

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on January 25, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

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

Members Excused: REP. BRENT CROMLEY

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

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

Announcements/Discussion: HB 169 was heard.

HEARING ON HOUSE BILL 169

Presentation and Opening Statement by Sponsor:

REP. BOB THOFT, HD 63, Stevensville, handed out a copy of the Final Report to the 52nd Montana State Legislature of a Log Scaling Study, prepared by the Environmental Quality Council in December 1990. EXHIBIT 1 There is also a revised fiscal note; EXHIBIT 2 and amendments hb016901.amk to HB 169. EXHIBIT 3

The sponsor explained HB 169 addresses a problem that has been around a long, long time. There has been legislation and studies on this since 1975. The opponents have always said they will do something to cure this, saying legislation is not necessary, but nothing has been done to correct this problem. HB 169 is an Act

creating a timber scaling program within the Department of Commerce; requiring certain uniform timber scaling practices; requiring a check of timber scaling practices; creating a fund for program costs; authorizing timber scaling fees; establishing a civil penalty for violations; and providing an immediate effective date.

Page 4 of the Log Scaling Study describes a bit about the hearing process. There were three hearings held in the State in Missoula, Livingston, and Kalispell. The attendance was terrific as well as was the testimony. Then the opposition took hold. The Council also received unsubstantiated reports of logger intimidation; threats of decreased employment opportunities if the loggers attended public hearings. What has bothered him most about this whole process is that the loggers have been intimidated, there is no question about that and he resents that kind of tactics.

On Page 5, under Section (a) comments received in the three public meetings indicated 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. Under (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 their employer comes out on top. This perception of potential bias may be the largest reason for distrust between the loggers and the mills.

Under (c) there is no recourse for a logger with a complaint. If a logger complains about his scale, the logger must complain to the mill. If the mill does not agree or fully agree with the logger about an incorrect scale, the logger has no one else to go to. 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. You send a load of logs to the mill, the mill scaler scales it and there is no recourse. If you don't agree with it, you can complain all you want, but are ignored. There is no way to handle any of the discrepancies that exist.

He explained the amendments. It clarifies there will be no fees collected from the state or federal government for the timber sale. When either the mill or an independent logger buys those sales, and it becomes their property, the state or federal government is no longer involved. The fees are collected for the checks done and are paid for by the independent logger and/or the mill combined. They each pay half of the cost under this program. Jim Kembel will address the new fiscal note; Michael Kakuk, EQC, will explain the technical parts of this bill.

Proponents' Testimony:

Jim Kembel, Public Safety Division, Department of Commerce, had

not had an opportunity to review the amendments, but trusted REP. THOFT's amendments were as was discussed in preparation of the new fiscal note. When the order was first received for the fiscal note, it was their interpretation of the proposed standards that they could wind up involved in about every timber sale in Montana. Although it gave the department the option of choosing which harvest would be subject to their review based on complaints and experience with other similar programs, they would probably be involved in about every harvest. With the proposed amendments limiting their responsibility they could substantially reduce the amount of employees required down to three. Basically they are looking at having a chief scaler and assistant scaler who will regularly be in the field at all times. An administrative assistant will handle the office work. Based on those figures, the fiscal note shows the first year including the purchase of equipment would run about \$159,932, and the second year about \$125,470. The revenue would be about \$150,000 a year based on fifteen cents per thousand board feet fee.

Beth Baker, Department of Justice, had some technical suggestions. Section 8, Pages 5 and 6, has a civil penalty provision and provides that upon request of the department, the attorney general or the county attorney shall pursue the civil penalty action. As a practical matter the county attorney initiates all prosecutions for civil and criminal penalties and the attorney general's office usually does refer those matters to a county attorney. The DOJ will take over a prosecution, normally at the request of the county attorney to do so, or on the grounds of a conflict or as a last recourse, or if they had a complaint against the county attorney for failure to prosecute. The DOJ can get involved on occasion. She suggested it might be appropriate to remove the attorney general from the enforcement provision of this Section. The county attorney could request DOJ assistance if needed. That would conform with the general practice that is followed now. They recognize there may be instances where it is helpful to be included in the statute that provides enforcement to have the assistance of the attorney general built into it, and suggested that if it is the Committee's intent to leave the DOJ in there, to provide adequate resources that go along with that enforcement demand. Regardless of what enforcement role they play, adequate resources should be provided.

Richard F. Smith, Smith Ballou Smith Logging, an independent logger, said it has been his experience a scale varies from mill to mill. He bought some right-of-way timber in Lolo Creek and at one mill the scale was 4100 board feet to the load of small lodge pole, 100 logs to a load. He sent a load to another mill where the scale was 2800 board feet, that is quite a loss. All they want out of this is fairness. The bottom line is if we are going to get \$150 a thousand for logs, that is fine. They want to know what kind of scale they are going to get when the load gets to the mill. Not that it is assumed this type of timber is going to run 5,000 boards to the load; you deliver it and you only get 3,500. It is impossible to even make good guesses when you are

doing that kind of scale. It is really tough. This situation is quite prevalent among the mills. The scale varies so much it is not funny. He is just trying to make a living, not trying to get rich. All he wants is equalness.

Elden Roberts, logger from Missoula for about 20 years, said it seems as though there is real inconsistency between mills for scale. You get one scale from one mill and a different scale for logs off the same area and the same type of timber. The higher the price, the less scale you get. They seem to set the price for the log, and if you get a higher amount you get a lower scale. It doesn't matter whether you are selling logs or hauling or falling. You can't tell what you will get. People need some place to go if there is a discrepancy. It would really improve relations between the mills and the loggers if they know they are being treated right.

Sherman Williams, Stevensville, has been in the logging industry for most of his life. He agrees with the former testimony that there is discrepancy in scaling from one mill to the next. For the last five years he has been in business buying and selling timber for himself. He scaled a few loads before they went to the mill. Although not a registered scaler, he knows how scaling works. He was just gross scaling the logs, and if the log came out 10-1/2", he gave the logger the benefit of the doubt and gave a 10" scale which is normal. If it was right on, it was an 8-1/2" log. When he got his scale slip back, their gross scale was 800 feet below what he had scaled, and that was before any dockage was taken off. When you get \$150 a thousand for that wood, and they take 800 feet off that, then they take off dockage, you are looking at \$200 or so off a load of logs, and that is your profit. It is hard to make ends meet when they are taking profit off the top of it. He has heard this from other people throughout the years. One gentleman who was selling bull pine logs to a mill for stud timber was getting 3200 feet to the load on the average. Another outfit wanted to buy them for house logs. He sent them over to that mill and he was getting 7,000 feet to the load. That is quite a difference in scale. There has to be something to regulate this industry.

They have nowhere to go but to the mill and complain. When he complained to the mill they told him they didn't want to mess around with that scale, come in and talk this over. They were already taking 1,000 feet off a load of logs. When it was all said and done he got another \$15 a thousand, so he got \$15 for that load of logs instead of another \$200 like it was worth. He is a relatively small logger. He has talked with some of the bigger operators and they would have been here today, but they are afraid of their jobs. They have half a million to a million dollars worth of equipment they have to keep working. If they were here they would be afraid tomorrow they wouldn't have a job. There is discrimination against them. This bill is needed and has been needed for a long, long time. Another lady who is in the logging business and a good supporter of this bill, couldn't be

here today but would like to write a letter in support of this bill. REP. BACHINI said she could write a letter and it would be entered in the record.

See the Visitor's Register for many other proponents.

Opponents' Testimony:

Don Allen, Executive Vice President of Montana Wood Products Association, said the membership includes Wood Products Facilities, including small, medium and large size operations which account for over 90% of all logs processed in the state, and several secondary crafters as well, and in addition, a substantial number of businesses dependent on a healthy wood products industry. This proposed legislation is unworkable, outrageously expensive, a bureaucratic nightmare, punitive and unnecessary. The proponents today have been ones who testified at the hearings held last year. The Montana Wood Products Association did participate in those hearings. He passed around copies of the industry response to the comments that surfaced in those hearings. EXHIBIT 4. They totally agree with the conclusion reached by the EQC which was to make no final recommendation. Many important pieces of legislation are coming as a result of the EQC deliberations. It is worthy to note they chose not to be here to back this legislation at this time and concluded the problem was insufficient to warrant further action.

The MWPA recognizes and appreciates the fact the concerns of the proponents are sincere and there are some existing problems. They acknowledged that and do so again today. Because of the complexities of scaling itself and the contracts themselves, there is a lot of room for misunderstanding and for mistrust that has resulted over the past years. Bills have been introduced on this subject for about the last ten years off and on, and the conclusion has always been the same, that it did not warrant creating an expensive new bureaucracy to deal with the issue.

