage three hundred twenty-two thousand (322,000) acres of commercial forest lands.

The Confederated Tribes are concerned with House Bill 169 and any state attempt to apply this proposed law to the Tribes or any Indian owned timber. Currently, reservation Indian owned timber is scaled by the Bureau of Indian Affairs (BIA). Our timber is processed by mills both on and off the Flathead Reservation. Any state fees charged against Tribal/Indian timber we view as an unlawful infringement by the state upon trust resources. We see no need for application of this law to Indian timber harvests; where such timber is scaled by the United States due to our treaty status. Our unique treaty and political status would legally exempt us from any application

of this law, especially any attempt to collect fees for a state of Montana scaling activity.

The Tribes, at this time, must oppose this legislation. However, the Tribes may reconsider this position if amendments are added, either exempting Indians from the bill or state acceptance of the federal scale figures from the BIA.

Thank you for consideration given the Confederated Salish and Kootenai Tribes' testimony.

Amendments to House Bill No. 169
Third Reading Copy

Requested by Rep. Thoft
For the Senate Committee on Business and Industry

Prepared by Deborah Schmidt
March 13, 1991

1. Page 11, line 7.
Following: "July 1,"
Strike: "1993"
Insert: "1995"

STATE OF MONTANA EXPERIENCE

PROFESSIONAL LIABILITY INSURANCE EXHIBIT

Supplement to the December 31, 19__ Annual Statement of the Utah Medical Ins. Insurance Company
ASSOC.
 PROFESSIONAL BREAKDOWN (To be filed on or before March 1)

REQUIRED INFORMATION

	PROFESSIONALS (11)	ATTORNEYS (12)	REGISTERED NURSES (13)	REGISTERED PHYSICIANS (14)	BOYSCOUTS (15)	DEFENDANTS (16)	PHYSICIANS (17)	CHURCHES (18)	HOTELS (19)	AFFIDAVITS (20)	CITY/CO ACCOUNTANTS (21)	PUBLIC ACCOUNTANTS (22)	ARCHITECTS (23)	UTTERANCES (24)
Number of insureds on December 31	154													
Amount of direct premiums earned*	570,931													
Number of claims made against insureds*	9													
Number of claims outstanding on Dec. 31	8													
Number of claims paid*	4													
Amount of claims paid* (IND ONLY)	1884.90													
Number of lawsuits filed against insureds*	1													
Number of insureds included in line 7*	1													
Number of lawsuits previously filed and dismissed without settlement or trial*	0													
Number of insureds included in line 9*	0													
Number of lawsuits previously filed and settled without trial*	0													
Total amount paid in line 11*	0													
Number of insureds included in line 11*	0													
Number of lawsuits which went to trial*	0													
Number of judgments or verdicts for the plaintiff in line 14*	0													
Number of judgments or verdicts for the defendant in line 14*	0													
Number of other in line 14*	0													
Total amounts paid out for:														
a. Line 15	0													
b. Line 16	0													
c. Line 17	0													
Total number of insureds included in:														
a. Line 15	0													
b. Line 16	0													
c. Line 17	0													
Number of new trials granted*	0													
Number of lawsuits pending on appeal of December 31	0													
the calendar year next preceding.														

SENATE BUSINESS & INDUSTRY
 EXHIBIT NO. 9
 DATE 3/15/91
 BILL NO. H.B. 2411

ANNUAL STATEMENT FOR THE YEAR 1966 OF THE INSURANCE CORPORATION OF AMERICA

SUPPLEMENT "A" TO SCHEDULE T
EXHIBIT OF MEDICAL MALPRACTICE PREMIUMS WRITTEN
ALLOCATED BY STATES AND TERRITORIES

1 Designate the type of health care
providers reported on this page
Physicians & Surgeons

1 States etc	2 Number of Licenses	3 Direct Premiums Written*	4 Direct Premiums Earned*	Direct Losses Paid		7 Direct Losses Incurred	Direct Losses Unpaid		10 Direct Losses Incurred But Not Reported
				5 Annual	6 No. of Claims		8 Amount Reported	9 No. of Claims	
1 Alaska	1,475	406,675	1,368,721	1,101,221	10	857,194	1,962,669	80	1,083,129
2 Alaska									
3 Arizona									
4 Arkansas	144	15,813	21,074			65,603	97,131	3	15,628
5 California									
6 Colorado									
7 Connecticut									
8 Delaware	264	15,758	645,142	1,612,510	9	1,510,014	1,654,547	31	548,987
9 Dist. Columbia									
10 Florida									
11 Georgia	3,325	1,327,170	1,335,112	106,250	9	339,131	1,101,164	35	658,212
12 Hawaii									
13 Idaho	1,841	771,172	1,193,539	418,941	7	260,985	1,867,732	73	768,062
14 Illinois									
15 Indiana									
16 Iowa									
17 Kansas									
18 Kentucky	2,453	680,824	832,581	327,106	15	716,571	1,775,047	53	490,183
19 Louisiana	12,174	2,099,976	2,160,546	726,121	26	963,285	4,188,194	355	1,468,117
20 Maine									
21 Maryland									
22 Massachusetts									
23 Michigan									
24 Minnesota									
25 Mississippi									
26 Missouri	2,098	1,124,497	1,344,586	36,000	2	314,748	892,992	10	618,356
27 Montana	2,095	580,926	761,009	63,870	3	254,166	1,161,809	31	558,974
28 Nebraska									
29 Nevada	36	(3,370)	12,273	39,619	4	(65,293)	260,635	14	50,880
30 New Hampshire									
31 New Jersey									
32 New Mexico			14,012	25,000	2	59,102	231,784	14	55,629
33 New York									
34 No. Carolina									
35 No. Dakota									
36 Ohio									
37 Oklahoma						12,444	14,321	1	
38 Oregon	4,241	1,848,380	2,332,258	1,314,252	23	754,128	3,362,843	136	1,495,916
39 Pennsylvania									
40 Rhode Island									
41 So. Carolina									
42 So. Dakota	2,000	639,753	681,121	277,617	3	264,407	607,743	32	385,475
43 Tennessee									
44 Texas	25,269	9,319,562	10,899,379	8,383,718	121	10,756,378	20,024,498	1,108	6,421,018
45 Utah	3,407	1,270,528	1,424,744	102,242	5	545,048	1,317,636	48	804,412
46 Vermont									
47 Virginia	1,854	426,055	173,746	9,000	1	47,671	63,903		63,903
48 Washington	12,005	5,655,035	6,776,872	2,940,308	40	5,464,372	11,268,522	401	4,701,105
49 West Virginia	6,909	3,580,165	3,929,830	2,850,930	29	2,806,779	6,235,285	210	2,237,201
50 Wisconsin									
51 Wyoming	1,803	700,293	757,380	3,000	1	258,570	682,351	17	397,387
52 American Samoa									
53 Guam									
54 Puerto Rico									
55 U.S. Virgin Is.									
56 Canada									
57 Other than Island**									
Totals	80,371	30,459,212	36,663,925	20,337,705	310	26,185,303	58,780,806	2,702	22,830,654