They pledged, and do so today, to conduct a series of workshops late this spring which will include loggers, foresters, and land owners to bring about a better understanding of scaling and contract provisions regardless of this legislation. They strongly object as they did in the EQC hearings about loggers being deliberately short changed by scaling practices in the mills. This charge first surfaced about a year and a half ago. He stated if a mill had committed a crime, charges should be filed. Regardless of the size of any business or the products they buy or sell or service they give, they cannot last very long if they have a policy of trying to operate in a dishonest manner. That is also true of their industry. They have always expressed a willingness to seek a method of addressing the real issue that is in dispute by resolution. They have a list of five points they came forward with and suggested back to the EQC. In essence, the MWPA still stands behind that as the way to resolve this issue once and for all. EXHIBIT 5 Those suggestions have not been well

received. This bill is a classic case of overkill. If this legislation passed, it would cost a staggering \$20.7 million to the industry. There is no guarantee of an increase in accuracy or consistency. Those members have not received any letters. This legislation will have a major decrease in revenue to the school trust fund, and a significant reduction from the 25% monies received from federal timber sales that goes to schools and counties with U.S. forest land. This will happen because of the costs required with this legislation, those same dollars will not be available. The forest service and the Bureau of Indian Affairs will probably present provisions to this bill which will then leave the burden of financing the cost of implementation of this bill to private and fee timber.

This legislation would have a severe negative impact on industry, the timber area communities and the families who work in it. It will hurt those it intends to help. All of this at the time when the industry is struggling, its mills closed, or operations curtailed. The forest service in Idaho has been meeting only 57% compared to over 80% of its viable sale targets. This will be closer to price offers which under the recent market pressures are causing serious concerns across the industry. It is ironic that this bill is before the Business and Economic Development Committee when it is so antibusiness, anti-economic development and anti-Montana. He urged the bill be given a Do Not Pass recommendation.

It was decided to have someone talk just briefly about what log scaling is. **EXHIBIT 6**

Michael Buchholz, employed by Plum Creek Timber Company, Belgrade Division, said because of his past long years of scaling experience, he will explain how a scaler goes about scaling a log. EXHIBIT 6A Scaling is a process of following a series of rules set by the National Forest Service Handbook to arrive at a given number of board feet of any given log. The scaler takes the length of the log in feet, takes the diameters at both ends of a log, and tables in the handbook with any given length of a log and given end diameters of a log, will give the gross scale of the log. It is relatively a very simple process that every scaler goes through.

After arriving at the gross scale, that is then reduced by following the Forest Service Handbook rules to arrive at a net scale. Such scaling allows for defects for interior rots, broken logs; there are a number of defects. Scaling basically is what the timber industry is doing to be sure no defective logs are purchased. They are willing to pay gross scale as long as the defects are not there. In summary, the timber industry has historically used its scale for several reasons. He uses it twice a month to monitor his inventory, to keep track of how much inventory he has. They use it for all their payments. They use it for their forest land inventory, to deplete it, just to name a few. Generally that is basically what scaling is all about. That

is just a quick overview of how they scale logs.

Bud Hall, Stoltze-Conner Lumber Company, has had 32 years in the log scaling profession. See EXHIBIT 6A. Log scaling is accomplished by applying an established and accepted method or rule or agreement of measuring timber and logs for payment, and/or inventory. Gross scale is estimated volume in board feet, cubic feet, tons, etc. The net scale is estimated volume in board feet, cubic feet, tons, etc. after deductions for defects are subtracted from the gross volume.

Log scalers are not the perceived problem. The lack of contract knowledge on the parts of a very minor segment of involved people is the much larger factor. HB 169 Statement of Intent, lines 20-21 states "the frequency of scaling checks must be sufficient to act as a deterrent to inaccurate and inconsistent scaling". If the EOC had found inaccurate or inconsistent log scaling practices, then legislative action would have been recommended.

HB 169 is an excessive bill for correcting a perceived problem. The DOC will have trouble to make this bill workable since the introduced bill was drafted without input from those professionals who understand log scaling. In its present form the bill does nothing for the plaintiff monetarily. It would be awkward and clumsy to enforce, it would be a large burden of expense for the industry. Individual mill information required by this bill to be given to the department then becomes public information. Their company costs would be approximately \$260,000 per year. The Stoltze Land & Lumber Company opposes HB 169. See EXHIBIT 7.

Craig E. Thomas, Contractor and Log Administrator for Champion International, Stevensville, is a logger representative for the Bitterroot. The concerns of HB 169 are addressed to Champion's current log policies, for instance, if it is necessary or if a log seller wants to bring a check scaler into their log yard, it is perfectly accessible. Presently, Champion International weight sample scales approximately one load out of six. That varies from contract to contract, some are 100% and some are one in ten. The average is approximately one in six. This bill would require them to scale each load of logs and every log. They would have to have approximately six times as many people and diesel fuel, and other equipment to do this at a cost of several million dollars in their particular operation. In addition to people and machinery costs, there would be additional costs for taxes, fire protection, yard modification, and could require another environmental assessment.

Theirs is one of the largest plants in the U.S. It is physically impossible to scale this amount of logs at that location. They do not have enough ground to lay them out as this bill would require.

Billy L. Dean, Plum Creek Timber Company, manager of maintenance

systems, explained Plum Creek not only purchases logs but also sells timber to different companies. EXHIBIT 8 If there is to be a law, it should protect all sectors of the industry. They pay 75% of the logs they buy by weight to loggers, the other 25% is paid on a board foot basis. They like that flexibility because of the accounting procedures and what they really need for information throughout their operations. They urge rejection of HB 169.

Karen Atkinson, Confederated Salish and Kootenai Tribes of the Flathead Nation, Pablo, Montana, is an opponent of HB 169.

EXHIBIT 9 Any state fees imposed for scaling they view as an unlawful infringement upon trust resources.

Gerald V. Parker, Timber Manager for Pyramid Mountain Lumber, Inc., Seeley Lake, MT, commented on several paragraphs of HB 169. He has been with Pyramid for 12 years and they have never had a serious dispute over log scaling at their mill. Once in a while somebody will come in and have a question or concern. They are encouraged to do that. They go over the logs, show the log scale and why the scale is that way. Most of the time disputes are settled in that very simple manner.

It appears this bill stems from a very small portion of the logging people. It is an onus imposed to finance a very minor local problem. REP. THOFT in his opening said the loggers don't have any recourse when they come to the mill. He read a paragraph from their standard scaling agreement "All logs to be scaled by the buyer's scaler will deliver to Pyramid Mountain, Seeley Lake, MT. Saw logs will not be considered merchantable unless they have a net round scale of at least 33-1/3% gross scale. If the seller at any time is dissatisfied with the log scaling, the seller at his own expense may hire his own log scaler. In the event the buyer's and the seller's log scalers do not agree, the two scalers shall hire a third and independent scaler who shall be paid equally by the buyer and seller. The decision of two out of the three scalers shall be binding on the parties." It goes on to talk about a scaler should be more familiar with the National Forest Service Log Scaling Handbook.

The scaling frequency, they sample scale by weighing. That is negotiable with the landowner or logger. It depends on how much volume is brought in. There is an out right there. There are plenty of private check scalers in Montana. This law actually puts the state in competition with these private check scalers. A list of these people is available without creating a new bureaucracy. This is supposed to be for the benefit of the landowner and the logger. The only money mentioned besides the civil penalty against the buyer of the logs because of scale is for fees that are going to be paid by the timber harvester as well as the timber purchaser to the state for their check scale monitoring, and that goes into the state scaling fund. Nowhere does it give any financial revenue to the logger himself. If I found an error in the scale and hired a private check

scaler, I would expect the mill to go back to the time of the previous check scale volume, and from that point in time until the current check scale, an adjustment would be made so he could get paid any difference. The logger will not get any more money out of HB 169, it is just going to cost him more in fees to the state for the scaling service. That is a weakness of the whole thing.

It creates more bureaucracy and more expense. It decreases the school trust fund. It imposes greater financial burden on an already ailing timber industry. It is very localized. It requires absolutely no financial revenue to be given to the landowner or loggers if they question a scale.

Mike Atwood, Forester for a small business mill, Livingston, MT, said the **Brand S Lumber Company** purchases logs from approximately 50 small loggers on log scale. On June 16, the EQC held one of their three hearings in Livingston. Three loggers showed up at that hearing; two were from the Hamilton area who don't do any business in the Livingston area. One other logger, who was representing the Belgrade Bozeman loggers, is with the Montana Logging Association. He was adamantly opposed to any efforts by the state to regulate log scaling, but he was representing fellow loggers and felt that they were very satisfied with the present system.

This bill will truly be the final straw that will break that company. They have serious timber supply problems already. The Gallatin and the Bozeman area was closed to timber supply. If this bill were enacted he would have to purchase another 20 acres next to the Yellowstone River to handle the logs and have the 100% scale, and that land is not available. Furthermore there are environmental impacts. More log scalers would have to be hired as well as more machinery. He was offended by **REP. THOFT's** insinuations that they had not done anything. Every spring the companies hold log scaling seminars with the loggers. It is usually a social thing. They go over logs, roll them out, have a barbecue. It is informal so the loggers feel comfortable. Professional scalers come in. There is an effort being made. Every logger has the right to hire a qualified log scaler. This has never happened to him in the seven years he has been in Montana. As representative of a small mill, he said they feel HB 169 would hurt them a great deal.

Dan Castillo, Sale Administration Specialist for the United States Forest Service in Region 1, presented written testimony **EXHIBIT 10** which he read. National Forest timber should not be included since they do their own scaling under the guidelines of the National Forest Service Log Scaling Handbook. The rationale is that the government is presently doing what HB 169 intends to do. Any additional fee charge would reduce stumpage rates and ultimately reduce receipts to the counties for schools and roads.

Richard Manger of the Independent Loggers opposes HB 169. He has

no problem with scale. It is fair to him.

See the Visitor's Register for other opponents.

Informational Testimony:

Michael Kakuk, EQC, said he was the lead staff person on the Log Scaling Study for the EQC and he also drafted HB 169. He is neither an opponent or proponent. He explained the technical aspects of the bill and how it will work. EXHIBIT 11 The intention of the Legislature is to randomly spot check approximately or up to 25% of the timber scaled in Montana. The purchaser of timber for a mill that owns its own timber and contracts to have the timber harvested, must notify the state of all purchases or timber harvest contracts. Included in that notification (Page 3, Section 4) is the name of the timber harvester, the amount of timber under contract, location of the harvest, harvest dates, delivery location and the type of scale to be used by the purchaser. All this information is then sent to the state. The state employed check scaler will compile this information and at random select up to 25% of those notifications, go out to those harvest locations and do either a gross scale or a net scale of that timber at the loading site before it is actually put on the trucks. The timber is then delivered at the mill, the mill then normally conducts its own scaling operations. The mill is required under Section 5 to submit the information on its scale to the state. When a load comes in the mill knows the contract and the load number. They have to submit that information to the state as well.

The department then has two pieces of information. It has its scale done at the loading site, and it has the mill scale on that same load done at the mill. It compares those two pieces of information. Under the provisions on Page 5, Section 6 (5) a discrepancy in favor of the timber purchaser of greater than 2% for a gross scale or 5% for a net scale is a violation of this Act and subject to penalties.

There is also provision in the bill for timber harvesters to complain to the department saying they think the scale at a particular mill or particular logging site is incorrect, and ask for a response. The department is required to give due consideration to that complaint and respond in writing. The response may be a simple 'we acknowledge your complaint and are taking it under consideration'. These complaints will be confidential at the request of the harvester.

The department has the authority to base its decision on where to conduct these random spot checks for scaling; either just at random on the basis of purchase contract notifications or in response to the timber harvester complaints.

Amendment #2 lets the DOC know that they are not expected to go out and will not be funded to spot check 100% of the contract

sales, just 25% of the amount of timber harvested in Montana. Amendment #3 was put in to clear some ambiguities the Department of State Lands (DSL) raised as to whether or not the state would be expected to pay any fees. It is not the intent of the Legislature that fees established under this program be collected from state or federal government for sales of timber from state or federal lands. However, fees must be collected from the purchasers of timber sales from the state or federal lands and the harvesters of that timber. Normally the DSL will sell the timber to either a mill or independent contractor and the mill or contractor becomes the owner. That person's contract between the mill and harvester and whoever is scaling, is what comes under regulation by the state.

Questions From Committee Members:

REP. SONNY HANSON asked what happens in other states like Oregon and Washington as far as being able to check the scaling process. Billy Dean, Plum Creek Timber Company, said they sell timber in Oregon and Washington. He has worked in the 12 Western states on some checking stands for the Western Wood Products Association which is headquartered in Portland, Oregon. He feels he is knowledgeable with what goes on with scaling in those states. Northern California, Oregon and Washington have set scaling bureaus that are financed by the industry. They work under what is called a Memorandum of Agreement with both the Forest Service and the industry that answers to a board that is made up of representatives from the industry and the forest service. They lay out the scaling guidelines which comes under the Northwest Log Scaling Advisory Group. For check stand purposes, they have a check scaler who circulates for each one of those bureaus and checks all of the logs. Those bureaus then charge back on a flat rate to the companies involved for their check scaling duties.

The loggers have to go through a request type of situation to get those check scales which contracts do specify they can request. All the contracts they have also make provision for check scale or any open yard policies. The check stand is financed primarily by the industry and through the different bureaus in the industry.

REP. BENEDICT reminded a lot of different people had been heard from on this issue, but the one most affected is the little logger. Have you had any conversations with people in your profession? How do you feel about this? Mr. Manger said it can go both ways. He sells by weight. It is fair to him that way because he knows what he has coming in and how much money he has to work with. REP. BENEDICT asked how they felt about paying for this. Mr. Manger said there are only so many dollars, and it is going to cost the small guy a bit more money. It is just going to put him out of business a little quicker.

REP. ELLIS stated you testified that you had a problem. Have you ever had any of your logs check scaled? Mr. Roberts said he had

not. He didn't know there was anybody around to do it. He has scaled his own and checked them, and found quite a big difference. His dad bought his first saw mill in 1936, he grew up in one. He used to scale logs that came on the mill deck day after day. He was never certified, but he does know how to read a scale, and he agrees there are differences. It shouldn't be over 1 or 2%. The difference would probably be in the net scale, not the gross. REP. ELLIS asked if his experience was with one or two companies, or in a localized area. Mr. Roberts said he is not logging now. There is only one or two companies in Missoula, one of which is pretty good. All you can sell to them is yellow pine, and you can't log good yellow pine now, so you are stuck with the smaller species. If you could sell it by the ton there would be no problem. Then you know where you're at. You can't sell that small timber the way it is being scaled.

REP. ELLIS remarked obviously a mill has a scaler employed all the time. For them it is a relatively easy matter to get a load or more of logs scaled. How much would it cost an independent logger if he has to contact a check scaler? Mr. Roberts said it is going to cost approximately \$200 a day. A check scale can run from one to three days.

REP. BENEDICT said now that you know that a check scale program is available, would you agree that might be a better option than creating a new state bureaucracy? Mr. Roberts said no, because when people need a place to go, they need it.

REP. LARSON, on Page 4, line 15 of the bill, it says the department will conduct a gross scale of timber at the harvest site, and further down it says the department may also conduct a net scale of timber. How could a load of logs be scaled in the field on gross and then you check scaled for the net? How can you come up with an equitable scale? REP. THOFT explained there are two ways to scale the logs. Both ways are used. Mills refer to gross scale and then they refer to net scale. The check scaler does the same thing. They keep track of gross scale to see if the mills are running accurately there, so gross and net scales can be checked. The scale slip is sent to the state and then he can recover that information from the state to see what the mill is doing.

REP. LARSON, on Page 3, Section 5 it says "all timber harvested in Montana and delivered to a purchaser in Montana must be scaled." If you are getting 40 to 100 loads of logs a day, is that a problem? REP. THOFT did not think it is a problem because the logger's timber is bought by the ton. This bill has no problem with that method of scale, the loggers don't have a problem, and neither does he. He sells timber by the weight method and is happy with it, simply because they know when they start what they are going to get. This bill does not require that it be scaled.

REP. STELLA JEAN HANSEN asked if the practice now is to have

scaling done at the harvest site? **Richard Smith** answered no, it is not. Once in awhile the forest service will scale some logs if they have a small sale. If only three loads a day are being hauled, \$200 a day for a check scaler cannot be afforded. There would be no danger while scaling because no trees would be felled at the scaling site.

REP. HANSEN asked if this National Forest Log Scaling Handbook is the only guideline there is for scaling? Or is there another system? **Mr. Smith** assumed that is the most accurate. A log is not a perfect taper from one end to the other. If it is cut in half, you are not going to get an accurate measurement. It has to be measured in the middle. Actual taper is not true, that is one factor. They check scale their own if they sell from mill to mill because they have hired scalers and they have an adjustment system within themselves. That guideline is not included in the forest service handbook.

REP. HANSEN asked if he attended any of the seminars, and why so few loggers had attended. **Mr. Smith** had not attended any of them. He has worked in the timber industry almost all his life. Most loggers are not happy with their scale, maybe because some don't understand scaling completely, but the discrepancy between the mills is the big factor. **Jerry Parker** testified he has sold logs to Pyramid Lumber with no problem. Their scale is good. The Dunbar Sawmill in the Bitterroot Valley, no problem. White Pine Sash, Missoula, no problem. He stopped right there.

REP. HANSEN asked if any of the loggers were intimidated from testifying because they might not be able to sell their logs. **Mr. Smith** answered, sure. If you attend, they tell you "Why should we buy logs from you? You are a trouble maker."

REP. JOHN SCOTT reminded in your testimony and in your printed testimony you acknowledged there was a problem and you also mentioned this has come up time and time again in the Legislature. Why hasn't this been resolved? **Mr. Allen** said he also referred to the fact that they have developed a five-point program they thought would solve it. **EXHIBIT 5** On at least three occasions they have said they would support and help implement this type of approach because it would deal with the real issue which is trust, to resolve any disputes. They have offered to do that, and they still think they could do that. It is a complex subject, one that has been talked about a lot. They would like to get rid of it once and for all if it can be done, but this bill is not the answer. They think there could be some answers and have made suggestions in **EXHIBIT 5** or something along these lines.

REP. BACHINI regarding those five points, what seems to be the reason there has been no compromise on this? **Mr. Smith** had not seen those five points. **REP. THOFT** said he saw that about four days ago to try to kill the bill. They have had 15-20 years to come up with five points and haven't done so yet.

REP. BENEDICT found it interesting because he is in business and deals with people he trusts a lot, and doesn't deal with people he doesn't trust. It seems you have several people you feel comfortable to deal with, why not just deal with them? Mr. Smith answered depending on the volume you have to sell, the species you have, the distance the logs have to be trucked which is a tremendous cost, most of the time you have to sell to the closest mill. It is based on economics alone.