* Gross Premiums including Policy and Membership Fees Less Direct Premiums on Policies Not Taken Includes as the Label the Medical Malpractice Portion of any Policy for which the Premium for Medical Malpractice or Separate Policy is Separately Listed Include all Indemnity Premiums for which at least one half of the Premium is for Medical Malpractice Coverage
 ** All U.S. Business must be allocated by state regardless of licensing status.
 Revised 1981

BEFORE RESERVES - EXCESS DOLLARS OVER EXPENSES AND ACTUAL PAID LOSSES: The Montana Experience In Medical Malpractice - 1981 Through 1986

MEDICAL MALPRACTICE, 1981-1986, MONTANA

Net Gains And Losses On Paid Losses Before Investments And Reserves For Unpaid Claims

Year	PREMIUMS EARNED	LESS: Deductions		NET BEFORE INVESTMENTS & RESERVES
		Losses Paid Out	Expenses Incurred	
1981	\$3,503,295	\$615,492	\$1,341,039	\$1,546,764
1982	\$3,395,211	\$1,032,814	\$1,432,732	\$929,665
1983	\$3,643,015	\$2,270,483	\$1,616,124	(\$243,592)
1984	\$3,774,040	\$2,270,084	\$1,880,432	(\$376,476)
1985	\$5,039,701	\$3,844,661	\$2,059,645	(\$864,605)
1986	\$6,389,076	\$3,300,783	\$2,315,231	\$773,062
	\$25,744,338	\$13,334,317	\$10,645,203	\$1,764,818

MEDICAL MALPRACTICE, 1981-1986, MONTANA

Excess Income Over Expenses And Actual Paid Losses Before Reserves For Unpaid Claims (Actually Pending or Anticipated)

Year	NET BEFORE INVESTMENTS & RESERVES	INVESTMENT INCOME	BEFORE RESERVES: EXCESS INCOME OVER EXPENSES AND ACTUAL PAID LOSSES
1981	\$1,546,764	\$575,637	\$2,122,401
1982	\$929,665	\$741,930	\$1,671,595
1983	(\$243,592)	\$761,940	\$518,348
1984	(\$376,476)	\$951,742	\$575,266
1985	(\$864,605)	\$1,802,609	\$938,004
1986	\$773,062	\$1,989,179	\$2,762,241
	\$1,764,818	\$6,823,037	\$8,587,855

Data From Annual Statements of Carriers On File With Montana Commissioner of Insurance And Carrier Records.

UNDERWRITING GAINS & LOSSES - NET INCOME & LOSSES: The Montana Experience In Medical Malpractice - 1981 Through 1986

MEDICAL MALPRACTICE, 1981-1986, MONTANA

Montana Underwriting Gains And Losses

Year	PREMIUMS EARNED	LESS: Deductions		UNDERWRITING GAIN OR LOSS
		Losses Incurred	Expenses Incurred	
1981	\$3,503,295	\$2,485,454	\$1,341,039	(\$323,198)
1982	\$3,395,211	\$4,871,378	\$1,432,732	(\$2,908,899)
1983	\$3,643,015	\$4,253,573	\$1,616,124	(\$2,226,682)
1984	\$3,774,040	\$992,319	\$1,880,432	\$901,289
1985	\$5,039,701	\$9,141,623	\$2,059,645	(\$6,161,567)
1986	\$6,389,076	\$6,853,865	\$2,315,231	(\$2,780,020)
	<u>\$25,744,338</u>	<u>\$28,598,212</u>	<u>\$10,645,203</u>	<u>(\$13,499,077)</u>

Data From Annual Statements of Carriers On File With Montana Commissioner of Insurance And Carrier Records.

MEDICAL MALPRACTICE, 1981-1986, MONTANA

Montana Net Gains And Losses

Year	UNDERWRITING GAIN OR LOSS	INVESTMENT INCOME	NET INCOME/LOSS
1981	(\$323,198)	\$575,637	\$252,439
1982	(\$2,908,899)	\$741,930	(\$2,166,969)
1983	(\$2,226,682)	\$761,940	(\$1,464,742)
1984	\$901,289	\$951,742	\$1,853,031
1985	(\$6,161,567)	\$1,802,609	(\$4,358,958)
1986	(\$2,780,020)	\$1,989,179	(\$ 790,841)
	<u>(\$13,499,077)</u>	<u>\$6,823,037</u>	<u>(\$6,676,040)</u>

Data From Annual Statements of Carriers On File With Montana Commissioner of Insurance And Carrier Records.

APPENDIX 1

*All other carrier entries "0" or blank except for #1 and #2

PHYSICIAN DATA FILED IN 1978 AS A RESULT OF M.C.A. 33-23-311, FOR YEAR 1977.