REP. ELLIS said obviously there is a big discrepancy on what this bill mandates and the number of loads scaled. The industry people said it requires scaling every load, the proponents said it doesn't. Mike Kakuk explained the law does mandate on Page 3, Section 5, (1) "All timber harvested in Montana and delivered to a purchaser in Montana must be scaled." The definition of scale is located on Page 2, Section 3 (5) "Scale" means the method of measuring timber, including but not limited to any method, to determine weight or board feet. If a load comes in and it is weighed that is the scale. That scale ticket contains the weight, the contract number, the purchaser, and the delivery site, and would be forwarded to the state for comparison.

The state employees who are out in the field are not going to be carrying scales with them. They can't weigh that timber. There are conversion factors for converting board feet to weight, and that would be how the comparison would be made.

REP. ELLIS asked if that mitigated somewhat his estimate of \$20 million cost to the industry for doing this. Mr. Allen advised they still think the bill says you have to scale every log, every load at the mill in order to comply with the report to the state so they can double check at whatever point they are going to. Scaling has to be done to prove what the mill is doing. That isn't changed at all according to Mr. Kakuk's explanation.

REP. SHEILA RICE asked with the amendments presented today, would you still put a \$20 million price tag on this? Mr. Allen said they had not had a chance to evaluate the amendments. He thought it would reduce the cost but it would still be so prohibitive it would be a real problem to comply with the bill.

REP. RICE said in the five-point program #5 says a check scaler will scale each load in accordance with contract terms. The opponents felt to scale every load would be a problem. Mr. Allen explained the reference there is in terms of the check scaling, in other words checking the loads that are checked. It is not scaling every load. There is a difference between scaling and check scaling which is to check the original scale to verify it. It does not apply in that case to every load at all. It is true that as far as the original five points, they were not seen before, but they had been suggested at some of the EQC hearings. Different comments by various industry people as positive kinds of things that should be done have been put together into a sort of package, and if all of these were done the problem would be

solved. They have all been referred to at some time.

REP. RICE said he mentioned in his testimony the EQC recommendation was no recommendation and you were going to give the Committee some information saying that. What are you referring to? Mr. Allen advised that is on Page 9 of the Montana Log Scaling Study EXHIBIT 1 done by the EQC under IV. CONCLUSION which says the Council decided the scope of the problem was insufficient to warrant further Council action. The study was transmitted to the 52nd legislature with no final recommendation.

REP. RICE said you mentioned you checked one out of every six loads. Mr. Thomas said they check 1.6% of the loads. It varies with the contracts and the forest service and the mill. A purchase log agreement would be negotiated between the parties and if they wanted 100% of the logs scaled, they could arrive at something mutually agreeable. That is the reason for the average of 1.6%. There is no scaling of logs on the truck, it is all rolled out scaling, all laid on the ground. The logs can't be moved because it changes the percentages according to their handbook, and it changes the value of the log. It would be confusing.

REP. RICE said the amendments would require scaling of roughly one out of four loads. If the bill read one out of six would that still add several million dollars to your cost or would you be about where you are today? This would be more of a checking mechanism between you and the state. Mr. Thomas answered in talking about one in four, he has not seen the amendments but if it is reduced from 100% to 25% the state would scale, there is 1,150,000,000 feet of timber harvested in Montana each year, if there is 4000 board feet on each load, that is 285,000 loads, and if the state scales one out of four, that will be 71,280 loads of logs to be scaled. Three people will not be able to do that. They have six people in their operation scaling one out of six. They have about 60,000 loads delivered per year. They would need 30 additional scalers in their operation just to take care of theirs. They are currently scaling one out of six loads. The reporting would still be necessary; it would take approximately \$30,000 worth of paper and \$3,600 worth of stamps to send this paper to the state. This does not include any of the administrative costs which would be over \$100,000 in their particular operation just to accumulate this information to send to the state.

If reduced to one in six, he supposed if the state is going to have the option of coming in and looking at these logs, they cannot simply move them to their flow system. Currently the logs come in and are taken from the truck which takes about 45 seconds. The scalers converge on those logs, and scale them. The logs are on the ground about an hour and they are taken to their appropriate destination where there is another deck or two planned to be remanufactured into their products. If the state is

to look at these logs that are not going to be immediately utilized, they will have to be held in reserve for the state's option to come and look at them, so they will have to purchase ground to spread these logs around. Then when they are notified they can be removed, they will pick them up.

On the one in six scale it would be a significant reduction in the cost to them, but it would still be a significant cost because they do not have enough property. It is currently full of the log inventory the scaler is presently doing.

REP. BACHINI asked if the weight method were used instead of the scaling, would the weight tell you whether the log is rotten or not? Mr. Thomas said they weigh every log that comes into their operation. Every load of logs is weighed and then they scale it. The scaling provides the information on the rot. A log on the computer could show a log weighed 81,000# and when the truck came back in you would know that it weighed 26,700#. They know the difference between how much the log weighed without ever having seen it or knowing anything about it, so it is necessary that each log is individually looked at. That is what the scaler does. Scaling is an art and a science combined, and it is not a simple activity. REP. BACHINI said it sounded to him that you prefer scaling to strictly the weight method. Mr. Thomas answered they weight sample their loads. You will find the sample system they use is as accurate as the 100% scaling system. There is very little difference. It is an exercise in scaling.

REP. SCOTT said in the wording of the bill, isn't weight scaling and 100% scaling considered the same thing? Where you right now are doing 100% scaling, which is the wording of the bill, weighing the logs would be considered scaling? Mr. Thomas explained that interpretation is accurate; however, at Champion International they purchased this single load of forest service timber on timber lands of Champion International. They transferred that load of logs to this mill through scale by weight sample basis. In this particular case the logger would be paid by the ton, not by the scale, so the logger isn't concerned with the scale.

According to HB 169, between the two parties transferring is occurring by scale so they won't have to scale each load of logs. They don't transfer them by weight. REP. SCOTT asked if it is by your choice that you don't transfer them by weight? Mr. Thomas said if you need to have some more information, you need to scale the logs so as to determine the rot. That is the way defects are found out. You also find out what species it is by scaling. It is necessary in their operation to know what species they have, how big they are, how much defect there is. This is not very simple, it is complicated. To answer your question, If they were doing it simply by weight, the answer to your question would be Yes, but they are not. They need to know how much volume is there by species, and how many logs are of a different species and different diameters and weights. You need that to properly

inventory the yard, and know what kind of material you can manufacture from these logs.

REP. BACHINI stated you can satisfy the bill with weight. Mr. Thomas disagreed. Internally they transfer the value of this product by thousand board feet. REP. BACHINI said the state said they would do that. Making that transfer with what they have. Mr. Thomas said if they could do that by weight, that would simplify it considerably. They use both methods on the same load of logs, because they need both pieces of information. Mr. Kakuk said he could transfer weight to board feet, the state could do this. The scaling is something that you as a mill are requiring and not the logger. Mr. Thomas said they would have to scale some of the loads of logs to determine what they would be.

REP. KNOX asked if their log scale is correlated on a monthly or yearly basis with the actual production. Mr. Thomas said every two weeks they know what volume they have delivered to their plants, and then they do some studies on individual blocks and project how much they have handled through the system about every three months. REP. KNOX asked if at the end of three months if they knew how the scale correlates to actual production. Mr. Thomas said approximately. REP. KNOX asked how that is recorded. Mr. Thomas said to check it completely, you would have to run until there are no logs left, otherwise there are always some logs left which would make for some small error.

REP. RICE asked in your estimation do the relatively few problems in scaling stem from the differences between gross and net? Is the issue how much defect there is? Michael Buchholz said he would have to answer that Yes. To arrive at a gross measurement it is a real simple process to measure the length of the log and derive your diameters and then put that through the chart. Normally speaking, check scales are allowed 2% in that area before you really offset a balance, whereas with net scale you are allowed different percentages depending upon the defects. Chances are a scaler is going to be off more dealing with net than he would be with gross.

REP. TUNBY asked how many loggers have made complaints and how many feel it is working alright the way it is? Also comment on the cost of bureaucracy involved, and also the cost to the companies. REP. THOFT answered as far as complaints, they sent out a questionnaire last spring. Every questionnaire came back and there were a lot of them, and every one indicated the loggers were not getting a fair share. Every one. They were sent all over Western Montana.

As far as bureaucracy is concerned, there is no worry over that. First of all, they are going to have to compute back and forth. It will cost about thirty-five cents a truckload. The logger will pay his share of about thirty-five cents and the mill will pay their share. In the case of ton scale, there is an awful lot of logs bought by the ton, log scalers will not have to be hired. If

they don't like what is going on they can in fact buy it all by the ton. That is the way he had to start selling his in order to get a fair credit for his timber.

They talked about the state check scaler being involved in the yard operation. He won't be there at all. They are not going to interfere with the operation's log yard. They talked about check scaling one in six as is done now. The logger could hire a check scaler, except the mill is going to know what is being check scaled. That is the big problem. It goes into the yard to check scale, they know it is there. That is where they have a tendency to change their scale records. If he scales in the woods there is no problem. It won't be scaled in the yard so there is absolutely no way to call it a check scale. Besides the logger has to pay \$200 a day for the first day for an independent scaler.

They have overrated the cost of this to the mill. They have testified they want a scale that determines receipts, if a log is rotten etc., then when it comes to serving the logger they don't seem to want to do the same operation.

REP. WALLIN said we hear net scale and gross scale, the feeling he gets among the loggers is the gross scale is pretty accurate. They aren't as upset about that as they are the net. What is the way to handle that to satisfy everybody?