GLACIER GENERAL ST. PAUL STAIRDARD FIRE U. S. F. & G.

		13	172	828	0
1. # of insured for each December 31st					
2. Direct premiums earned	\$37,770.00	\$499,118.00	\$2,946,000.00		22
3. # Claims against insured	1	9	25		2
4. # Claims outstanding as of December 31st	1	16	31		5
5. # of claims paid	0	6	10		1
6. Amount of claims paid	0	\$470,000.00	\$195,800.00	\$1,000.00	
7. # of lawsuits filed against insured & No. of insureds	0	5/5	13/17		1/1
# of lawsuits previously filed and dismissed without settlement or trial and no. of insureds	0	5/5	4/4		1/1
8. # of lawsuits previously filed and settled without trial and total amount paid and no. of insureds	0	3/\$360,000.00/3	3/\$554,800/3		
# of lawsuits which went to trial and no. of judgments or verdicts for defendants, and no. of other dispositions with total insureds	0	2/2/C-2	5/4/1-1		
# of lawsuits pending on appeal as of December 31st	0	2			2

STATE AUDITOR
STATE OF MONTANA



Andrea "Andy" Bennett
STATE AUDITOR

COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITY

August 29, 1985

Gerald Neely
P.O. Box 21137
Billings, MT 59104

Dear Mr. Neely:

Enclosed are the following Professional Liability reports for Utah Medical Insurance Association, The Doctor's Company, and Glacier General. Standard Fire did not file their's yet.

Also Supplement A to Schedule T for ICA and St. Paul.

If you have any further questions please call.

Sincerely,

A handwritten signature in cursive script that reads "Teresa J. Stimat".

Teresa J. Stimat
Assistant Examiner

STATEMENT OF
AMERICAN INSURANCE ASSOCIATION

BY
JACQUELINE N. TERRELL
RE: HB 241

Mr. Chairman and members of the committee:

My name is Jacqueline Terrell Lenmark. I am a lawyer from Helena and a lobbyist for the American Insurance Association. The American Insurance Association is a national trade association that promotes the economic, legislative, and public standing of its some 240-member property-casualty insurance companies. The Association represents its participating companies before federal and state legislatures on matters of industry concern.

We, the American Insurance Association, oppose House Bill 241.

While the stated purpose of Representative Whalen's bill is "to protect Montana insurance consumers, while making property and casualty insurance more available in this state," it fails on both counts.

The bill does nothing to protect Montana insurance consumers. Rather it requires the storage of enormous amounts of information regarding insurance companies authorized to do business in Montana, as a prerequisite to doing business in this state, while making no provision for its use, indexing, or retrievable. Further, it adds a penalty disproportionately severe to a violation of the law. Rather than making insurance more available to consumers in Montana, the bill will have the inevitable affect of further reducing the quantity and variety of insurance products available to Montanans.

Further, responding to these detailed data requests would be enormously costly to insurance companies, in terms of both expenditures and person hours. The claims data requirements of this bill could virtually paralyze an insurer's claims operations, potentially delaying indemnification of needy claims. At some point these requirements will override the benefits of doing business in a state that represents only 3/10 of 1% of the market share. The costs of reporting will certainly be reflected in future marketing decisions.

Additionally, we urge you to carefully consider the cost of this legislation to Montana. There are approximately 640 companies licensed to sell property and casualty insurance in Montana. This bill seeks specific information 10 lines of liability insurance and five subcategories of automobile insurance for each insurer for all 50 states including 5 years preceding the effective date of the bill. While Representative Whalen's bill calls for the Insurance Commissioner to store this information and make it available to interested persons and legislative committees on request, any retrieval of this information necessarily contemplates processing and indexing it in some manner. The quantity of information requested alone is staggering. The cost of such storage and processing will be significant.

The bill ignores information already available to Montana consumers and legislators through other national data collection sources far better suited to efficiently store and analyze the data this bill seeks. A careful review of 33-16-105, -202, -203, -204, and 33-23-311, MCA, for example, clearly demonstrate that

sufficient data already is available through the Montana Insurance Commissioner to achieve the stated objectives of this bill. (Copies of relevant statutes are attached for your information.) To the extent that further information would be useful, that information is already being compiled by various national organizations.

The insurance industry already provides more data than any other comparable segment of the American economy. Insurers long have provided state legislators, regulators, and statistical agents with extensive data detailing their claims experience, financial condition, and rating calculations. In addition to state-specific information, insurers provide data detailing their nationwide operations to federal agencies such as the Internal Revenue Service (IRS) and the Securities and Exchange Commission (SEC), as well as to the National Association of Insurance Commissioners (NAIC). While much of this information has been available for many years, new reporting requirements have been added recently to provide more detailed information for specific lines of business (such as medical malpractice and products liability).

Any new insurance data collection requirement is unlikely to greatly enhance an understanding of the liability system, for reasons that include the following:

- (1) The broad collection of past claim data is virtually useless as a way of predicting future claims costs. Such raw data--absent expertly-developed trend factors and underwriting judgments--are not useful in predicting

future prices, since individual company expense factors and market variables are interposed between cost projections and pricing decisions.

- (2) This particular bill makes no attempt to limit data requested to troubled lines of insurance or to link the losses paid to the premiums written or earned.
- (3) A growing proportion of commercial risks are not insured by the kinds of carriers that are likely to be the target of collection legislation. Self-insurers, risk retention groups, and surplus lines companies are not currently represented in any data pool, yet are critical for understanding the total picture.

The NAIC has adopted a Model Regulation to Require Reporting of Financial and Statistical Data by Property and Casualty Insurance Companies. It was developed by the NAIC after a year of deliberation to promote uniform state data collection. The NAIC also has adopted a biennial closed claim survey for commercial general liability coverages, which was conducted for the first time in 1990. The survey included 44 thoroughly researched questions relating to bodily injury and should be sufficient to satisfy any closed claim data requests for general liability coverages that may emanate from this state. Information also is available through the Insurance Services Office (ISO). It is not necessary to reacquire and restore information already available through other sources.