REP. THOFT said all the loggers want is to cure a lot of errors in different scales, and that has to be gross and net. The loggers are more than happy to accept the U.S. Forest Service Manual. As far as defects go, they have no problem at all when the specifications in that manual are used.

REP. BENEDICT, explain being able to use both the scale method and the weight scale. How do you account for all the little differences that occur in different times of the year? Mr. Kakuk said the technical provisions of the bill require that every load be scaled. The intent of the bill is to have the mill weigh it and pay for it by the ton. That is a scale under the provisions of the bill. If that load was subject to a check scale, he would assume the state would be aware that the logger is going to be paid by weight because it is required information on that sheet the department already has showing the weight. Complaints on weight scale are few. Most of the loggers selling by weight have no complaints with weight scaling. His first assumption would be the department scalers would not check scale by weight. If the scale was done by some other method, board feet, etc., they would be more apt to check those scales.

REP. BENEDICT asked exactly how many people have complained to you about scale or to the EQC about scaling. It sounds like it could be hundreds or it could be 25 or a few. Mr. Kakuk said in the EQC Log Scaling Final Report, attendance information at the public hearings is shown, seventy-five from Missoula, twenty-five in Livingston, and about the same at Kalispell. He has a packet

of letters the EQC has received. There are between 7 and 10.

Closing by Sponsor:

REP. THOFT explained he was carrying this bill because he has some timber he sells. REP. BENEDICT represents the area the mill he sells to is in. He has sold to that mill for the past year by weight and is very happy with the results. He wouldn't sell by the board foot scale because he has had that experience, too. It is just a matter of you can't mess around very much with a scale set up by weight. He has heard Champion people say they have to scale all the logs so they know about rot, species, etc., but they don't seem to want to do it for loggers. The loggers don't care about inter-mill transfers. That is between mills. If they want to put together deals, that is fine. The loggers could care less.

As far as the EQC report goes, there is no logger on the Environmental Quality Council. It is pretty tough for a logger to get up and testify against the mill owner. It doesn't go over very well if a person wants a job. The cost of the legislation is blown totally out of proportion. It will cost the logger on an average load of 4000 feet to the load, about 35 cents a load and the mills about the same. The mills aren't going to be in any great amount of stress to scale those loads. If they choose to buy by Scribner scale rule, or if they want to buy by the ton, that is fine, they can scale all those loads. If they want to buy it by the ton, they won't have to scale any of it.

In reference to trust, state trust which derives directly from the state forest lands is mentioned in the fiscal note. He has been told that is an insignificant amount of money. We realistically know the logger is going to pay all this expense. The mills are going to pass it back to the logger in a lower price for timber, and the loggers don't have any problem with that. They want to know if they are going to get fair and accurate scale, what the price of the timber is is not that important. If it is too low they don't have to go to work. Whatever deal is made they know they are going to get that price and want a fair and equitable scale, then they can go to work assured they are going to get paid for what they do. The mills will not be hurt financially by this, because they are going to pass it back in the price of timber. The loggers realize that and don't have any problem with that because they know the mills can pay more money and give less scale. The whole thing seems to wash.

They have offered to educate landowners and loggers. These people have more education than they can afford already. This has gone on for too many years.

Impact on the workers, loggers have families, too. They work in conditions most people would not work under. They are entitled to be paid for what they do. Loggers are a business, they buy the

diesel, the trucks, the cats, the chainsaws, and it is a very big part of the business in the state. All they want is a fair shake. If everyone was involved with the Idaho scale, according to the explanation of that scale, loggers would be tickled to death. Under the Forest Service Scale manual there are no defects. The Indian Tribes are not cost anything. When they sell their timber, that goes to a mill and a private contractor removes that timber. The Indians get their money and they are out. The same applies to the state and federal lands. The contractor who logs it pays a fee. The owner of that timber, whether it be him, the Indian Tribes, the state or federal government are out of the picture. It is between the loggers and the mills.

Check scaling is one of the biggest jokes the mills see. The problem is you hire your own check scaler, he scales in the woods, it costs you \$200 a day. You are going to have to go to the mill and say "I want these loads scaled because I have a check scaler working in the woods." That is probably the most unfair comment heard this morning. How honest would that be? The mills know the loads are being check scaled.

There is concern by some people the loggers wouldn't receive any of the fines. They don't want any of the fines. They are not in business to receive any fines. They want those fines to go to the courts, or to the check scale industry. They are not there to collect fines because of somebody else's mistake; they just want to get paid fairly for what they do.

This bill is a fairness issue. It is not in his business, it is just an effort to see these loggers are treated fairly. No one will argue with that.

He read a letter somebody left in his mailbox, it wasn't addressed to him, it was simply in an unmarked envelope. It is a short letter: "Mr. Thoft, When the scaling hearings were going on in the Missoula, I asked my employer who is the Champion contractor if he was going. He said No. I told him I was thinking very strongly of going. I was told in no uncertain terms not to go by my employer. This is why you don't have a house full of loggers today. They simply don't want to lose their jobs."

REP. BACHINI announced executive action would be taken on HB 169 on January 30.

ADJOURNMENT

Adjournment: 11:00 a.m.



REP. BOB BACHINI, CHAIRMAN



JO LAHTI, SECRETARY

BB/jl

EXHIBIT 1
DATE Jan. 25, 1991
HB 169

LOG SCALING STUDY

Final Report to the 52nd
Montana State Legislature

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

EX 1

1-25-91

HB 169

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.

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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.

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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.

Exhibit of EXHIBIT 2
DATE Jan. 25, 1991
HB 169

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0169, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act 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 and termination date.

ASSUMPTIONS:

Department of Commerce:

1. The proposed timber scaling program will apply to all federal, state and private lands on which timber harvests occur.
2. The Department of Commerce will assess and collect reasonable fees. Approximately 1 billion board feet will be subject to the provisions of the proposed legislation. The department will assess a fee of \$0.075 per MBF which will generate approximately \$75,000 in program revenues each year.
3. Approximately 2,200 timber harvests occur each year. The proposed timber scaling program will check 10% of the total timber harvests. The department estimates 20 complaints per year with two complaints per year requiring enforcement.
4. The responsibilities given the department through the proposed legislation requires section status. A 1.00 FTE section supervisor and 1.00 FTE secretary will be required to assist with board meetings, complaints, telephone calls, correspondence, the required report to the legislature and all other facets of the program. Program personnel anticipate 20,000 miles of travel per year.

Department of State Lands: (DSL):

5. DSL receives approximately 1,000 purchaser reports of slash withholding and approximately 5,100 individual account transactions per year.
6. Purchase of a computer with larger capacity would be necessary due to increased size of the computer program. The current computer would be used elsewhere in the department or declared excess and sold. These are FY92 expenses only.
7. The administration of this program will require 0.25 FTE forestry accounting technician (grade 9) to perform the daily audit of purchaser slash withholding accounts; production and processing of billing letters for Master Hazard Reduction Agreements; and maintenance of program records.
8. All audit work required by this proposed legislation will be done through independent contract. All costs will be paid by the purchaser.

FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning
DATE 2-23-91


BOB THOFT, PRIMARY SPONSOR
DATE 3-8-91

FISCAL IMPACT:

Dept. of Commerce

Expenditures:

FTE	0.00	2.00	2.00
Personal Services	0	47,885	47,885
Operating Costs	0	24,200	24,200
Equipment	0	5,400	5,400
Total	0	77,485	77,485

Funding:

State Special (02)	0	77,485	77,485
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Revenues:

Fees	0	75,000	75,000
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State Lands:

Expenditures

FTE	0.00	0.25	0.25
Personal Services	0	5,530	5,530
Operating Costs	0	4,500	4,500
Equipment	0	5,000	5,000
Total	0	15,030	15,030

Funding:

General Fund	0	15,030	15,030
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General Fund Impact

(15,030)

TECHNICAL NOTES:

1. The effective date of the proposed legislation is July 1, 1991. To enact the program will require computer enhancements to the current hazard reduction computer program, additional computer programming staff, additional clerical staff and computer hardware purchases. DSL FY91 budget doesn't have sufficient appropriation authority to afford these increased services. An applicability date of January 1, 1992 is recommended.
2. The current Hazard Reduction Law requires that any fee withheld for production volumes exceeding 500,000 board feet per agreement in a calendar year must be returned to the contractor by the department. The proposed legislation refers to the \$0.075 as a fee. If timber scaling fees are subject to refund provisions of the Hazard Reduction Law, the proposed computer enhancements would be more complicated and require a larger allocation of FTE for DSL to administer the provisions of the proposed legislation.

FY 92

	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0.00	2.00	2.00
Personal Services	0	47,885	47,885
Operating Costs	0	24,200	24,200
Equipment	0	5,400	5,400
Total	0	77,485	77,485
Funding:			
State Special (02)	0	77,485	77,485
Revenues:			
Fees	0	75,000	75,000

FY 92

	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0.00	0.25	0.25
Personal Services	0	5,530	5,530
Operating Costs	0	4,500	4,500
Equipment	0	5,000	5,000
Total	0	15,030	15,030
Funding:			
General Fund	0	15,030	15,030

FY 93

	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0.00	2.00	2.00
Personal Services	0	48,871	48,871
Operating Costs	0	23,586	23,586
Equipment	0	0	0
Total	0	72,457	72,457
Funding:			
State Special (02)	0	72,457	72,457
Revenues:			
Fees	0	75,000	75,000

FY 93

	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0.00	0.25	0.25
Personal Services	0	5,530	5,530
Operating Costs	0	500	500
Equipment	0	0	0
Total	0	6,030	6,030
Funding:			
General Fund	0	6,030	6,030

(6,030)

HB 169

Amendments to House Bill No. 169
First Reading Copy

EXHIBIT 2
DATE Jan. 25, 1991
HB 169

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

Prepared by Michael S. Kakuk
January 19, 1991

1. Title, line 7.

Following: "PRACTICES"

Insert: "AT SELECTED SITES"

2. Page 1, line 24.

Following: "scaling."