Insurers wish to respond positively to the call for data relevant to the tort system. You have available to you already, however, wealth of old and new data relevant to the issues now under discussion. These data would serve the needs of policymakers.

This legislature has wisely rejected virtually identical bills in 1987 and 1989. You have made permanent the Regional Ratemaking Act, which also requires the reporting of enormous quantities of information when a line has been declared volatile or noncompetitive. We urge you to again reject this proposal and make use instead of the wealth of material available to you before enacting new data collection mechanisms that contemplate only the storage of additional material. If you believe additional data collection is imperative, we urge you to consider the NAIC Model Act.

Submitted to Senate Business and Industry Committee for hearing on House Bill 241, March 15, 1991, 10:00 a.m.

Respectfully submitted,

Jacqueline N. Terrell

(6) surplus lines insurance as defined in 33-2-301. (*Subsection (6) terminates October 1, 1991—sec. 13, Ch. 400, L. 1989.*)

History: En. Sec. 6, Ch. 362, L. 1969; amd. Sec. 1, Ch. 558, L. 1977; R.C.M. 1947, 40-3639; amd. Sec. 1, Ch. 126, L. 1981; amd. Sec. 1, Ch. 400, L. 1989; amd. Sec. 1, Ch. 682, L. 1989.

Compiler's Comments

1989 Amendments: Chapter 400 inserted (6) that read: "(6) surplus lines insurance as defined in 33-2-301"; and made minor changes in phraseology. Amendment terminates October 1, 1991.

Chapter 682 at end of (2) inserted exception clause relating to Medicare supplement insurance; and made minor change in phraseology.

Applicability: Section 15, Ch. 682, L. 1989, provided: "Except as otherwise specifically provided, [this act] applies to every medicare supplement policy and membership contract delivered or issued for delivery in this state after October 1, 1989, and every certificate delivered or issued for delivery in this state after October 1, 1989."

33-16-104. Payment of dividends, savings, or unabsorbed premium deposits not prohibited or regulated — plan for payment not rating system. Nothing in this chapter shall be construed to prohibit or regulate the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers. A plan for the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers shall not be deemed a rating plan or system.

History: En. Sec. 33, Ch. 362, L. 1969; R.C.M. 1947, 40-3666.

33-16-105. Maintenance of records. Every insurer, rating organization, or advisory organization and every group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience or the experience of its members and of the data, statistics, or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys or inspections made or used by it so that such records will be available at all reasonable times to enable the commissioner to determine whether such organization, insurer, group, or association and, in the case of an insurer or rating organization, every rate, rating plan, and rating system made or used by it complies with the provisions of this chapter applicable to it. The maintenance of such records in the office of a licensed rating organization of which an insurer is a member or subscriber will be sufficient compliance with this section for any insurer maintaining membership or subscribership in such organization, to the extent that the insurer uses the rates, rating plans, rating systems, or underwriting rules of such organization. Such records shall be maintained in an office within this state or shall be made available for examination or inspection within this state by the commissioner at any time upon reasonable notice.

History: En. Sec. 21, Ch. 362, L. 1969; amd. Sec. 1, Ch. 469, L. 1977; R.C.M. 1947, 40-3654(1).

33-16-106. Examination by commissioner of rating organizations, admitted insurers, officers, managers, insurance producers, and employees — expense. (1) (a) The commissioner shall, at least once every 5 years, and may as often as may be reasonable and necessary, make or cause

(1) (a) Rates shall not be excessive or inadequate, as herein defined, nor shall they be unfairly discriminatory.

(b) No rate shall be held to be excessive unless such rate is unreasonably high for the insurance provided and a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable.

(c) No rate shall be held to be inadequate unless such rate is unreasonably low for the insurance provided and the continued use of such rate endangers the solvency of the insurer using the same or unless such rate is unreasonably low for the insurance provided and the use of such rate by the insurer using same has, or if continued will have, the effect of destroying competition or creating a monopoly.

(2) (a) Consideration shall be given, to the extent applicable, to past and prospective loss experience within and outside this state, to revenues and profits from reserves, to conflagration and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses, both countrywide and those specially applicable to this state, and to all other factors, including judgment factors, deemed relevant within and outside this state. In the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during the most recent 5-year period for which such experience is available.

(b) Consideration may also be given in the making and use of rates to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers.

(3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of any such insurer or group with respect to any kind of insurance or with respect to any subdivision or combination thereof.

(4) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that have a probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established, based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations, except that no special risk classification may be established based on anything adverse to the insured in a driving record which is 3 years old or older. Such classifications and modifications shall apply to all risks under the same or substantially the same circumstances or conditions.

History: En. Sec. 7, Ch. 362, L. 1969; amd. Sec. 1, Ch. 54, L. 1973; amd. Sec. 1, Ch. 104, L. 1973; R.C.M. 1947, 40-3640.

33-16-202. Recording and reporting of loss and expense experience. (1) The commissioner shall promulgate and may modify reasonable rules and statistical plans, reasonably adapted to each of the rating systems used, and which shall thereafter be used by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the

experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rates comply with the applicable standards of this chapter. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense experience.

(2) In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems in use in this state and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system used by it. ★

(3) The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

History: En. Sec. 36, Ch. 362, L. 1969; R.C.M. 1947, 40-3669.

Cross-References

Promulgation of rules by Commissioner,

Adoption and publication of rules, Title 2, ch. 33-1-313.

4, part 3.

33-16-203. Rates filed. (1) Every insurer, rating organization, or advisory organization shall file with the commissioner all rates intended for use within this state, together with supporting data sufficient to substantiate such filing. The filing required by this subsection may be made by rating organizations on behalf of their members and subscribers; but this provision does not prohibit a member or subscriber from filing any such rates on its own behalf. Any deviations from a rating organization's rates by a member or subscriber must be filed with the commissioner and must be accompanied by supporting data.

(2) In accordance with 33-16-222, rates filed must provide for a premium reduction to qualified insured operators 55 years of age or older.

History: En. Sec. 21, Ch. 362, L. 1969; amd. Sec. 1, Ch. 469, L. 1977; R.C.M. 1947, 40-3654(2); amd. Sec. 1, Ch. 241, L. 1979; amd. Sec. 7, Ch. 49, L. 1987.

33-16-204. Review of rates on request by aggrieved person. (1) Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by an insurer or rating organization may request the insurer or rating organization to review the manner in which the rate, plan, system, or rule has been applied with respect to insurance afforded him. Such request may be made by his authorized representative and shall be written.

(2) If the request is not granted within 30 days after it is made, the requester may treat it as rejected.

(3) Any person aggrieved by the action of an insurer or rating organization in refusing the review requested or in failing or refusing to grant all or part of the relief requested may file a written complaint and request for hearing with the commissioner, specifying the grounds relied upon. If the commissioner has information concerning a similar complaint, he may deny the

33-23-302. Cancellation or increase of premium rates — sixty days' written notice required. Any insurer who insures a physician and surgeon, dentist, registered nurse, nursing home administrator, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, pharmacist, optometrist, or veterinarian, duly licensed as such under the laws of this state, or a licensed hospital or long-term care facility as the employer of any such person against liability for error, omission, professional negligence, or performance of services without consent shall not cancel the policy so insuring such person or increase the premium rates thereon without first providing the insured 60 days' written notice of the insurer's intention to cancel the policy or increase the premium rates.

History: En. Sec. 1, Ch. 14, L. 1971; amd. Sec. 2, Ch. 303, L. 1973; R.C.M. 1947, 40-4414.

33-23-303 through 33-23-310 reserved.

33-23-311. Information required of professional liability insurers — submission. (1) For purposes of this section, "profession" means the occupations engaged in by physicians, osteopaths, registered nurses, licensed practical nurses, dentists, optometrists, podiatrists, chiropractors, hospitals, attorneys, certified public accountants, public accountants, architects, veterinarians, pharmacists, and professional engineers.

(2) Each insurance company engaged in issuing professional liability insurance in the state of Montana shall include the following information, by profession, from its experience in the state of Montana, in its annual statement to the commissioner:

(a) the number of insureds as of December 31 of the calendar year next preceding;

(b) the amount of earned premiums paid by the insureds during the calendar year next preceding;

(c) the number of claims made against the insurer's insureds and the number of claims outstanding as of December 31 of the calendar year next preceding;

(d) the number of claims paid by the insurer during the calendar year next preceding and the total monetary amount thereof;

(e) the number of lawsuits filed against the insurer's insureds and the number of insureds included therein during the calendar year next preceding;

(f) the number of lawsuits previously filed against the insurer's insureds which were dismissed without settlement or trial and the number of insureds included therein during the calendar year next preceding;

(g) the number of lawsuits previously filed against the insurer's insureds which were settled without trial, the total monetary amount paid as settlements in such settled cases, and the number of insureds included therein during the calendar year next preceding;

(h) the number of lawsuits against the insurer's insureds which went to trial during the calendar year next preceding and the number of such cases ending in the following:

(i) judgment or verdict for the plaintiff;

(ii) judgment or verdict for the defendant;

(iii) other;

- (i) the total monetary amount paid out, in those lawsuits specified in subsection (h);
- (j) the total number of the insurer's insureds included in those lawsuits specified in subsection (h);
- (k) the number of new trials granted during the calendar year next preceding;
- (l) the number of lawsuits pending on appeal as of December 31 of the next preceding calendar year; and
- (m) such other information and statistics as the commissioner considers necessary.
- (3) The commissioner shall, within 60 days of request, submit in writing to the appropriate licensing authority the data and information furnished him pursuant to this section relevant to the particular profession or facility.

History: (1)En. 40-2827 by Sec. 1, Ch. 212, L. 1977; Sec. 40-2827, R.C.M. 1947; (2)En. 40-2828 by Sec 2, Ch. 212, L. 1977; Sec. 40-2828, R.C.M. 1947; (3)En. 40-2829 by Sec. 3, Ch. 212, L. 1977; Sec. 40-2829, R.C.M. 1947; R.C.M. 1947, 40-2827, 40-2828, 40-2829.

Cross-References

Statistical records of court actions —
Supreme Court administrator, 3-1-702.

Board of Medical Examiners — insurer reporting requirements, 37-3-402.

Part 4 Homes

Part Cross-References

Credit insurance on real property — borrower allowed choice of insurers, 33-18-501.

Discrimination prohibited — nongender insurance law, 49-2-309.

33-23-401. Written notice required for cancellation or non-renewal of insurance policies on homes — penalty. (1) No insurer shall cancel or refuse to renew any policy insuring private residences including but not limited to fire, homeowner, theft, or liability insurance on any home occupied by the insured as a domicile without first giving to the insured 30 days' notice in writing, including in the notice a statement of the specific reason or reasons for canceling or not renewing the policy.

(2) Violation of this section is punishable under 33-1-104.

History: En. Secs. 1, 2, Ch. 374, L. 1971; amd. Secs. 1, 2, Ch. 82, L. 1975; R.C.M. 1947, 40-4415, 40-4416.

Cross-References

Homeowner insurance not affected by day-care operations, 33-15-1111.

CHAPTER 24

PROPERTY INSURANCE

Part 1 — General Provisions

- 33-24-101. Measure of the indemnity — rescission for fraud.
- 33-24-102. Insuring improvements — insurance equal to true value.
- 33-24-103. Specific valuation — loss equal to insured value.
- 33-24-104. Tax lien on insured property destroyed by fire.