Insert: "It is the intent of the legislature to adequately fund the timber scaling program to allow the department to employ and provide support to two scale checkers and an administrative assistant. The department should monitor scaling practices on up to approximately 25% of the total amount of timber harvested in Montana."

3. Page 2, line 3.

Following: "administration."

Insert: "It is not the intent of the legislature that fees established under this program be collected from the state or federal government for the sale of timber from state or federal lands. However, fees must be collected from the purchasers of timber from the state or federal lands and the harvesters of that timber."

4. Page 3, line 7.

Insert: ", or the owner of timber in Montana who contracts to have that timber harvested,"

5. Page 3, line 7.

Following: "its"

Strike: "purchase"

6. Page 4, line 16.

Following: "site"

Insert: "identified under subsection (1)"

7. Page 4, line 18.

Following: "timber"

Insert: "at the harvest site"

Exhibit 4



Montana Wood Products Association

Don Allen, Executive Vice-President

208 N. Montana Ave., Ste. 104
Helena, MT 59601
(406) 443-1566
FAX (406) 443-2439

EXHIBIT 4
DATE Jan. 25, 1991
HB 169

June 12, 1990

Representative Bob Gilbert
Chairman, Environmental Quality Council
State Capitol
Helena, MT 59620

Dear Representative Gilbert:

Since the EQC hearing on log scaling in Missoula on April 28, members of the Montana Wood Products Association Task Force on this issue submitted responses to me regarding testimony given by various individuals.

I have compiled the responses and have attempted to eliminate duplication and to simplify some of the more complex points.

Before getting into specific responses to specific concerns raised, I believe some general comments should be made.

In the interest of avoiding a public debate we refrained from challenging some of the comments made during the hearing but many remarks were really opinions often based on a lack of understanding of scaling or of logging contracts or both. In the absence of any way to actually get at the facts many wrong impressions may have been left with the Council members.

For example, Mr. Luedtke portrayed himself as a certified scaler. Since only the U.S. Forest Service and the BIA have had certified scalers did he work for one of those agencies? In any event, I understand that he had not scaled for the last 10-12 years and some of his statements did not totally reflect what is done today.

In addition, press accounts of the hearing unfortunately presented basically only comments made by the loggers and those appearing on their behalf.

I have earlier expressed my concerns over the fact that the funds obtained last session to do a "study" of log scaling practices is really just a series of public forums.

A bonafide study should include:

- 1) a survey of how log scaling is done in other states - particularly Western states with public timber. As we have stated, the system now used in Idaho is not accomplishing the desired goal of creating more trust between loggers and mills and is an expensive bureaucracy.
- 2) A scientifically sound survey of all loggers in Montana; and
- 3) random unannounced check scaling arranged by the EQC or DSL to determine if there is a problem and if so, the extent of the problem.

The following are responses to specific concerns (which seem to fall in two general categories) raised at the April 28 hearing:

1. The scaling is not fair.

Overruns were cited by several as an example of unfairness. Overrun is not considered by the scaler when measuring logs but it is included in the sale appraisal. The U.S.F.S. publishes overrun tables by species and size which must be followed. In other words, overruns are already part of the formula which determines the total cost of a sale along with other costs such as logging, slash control, etc., all of which determine the price that is bid for specific timber which will meet the specific requirements of a given mill. It is not something left to chance as a wild card to short-change a logger but is a line item in the sale appraisal.

Reference was made to the Scribner Decimal C as outdated for use with "new" smaller logs. Small logs have always been part of the mix but it is true that more and more smaller logs are being harvested today. However, the decimal C measurement is based on boards recovered from round logs.

The taper which is specified in the contract varies between U.S.F.S., State, private, BIA, and BLM. Some mills use actual and others use standard and some use both depending on the needs reflected in their contracts. The logger can ask for a specific taper to be included in a contract before he signs it.

Defect and how it is handled was another point brought up. It has always been subtracted from gross measured volume (B/F or cubic) to arrive at net volume.

In Montana most mills pay the logging contractor on net volume. Some mills have a system whereby when evaluating the quality of the logs to make sure they meet the specs of the contract also allows for bonuses for the logs which have less defect. Therefore an incentive exists for delivering good quality logs and often a logger is paid more than expected.

The smaller kerf (width of cut of sawblade) was cited as something for which the logger is not given credit. With modern technology, the smaller kerf makes greater recovery possible. The kerf size is automatically a part of the total economic considerations in determining the amount that can be paid for logs.

Cull logs - Logs that have over 50% defect were described as being cull logs and mills would not pay for them. That is not true today. If logs have 66 2/3 - 75% defect, they are counted as culls. The cost of handling cull logs through a mill exceeds the chip dollars recovered.

While log scaling does consider species, length, and diameter, the fact is that the volume, quality and value of logs in relation to the end products that can be manufactured at a given mill are as stated earlier all part of the total dollars that can be paid for the logs delivered to the mills.

Mis-scaling - The mistrust reported by suspected mis-scaling by scalers paid by the mills is probably more due to the lack of knowledge the landowners and loggers have regarding the terms of the contract and scaling specifications. Most check scales on company scales actually show them to be higher - or in favor of the logger.

No recourse for a logger with a complaint. To our knowledge, all major log yards in Montana are open for check scaling of logs. Federal and state timber is scaled and check scaled by the seller. Log sales between companies are scaled by the respective purchaser with the seller check scaling and accepting the purchasers scale. Excluding the federal, state and large industrial private check scalers which appear at large company yards several times a month, there has not been any noticeable interest on the part of small private log sellers to checkscale or even question log accountability or scaling. At Champion, for example, in 1989, 25,000 loads of logs were delivered to the Bonner yard and only one log seller came in to raise a question on log scale. Thus far in 1990, they have had only two visits by log sellers that had a question on scaling.

There are consultant foresters and check scalers available to sellers to use and that are welcome in company yards for the purpose of check scaling any loads for their clients. This option has not been used.

Check scales are used to determine if the scaler is meeting the set performance standards and to determine if additional training or monitoring is needed or possibly more remedial action is needed.

Before signing a contract a seller can reserve his right to call in a check scaler. Also, a request can be made (and it will be complied with) that a load be set aside to be scaled.

2. The Scaling is Inconsistent

While Montana has no scaler certification program, many Montana company scalers are licensed in Idaho and attend periodical scaling workshops. The majority of professional scalers also belong to a professional state and regional professional society which promotes pride and integrity among its members.

Reference was made to the belief that different logs will be scaled differently depending on the ultimate use of the log. That is simply not true. The measurement of some logs in relationship to other logs does not change. Mills using quality control and contract specs listings end products by various dollar amounts are using those methods as control for payments not for measurement.

Perhaps an actual random example comparison of two loads of logs will help explain the relationship between species, weight, volume, and length. Please see attachment #4.

Also enclosed is the scale for two loads of logs hauled by the same truck and pup the same day and scaled by the same scaler. These loads weighed within 2,000 pounds of each other and strange as it may seem, the load with the most scale weighed the least. You will notice the load with 11,790' had 30 logs in it and the load with 6,460' had 149 logs.

We use this as an example for the logger who said they used to get 7,000 ft on a load and now they only get 4,500 to 5,000 and the answer is they use to not go below 10" top on logs and now go to 5.6" top. With the 10" top, he was getting about \$50 a mbf to log and now he is getting about \$100 mbf to log.

Another situation that undoubtedly has caused some questions to be raised is when there are two separate contracts involved with the same sale/purchase. The U.S.F.S. scales the logs sold to their specs in order to receive payment for the stumpage. (Incidentally, many years ago, they required every log to be scaled in the forest.)

However, the mill purchasing the logs will also scale the logs and in addition they will apply the requirements contained in their contract designed to provide the specific needs of that mill.

Someone asked about how and how frequently loads are selected to be sample scaled.

Enclosed are sample frequency cards used for sample scaling. Two of them are Forest Service and two are what the company uses. The company does not make the card, they buy them. In using the cards, the truck ticket number must match the number on the card, those cards hang in the weight house and the truck driver opens the tab for his load. The truck ticket number is also painted on 3 logs on the load so that there can be no changing loads to match which load should be scaled. The scaler checks twice daily to make sure the loads to scale are the ones the card shows to be scaled.

On the multi-frequency cards, a 1-3 sample is indicated so if a 3-6-9 is under this tab it would be a scale load all others would be no scale. The F.S. cards have SSS under the tab that is a scale load. Their cards are made with a computer also and no two cards are alike.

3. How Can the Problem Be Corrected?

The suggestion was made that payment should be made by weight. This method would not be viable for small mills where the \$60,000 to \$100,000 cost per set of weight scales would be prohibitive.

In view of the likely move toward cubic measurement, any changes in scaling would need to remain flexible and give the purchasers the option to designate the unit of measure.

As we have stated, the U.S.F.S., DSL, and BIA as well as the mills all have their own scalers and/or check scalers. The government agencies will undoubtedly maintain control of their scaling operations so any action recommended will be aimed at the scaling of logs from private lands, specifically logs from small private landowners.

If it is determined there is a problem and if the ultimate decision is to propose independent or state agency type check scalers we must make sure that an expensive, unfair, or ineffective system is not created.

Log scaling is difficult to understand and as pointed out in our discussion of specific points, it is easy to see how misunderstandings and mistrust can develop.

It goes without saying that much more needs to be done on an educational level to increase the understanding on the part of loggers and landowners regarding scaling contracts, log quality programs and appraisal of value systems.

MWPA stands ready to participate in examining reasonable, fair and cost effective ways to eliminate or at least minimize the

Ex. 4
1-25-91
HB 169

differences that exist between some loggers and any mills. We realize that problems whether real or perceived will not go away without a sincere effort by all concerned.

We appreciate the opportunity to submit these comments and we will be happy to offer additional information at any time.

In looking ahead to the Kalispell meeting if time would permit Council members to do so, a scaling demonstration could be arranged at one of the mills.

Sincerely,

Don Allen
Executive Vice President

Log scaling, its definition, theory and principles can probably be best summarized by excerpts from the "Manual of Instruction for Log Scaling and the Measurement of Timber Products" by the Idaho State Board for Vocational Education (Vo-Ed #38) and the "National Forest Log Scaling Handbook" U.S.D.A. Forest Service, Washington D.C.

From the Idaho Manual #38, log scaling is defined as "The measurement of logs to ascertain their usable contents in board feet. This measurement is neither a guess or an estimate, but rather the result of applying certain fundamental rules and techniques."

"Scaling may also include the measurement of timber products where units other than the board foot are basic. In its broadest sense, scaling may be defined as the process by which the net usable contents of timber products are expressed in acceptable units of measure."

The USDS Forest Service handbook gives a comprehensive coverage of the theory and principles of log scaling as shown in the following excerpts from that handbook.

CHAPTER 10 - THEORY AND PRINCIPLES OF SCALING

11 Theory of Scaling

Scaling is the determination of the gross and net volume of logs by the customary commercial units for the product involved; volume may be expressed in terms of board feet, cords, cubic feet, linear feet, or number of pieces. Scaling is not guessing; it is an art founded on applying specific rules in a consistent manner based on experienced judgment as to how serious certain external indicators of defect are in a specific locality.

The measuring standard used in scaling logs, called a log rule, is a table intended to show amounts of lumber which may be sawed from logs of different sizes under assumed conditions. At best, a log rule can only approximate salable manufactured volume because of constant changes in markets, machinery, manufacturing practices, and even the varying skill of individual sawyers. Thus a log rule is an arbitrary measure. Its application will not be varied according to the mill in which logs are sawed. The scaled volume of logs must be independent of variations in manufacture.

The difference between the volume of log scale and the actual volume of lumber sawed from the same log is called "overrun" if the lumber tally exceeds log scale, or "underrun" if it is less.

There will generally be an overrun or an underrun when logs are scaled by a particular rule in a given locality and sawed by a mill. Basic assumptions in the log rules and assumptions in utilization practices cause overrun to vary with the size of the average log. Experience proves that this is true even for the international $\frac{1}{4}$ -inch rule, although not to the same degree as for the Scribner Decimal C rule. This fact does not change scaling practice. Overrun (or underrun) is estimated in the process of appraising National Forest timber for sale, and presumably by the purchaser in determining what prices he will bid. Overrun or underrun is not considered in log scaling, even though it is very important to any mill.

General Principles of Forest Service Scaling
The scaler must be familiar with Forest Service and Regional policy on scaling contained in the Forest Service Manual, instructions contained in this Handbook, and utilization and scaling specifications of the lumber sale contract.

Forest Service scaling determines quantity rather than quality of the material. Unless the contract provides for payment on gross scale basis, all defects affecting recovery of sound volumes are deducted. No consideration is given to lumber grade recovery.

13 Commercial Units Used

1. National Forest timber is appraised, sold, and measured by customary commercial units for the products involved. Standard practice is to scale saw timber by a board-foot log scale; mining timber by the piece or linear foot; telephone poles by the linear foot or the piece of stated length; piling by the linear foot, pulpwood by the solid cubic foot or cord, and fuelwood, shingle bolts, and similar material by the cord. Other units may be used when better adapted to local trade customs or local situations.

2. As a general rule, the measurement of National Forest timber is in the form in which the material leaves the woods rather than in the form of products. End-product measurement may only be used under special conditions approved by the Regional Forester. Products, such as telephone poles and fenceposts, are ordinarily finished for market at the stump, and are therefore usually measured or counted in their final form.

14 Authorized Log Rules

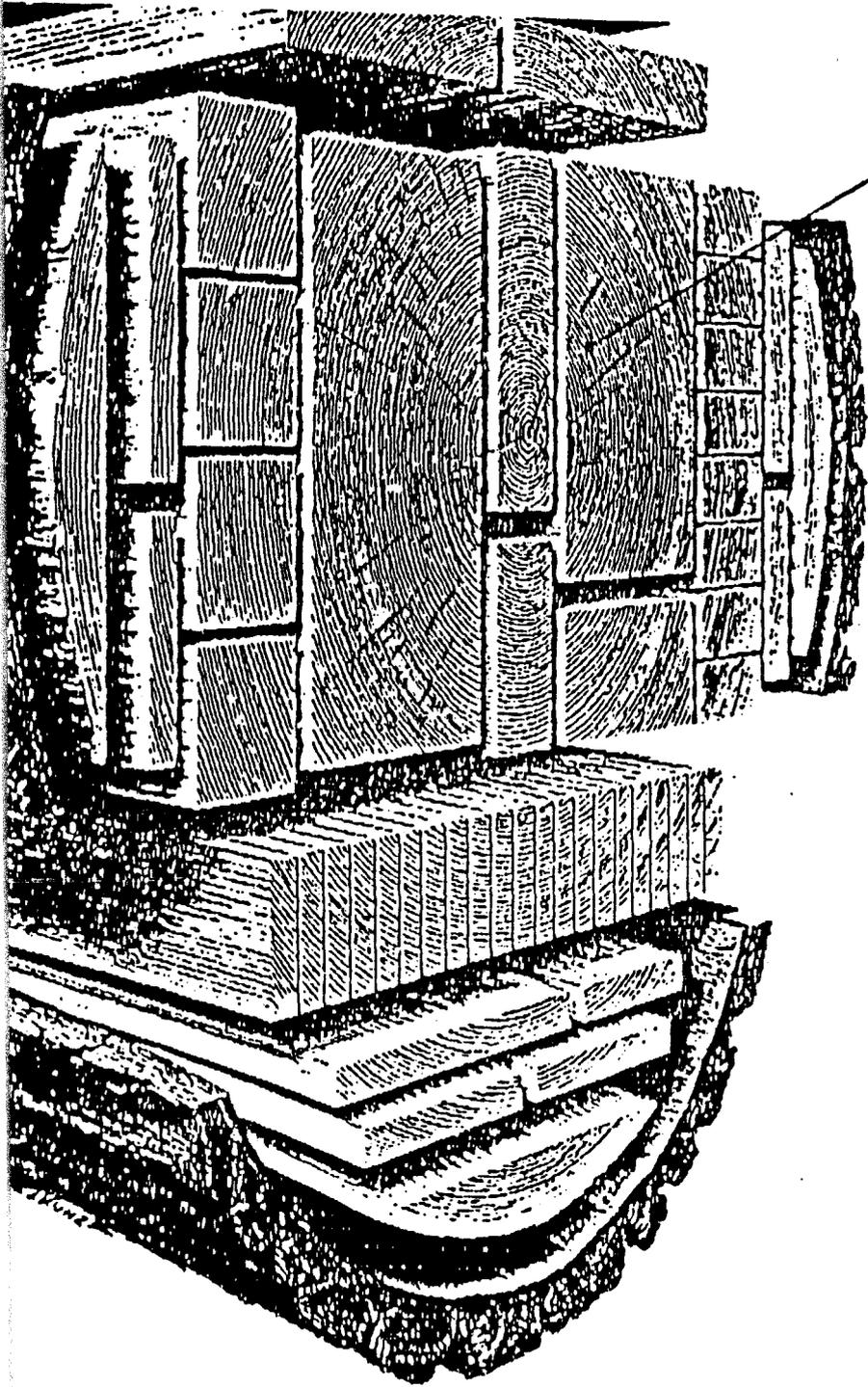
The Scribner Decimal C Log Rule, the International $\frac{1}{4}$ -inch log rule, or the Swelian cubic volume rule as used by the Forest Service are authorized under 36 CFR 223.3 for uniform scaling of sawtimber.

Forest Service

10

*-5/85 AMEND 6-

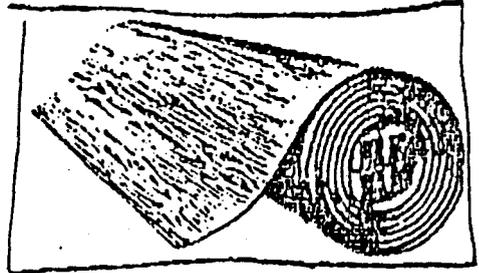
ATTACHMENT #3



The outer portions of the log have the 'weakest' knots. This 'clear' lumber is usually made into boards or planks varying in thickness from one to three inches.