NAIC Accelerated Reports

The general liability "accelerated reports" are intended to provide more responsive countrywide and individual state premium and loss information for specific general liability sublines and classes of business. They are intended to bridge the gap that presently exists between the current NAIC Fast Track Monitoring System Reports and the traditional policy year statistical agent reports. They will be produced and distributed quarterly within 180 days after the end of each quarter and will span the time period from the fourth quarter of 1985 through the latest quarter.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 11

DATE 3/15/91

Types of Reports

The first report is the Calendar Year Premium and Loss Report. It displays earned premium and incurred losses on an "account" quarter basis. With the exception of class data by state, the incurred loss experience will also be supplemented by the underlying number of claims. To facilitate a review of the overall results, a four quarters ending total will be displayed.

BILL NO. AB 241

The second report is the Policy Year Breakdown of Calendar Year Losses. This report will illustrate for the latest calendar year losses what the lag time is in reporting and settling claims. For example, a claim newly reported in June, 1987 on a policy in effect from April, 1984 to April, 1985 will be included in the data for the second quarter of 1987 in the Calendar Year Premium and Loss Report and will be identified as being covered by a policy in effect during policy year 1984.

Experience included in the Accelerated Reports

The experience includes data from both monoline and multiline policies written and class coded under ISO programs or similar programs, and reported to ISO under the ISO Commercial Statistical Plan (CSP) and the intermediate level of the Commercial Minimum Statistical Plan (CMSP). Inasmuch as CSP and CMSP were introduced in 1979, data on policies effective prior to 1979 are not included.

Commencing with the first quarter of 1989, the report also contains data from three other statistical agents. Data from the National Independent Statistical Services (NISS), the National Association of Independent Insurers (NAII), and the American Association of Insurance Services (AAIS) is included for all markets. Data contained in the accelerated report prior to 1989 are only ISO data.

The accelerated report currently is broken down into major general liability sublines. These sublines are Premises/Operations Liability and Products/Completed Operations Liability (countrywide only). These major general liability sublines include data reported under the new Commercial General Liability (OGL) policy and pre-OGL data on a combined basis. Premises/Operations Liability consists of the pre-OGL sublines Owners, Landlords and Tenants, Manufacturers and Contractors Liability, Storekeepers Liability, and Contractual Liability and the OGL subline Premises/Operations Liability. Products/Completed Operations Liability is a combination of the pre-OGL and OGL sublines Products/Completed Operations.

There is also a breakdown by special class groupings which have experienced availability or affordability problems. These class groupings are day care, municipal, public schools, recreational, liquor law, and lawyers' professional liability. As conditions warrant, additional classes may be added to the reports on a prospective basis.

Data Limitations

The data in the "accelerated" reports are the premium and loss transactions during the same calendar quarter or year, irrespective of when the policies generating the losses were written and the premium collected. The losses for a given calendar quarter or year arise not only from incidents occurring in that period but also from incidents that occurred several years prior. This resulting mismatch of premium and loss information is particularly acute for many of the so-called "long-tail" classes included in the reports, because losses may not be reported or settled for many years after the policy has expired.

Any analysis of the data shown on the "accelerated" reports must recognize that there is an inherent mismatch of premium and losses reported on a calendar year accounting basis. For example, losses reported during the account or calendar quarter are not necessarily representative of accidents occurring within the account or calendar quarter. As such, the reports are not intended to evaluate the adequacy and fairness of rates. In addition, the value of the data makes this report inappropriate for use in evaluating the need for, or effect of, any changes in the civil justice system or regulatory mechanism in your state. Neither are the reports necessarily reflective of insurer profitability.

For data to be useful for evaluating adequacy and fairness of rates, premiums and losses for a given set of policyholders and a given time period must be compared and actuarial adjustments (i.e., basic limits, excess limits, credibility, extraordinary events) must be considered. Individual states have addressed the need for comparable premium and loss data for general liability by directing statistical agents to annually compile policy year "statistical" data on their behalf.

In order to demonstrate loss patterns, each "accelerated" statistical report will be supplemented by the previously discussed Policy Year Breakdown of Calendar Year Losses Report. This report allocates the losses from the latest year to the years when the responding policies were actually written. This report clearly illustrates that losses for the latest calendar year are attributable not only to policies written in the latest year but also to many previous years.

The losses in the accelerated report do not include estimates for any losses that have occurred but have not yet been reported to the companies. For general liability lines, these incurred but not reported (IBNR) losses can significantly affect the ultimate loss experience.

Obviously, the reported loss experience reflects varying levels of maturity as demonstrated in the Policy Year Breakdown of the Calendar Year report. As noted above, data from any policy effective prior to 1979 is not included in these reports. The significance of this missing information will vary by subline and class and will diminish as more years are added to the report.

Uses of the Accelerated Report

Since the experience included is on a calendar quarter and calendar/fiscal year "accounting" basis, it represents the premium and loss activity in that quarter and year. Therefore, the reports provide the most current "historic" look at experience for specific general liability sublines and classes of business and can be used to monitor market changes and help identify potential problems in advance.

Although the usefulness of the actual values in the accelerated report is limited, an analysis of quarterly premium and loss transactions can provide timely insight into the most current conditions for specific sublines and classes of business and how they are changing. For example, the monitoring of premium writings over time can assist in pinpointing market dislocations.

ACCELERATED STATISTICAL REPORT
CALENDAR YEAR PREMIUM AND LOSS REPORT
STATE - GENERAL LIABILITY
PREM OPS

REPY	REPO	EARNED PREMIUM	T/L INCURRED LOSSES INCL. LAE	INCURRED CLAIMS
85	4	3,402,992	3,578,488	663
86	1	3,770,324	2,857,944	545
86	2	4,085,829	4,549,286	540
86	3	4,345,709	5,111,067	502
86	4	4,531,658	5,333,102	381
87	1	4,744,061	2,918,247	369
87	2	4,961,670	1,505,193	349
87	3	5,094,987	5,387,949	379
87	4	5,151,817	3,236,003	317
88	1	5,049,233	2,823,567	309
88	2	4,984,923	3,110,767	320
88	3	5,005,668	4,976,930	930
88	4	4,970,461	5,737,911	292-
89	1	5,270,249	4,586,968	456
89	2	5,260,248	3,239,878	502
89	3	5,217,420	3,786,138	420
89	4	5,429,905	4,236,708	618
90	1	5,526,132	2,633,032	441
90	2	5,423,851	3,552,042	380
TOT		92,226,637	73,161,240	8,129

PRIOR 4 QUARTERS ENDING	EARNED PREMIUM	TOTAL LIMITS INCURRED LOSSES INCLUDING LAE	INCURRED CLAIMS
86	3	15,604,854	2,250
86	4	16,733,520	1,968
87	1	17,707,257	1,792
87	2	18,583,098	1,601
87	3	19,332,376	1,478
87	4	19,952,535	1,414
88	1	20,257,707	1,354
88	2	20,280,460	1,325
88	3	20,191,141	1,876
88	4	20,009,785	1,267
89	1	20,230,801	1,414
89	2	20,506,626	1,596
89	3	20,718,378	1,086
89	4	21,177,822	1,996
90	1	21,433,705	1,981
90	2	21,597,508	1,859

ACCELERATED STATISTICAL REPORT
STATEWIDE - GENERAL LIABILITY
POLICY YEAR BREAKDOWN OF CALENDAR YEAR LOSSES
CALENDAR YEAR ENDING 2ND QUARTER 1990
PREH OPS

YEAR	T/L INCURRED LOSSES INCL. LAE
79	213,410-
80	115,598-
81	1,297,867
82	132,360-
83	403,029-
84	521,686-
85	856,901
86	1,833,361
87	1,946,056
88	3,623,731
89	5,075,595
90	960,492
TOT	14,207,920

THE INDIVIDUAL POLICY YEAR INCURRED LOSSES DISPLAYED ABOVE INCLUDE ONLY CONTRIBUTIONS FROM THE LATEST AVAILABLE CALENDAR YEAR. THEY DO NOT INCLUDE PAID LOSSES REFLECTED IN PRIOR YEARS (I.E. PRIOR TO THE LATEST CALENDAR YEAR) NOR DO THEY INCLUDE ANY ESTIMATES OF IBNR OR SUBSEQUENT DEVELOPMENT OF OUTSTANDING CASE RESERVES. THE INCURRED LOSSES INCLUDE UNALLOCATED LOSS ADJUSTMENT EXPENSE BY A FACTOR OF 1.065.

STATE OF MONTANA)
 : ss.
County of Cascade)

A F F I D A V I T

COMES NOW, THOMAS L. ELLIS, Affiant herein, upon being first duly sworn, deposes and states:

1. I, THOMAS L. ELLIS, presently live in Conrad, Montana, and have lived and farmed in the Conrad area for more than 40 years since leaving Carroll College in 1950. Also, I have been on the Board of Directors for the Farmers State Bank of Conrad, for approximately twenty (20) years. Also, with regard to the Farmers State Bank of Conrad, I have served on the Investment Committee for seventeen (17) years and also have served on the Loan Committee and Budget Committee.

2. I have reviewed the proposed Amendment to Section 31-1-111, MCA, and have discussed said Amendment with six (6) bankers in Northcentral Montana to ascertain how the banking community would view such an Amendment. There was absolutely no objection whatsoever to said Amendment, in fact, the bankers said that it would only be fair to have the insurance companies included within the definition of "regulated lenders", and that all of the lenders should be on level playing field. Further, the bankers with whom I discussed the proposed Amendment, felt that such an Amendment would give the insurance companies greater incentive to loan more dollars to Montana and invest more money in our State. They felt that it would be an advantage to Montana and its economy to make such an Amendment.

Further, you Affiant sayeth not.

Thomas L. Ellis
THOMAS L. ELLIS

SUBSCRIBED AND SWORN TO before me this 25th day of
January, 1991.

Derrice B. Beck
Notary Public For The State Of Montana
Residing At Great Falls, Montana
My Commission Expires: 1/23/93

(NOTARIAL SEAL)

From: Scott M. Wilke
DBA: Drawback Logging
15655 Queen Annes Ln.
Florence, Mt. 59833

To: Senator J. D. Lynch
Capital Station
Helena, Mt. 59620

* as I'm unaware of the other Senators on the committee which is handling H.B. 169, I respectfully ask that they be given a copy of this letter.

Senator Lynch this letter is written in opposition of H.B. 169, having to do with the creation of a log scaling bureau.

Senator I feel at this time log scaling is controlled by the two major companies in Montana, Champion and Plum Creek with all smaller mills following suite. I have recently attended a log scaling seminar at Champion's Bonner mill and was satisfied that at this time scaling is being conducted by an independent contractor who was doing a good job.

Senator although I would like to make more money I realize that the pie is only so big and at this time I believe that the cost of creating a log scaling bureau will not off set the possible increase in revenue. In a time of an ever increasing competitive market Drawback Logging can ill afford to have one more fee tacked on to the top.

Thank You for your time,

Sincerely,

Scott M. Wilke

Scott M. Wilke

March 14, 1991

Senator J.D. Lynch
 Senate Subcommittee on H.B. 169
 Capital Station
 Helena, MT 59620

Arthur Pencek
 6211 Raelene
 Missoula, MT 59803

Dear Senator Lynch and Committee Members:

I am a forester for private industry and wish to address H.B. 169, the so-called Scaling Bill. I have checkscaled many of the mills in western Montana that have purchased logs from our company over the past ten years, and have not seen any problem with mill scale being under allowable tolerances. As far as I know all mills in this area use Scribner Decimal C scaling procedures as set forth in U.S. Forest Service Standard Scaling.

In fact all timber harvested from Federal or State lands in Montana is scaled by the respective agency. I believe tribal wood is handled the same way. So this bill, if enacted, should not cover scaling of agency timber as it would be a layering of bureaucracies. Industry, when it sells its wood to outside mills, looks out for its own interest, and there is quite a trend in logging to pay by the ton. Given the above, most timber is already covered by some kind of check so the need for a State agency to monitor scaling would be very limited.

Currently any seller of timber may and should include in their timber sale contract a provision for independent check scaling. Never in my twelve years of being a forester, working with loggers, never have I heard of a logger taking advantage of the existing opportunity of hiring an independent check scaler to verify his scale. I recommend that the committee take testimony to survey to what extent timber sellers have availed themselves of the existing opportunity to verify scale and of those that have, how many times has the buyer's scale been below allowable variance.

We should proceed with extreme caution before starting another costly government bureaucracy that will continue forever despite the actual need, especially in these times of budget deficits. We must also be very wary of making Montana products less competitive because of added fees or taxes that may really not be necessary. As stated above there already exists a means of dealing with scaling disputes through contractual agreements and independent check scaling. Just because some will not take the initiative to use them does not justify costly government regulation.

Sincerely,

Arthur Pencek
 Arthur Pencek

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Dept.	Phone # 251-4834	
	Fax # 544-1885	

-144-4105

Conifer Logging, Inc.

P.O. Box 113
Lincoln, MT 59639

George B. "Brent" and Carla Anderson

Phone 406/362-4815

March 13, 1991

Senator J.D. Lynch
Chairman - Business and Industry
Capitol Station
Helena, MT 59620

Dear Senator:

We are in opposition to HB 169 regarding log scaling. This letter is our voice of opposition, urging you to vote against it.

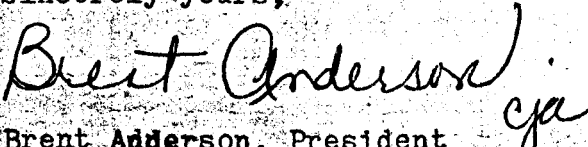
Log Scaling in the State of Montana has some definite problems. However, creating a separate entity for the purpose of regulating log scaling practices is not addressing the major problem.

Our present Scribner Decimal C Log Scale Rule, is outdated. For example, in the last two years our company has been involved in selling and logging both by the scale and by the ton. Harvesting timber by the scale, promotes poor utilization of our timber resources due to discrepancies in the scale rule. This rule was not formulated for scaling small logs. As much as 10 to 15% useable timber is left in the woods in order to maximize scale rather than utilization.

Our belief is that the problem will not be solved by a scaling practices bill. This bill will only further increase our out dated system. The problem at hand must eventually be addressed by converting to a cubic scale or tonage measurement system.

Thank you for your time. Please vote against this bill.

Sincerely yours,


Brent Anderson, President

cc: Plum Creek Timberlands

DEAR SIR.

WHEREAS I AM AN INDEPENDENT
CONTRACTOR IN MONTANA'S LOGGING INDUSTRY
WHO WOULD BE IMPACTED BY THE PASSAGE
OF H.B. 169, I URGE YOU TO VOTE AGAINST
PASSAGE OF H.B. 169.

THANK YOU FOR YOUR
CONSIDERATION OF MY REQUEST.

Alan Roadarmel

ALAN ROADARMEL LOGGING
BOX 217
THREE FORKS, MT. 59752
285-3856

St. Onge *Logging Inc.*

March 13, 1991

Business and Industry Committee
ATTN: J. D. Lynch
Capitol Station
Helena, Montana 59620

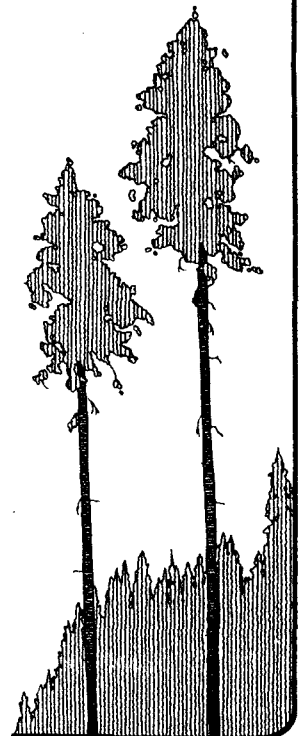
Gentlemen:

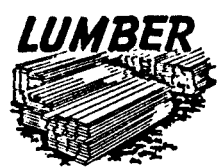
In regards to HB 169 concerning log scaling practices, I feel the bill is unneeded and would be an added cost which would be passed on to the consumer. Thank you.

Sincerely,

Ronald D. St. Onge
Ronald D. St. Onge
President

de





AMERICAN TIMBER CO.

P.O. BOX 128
OLNEY, MONTANA 59927
PHONE: 406-881-2311

President
L. PETER LARSON
Vice President
WARREN SPARLING
Secretary/Treasurer
KURT LARSON

March 13, 1991

Senator J.D. Lynch
Capital Station
Helena, Montana 59601

Dear Mr. Lynch:

HB 169 was an inappropriate way to address log scaling.

We are a small business located at Olney, Montana. We employ about 150 people at the mill. We use about 80,000 MBF of logs per year. Our logging contractor force varies from 100 to 150 men.

As you are undoubtedly aware, we are struggling to find enough logs to run our business. We have been diligent in recent years at reducing our cost of doing business to remain competitive and operational. Additional state regulation that costs money to administer and look after is not a good answer. We are not aware of loggers that work for us that object to or have problems with how they are paid.

We suggest that any log scaling conflicts can be handled in the logging contract with a mutually agreeable dispute resolution clause which could address any conflicts in an efficient manner.

I urge you to help defeat this legislation. Please urge your colleagues to do the same.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Peter Larson". The signature is fluid and stylized, with a prominent initial "L".

L. Peter Larson
President