Toward the center of the log, knots increase and the wood is less suitable for boards. Heavy or planks, and square or rectangular beams are normally saved from this section. The center of the log is used primarily for structural beams strong enough so that they are not weakened by knots. Knots are most frequent here because this is the oldest section of the tree. Branches that were removed during the early years of the tree's life left knots that were covered over as the tree grew outward.

Plywood is in effect a sandwich of thin wooden veneers. Veneer is made by 'peeling,' that is, holding a long blade against a rotating log. The wood is continuously peeled off, down to an eight-inch core. The core is then treated as though it were a small log. It can be made into lumber and, of course, the rounded portions go to the chipper.



Wood chips are transformed into pulp, manufactured into huge rolls weighing as much as 25 tons, and then converted into smaller rolls and sheets for commercial printing.



SPECIES/WEIGHT/VOLUME SAMPLES & VARIANCES

Ticket #	Weight	Gross bf	Net bf	Gross lbs/bf	Net lbs/bf	Gross bf/log	Net bf/log	# logs & Species
007363	47,360 23.7 ton	569	563	8.3	8.4	196	194	29 Spruce
001015	48,120 24.06 ton	472	418	10.2	11.5	215	190	22 Doug Fir
		-17% Vol.	-26% Vol.					

Even if logs are hauled within a day after cutting and skidding, not only will there be a variance in bf volume, also the weight will vary(example above). Each species varies in bf volume and weight(lbs/bf) depending on size(defect changes gross lbs. to higher net lbs/bf).

When these same logs are not hauled for 60 days during the hot weather the weight can vary. However, if not hauled for 60 days during the cold weather the logs will most likely not have a weight change. In other words, logs of varying sizes, species, live or dead will all have a different weight.

Logs sorted in woods for mill use(all butt diameter of 16" or less)

Stud mill delivered lengths = 16'11", 25'1", 33'4", 41'6"

Plywood(peelers) lengths = 17'6", 26'2", 35', 43'6"

Board mill random lengths = 8'6", 10'6", 12'6", 14'6", 16'6", 18'6", 20'6",
23', 25', 29', 31', 33', 35', 37', 39', 41'

This example shows logs depending on end use and would have different weight with same size(diameter) and different bf volume because of lengths. i.e. studs 16'11"; peeler 17'6", random 16'6". One hundred logs of each at same bf volume - peeler would have 700 lineal inches more than studs; 1200 lineal inches more than random lengths. This would change the weight but not the volume. Using 11 lbs/bf for control, peeler load (same size) would exceed stud load by 1320 lbs; would exceed random length load by 2200 lbs.

DARBY LUMBER, INC

Darby, Montana

EXHIBIT 4
 DATE 1-25-91
 HB 169 SCALE SHEET

Scale Copy

SALE	DATE <u>4/2/90</u>	DRIVER
PURCHASER	SCALING POINT	
CONTRACTOR <u>701</u>	100%	SAMPLE
<u>702</u>		TRUCK TICKET NO. <u>9701-9702</u>

TRUCK				Handed Pair															
LENGTH	DIA.	DEFECT	S	LENGTH	DIA.	DEFECT	S	LENGTH	DIA.	DEFECT	S	LENGTH	DIA.	DEFECT	S	LENGTH	DIA.	DEFECT	S
			NET GROSS				NET GROSS				NET GROSS				NET GROSS				NET GROSS
32	19/21		52	15	18		21												
32	22/24		73	↑	17		18												
↑	18/20		49		11		21												
	18/22		49		15		24												
	21/24		73		19		24												
	17/19		38		19		24												
	20/24	⓪	55		15		16												
	15/19		32		17		24												
	20/24		61		19		24												
	18/22		49		18		21												
	17/19		48		19		21												
	18/22		49		21		30												
	19/31		70		14		21												
	24/30		105	↓	17		24												
32	17/19		39		14		24												
TOTAL			<u>842</u>				<u>337</u>												

14181	DOUGLAS FIR _____	LARCH _____	
	LOGEPOLE PINE _____	BULL PINE _____	
	ALPINE FIR _____	CEDAR _____	
	SPRUCE <u>1179</u>	OLD & DEAD _____	
	PONDEROSA PINE _____	WHITE PINE _____	TOTAL <u>11,790</u>
	GRAND FIR _____		

DARBY LUMBER, INC

Scale Copy

Darby, Montana

SCALE SHEET

SALE	DATE <u>2/13/90</u>	DRIVER
PURCHASER	SCALING POINT	
CONTRACTOR <u>H Wheeler Pup</u>	SAMPLE	TRUCK TICKET NO <u>108951</u>
		SCALER <u>U.S.</u>

LENGTH	DIAM	DEFECT	WP		LENGTH	DIAM	DEFECT	WP		LENGTH	DIAM	DEFECT	WP		LENGTH	DIAM	DEFECT	NET	GROSS
			NET	GROSS				NET	GROSS				NET	GROSS					
16 7/8			3		16 7/8			3		16 7/8			3						
16 7/8	⓪		2		16 7/8			3		16 9/8			3						
16 7/8			2		16 9/8	⓪		2		16 10/8	⓪		4						
16 7/8			3		16 10/8			6		16 9/8			4						
16 9/8			4		16 9/8			4		16 7/8			3						
16 9/8			2		24 7/8			4		16 9/8			4						
16 7/8			3		16 7/8			3		16 8/8	⓪		2						
16 9/8	⓪		2		16 9/8			3		16 9/8			3						
16 5/8			2		16 5/8			4		16 5/8			2						
16 5/8			2		16 10/8			6		16 9/8			4						
16 6/8			2		16 6/8			2		16 9/8			3						
16 10/8	⓪		5		16 7/8			3		8 1/2			1						
16 8/8			3		16 11/8			2		16 6/8			2						
16 5/8			4		16 11/8			2		8 9/8			2						
24 11/8			10		16 7/8			3		16 5/8			2						
16 8/8			3		16 7/8			3		16 9/8			4						
16 9/8			4		24 6/8			3		16 9/8	⓪		2						
16 7/8			3		16 10/8			6		16 9/8			4						
24 6/8			3		16 8/8			3		16 9/8			4						
16 9/8			4		16 11/8	⓪		6		16 9/8			4						

TOTAL

DOUGLAS FIR _____ LODGEPOLE PINE <u>2390</u> ALPINE FIR _____ SPRUCE _____ PONDEROSA PINE _____ GRAND FIR _____	LARCH _____ BULL PINE _____ CEDAR _____ OLD & DEAD _____ WHITE PINE _____
14189	TOTAL <u>2390</u>

DARBY LUMBER, INC

Darby, Montana

EXHIBIT 11
 DATE Jan. 25, 1991
 HB 169

Scale Copy

SCALE SHEET

SALE	DATE <u>4/3/90</u>	DRIVER
PURCHASER	SCALING POINT	
CONTRACTOR <u>TRUCK</u>	SAMPLE	TRUCK TICKET NO <u>108901</u>
		SCALER <u>[Signature]</u>

LENGTH	DIAM	DEFECT	W		LENGTH	DIAM	DEFECT	LP		LENGTH	DIAM	DEFECT	LP		LENGTH	DIAM	DEFECT	LP		LENGTH	DIAM	DEFECT	LP						
			NET	GROSS																									
22	7/10		7		32	7/9		6		22	8/10		7		32	7/9		6		22	7/8		6		22	7/8		6	
32	7/9		6		32	7/10		6		32	7/9		4		32	7/8		6		32	7/8		6		32	7/8		6	
32	6/8		5		32	8/10		5		32	8/10		5		32	8/10		5		32	8/10		5		32	8/10		5	
22	7/9		6		32	6/8		5		32	7/9		5		22	7/8		4		22	7/8		4		22	7/8		4	
22	9/11		9		22	8/10		4		22	6/8		3		22	6/8		3		22	6/8		3		22	6/8		3	
22	8/10		7		22	6/8		3		22	7/8		6		22	6/8		3		22	6/8		3		22	6/8		3	
32	8/11		6		32	7/8		6		22	8/10		5		32	7/9		5		32	7/9		5		32	7/9		5	
22	6/8		4		22	7/9		6		22	6/8		3		22	7/9		5		22	7/9		5		22	7/9		5	
22	6/8		4		22	8/10		6		22	6/8		3		22	6/8		3		22	6/8		3		22	6/8		3	
22	6/8		5		32	8/10		7		32	7/9		6		22	6/8		5		22	6/8		5		22	6/8		5	
22	6/8		3		22	7/9		5		22	6/8		3		22	7/8		6		22	7/8		6		22	7/8		6	
22	7/9		5		32	7/9		6		22	7/9		5		32	6/8		4		32	6/8		4		32	6/8		4	
32	7/9		6		32	7/9		5		22	6/8		3		22	8/11		8		22	8/11		8		22	8/11		8	
32	7/9		6		22	6/8		5		32	6/8		5		22	6/8		5		22	6/8		5		22	6/8		5	
22	6/8		3		22	6/8		5		32	7/9		6		32	9/11		10		32	9/11		10		32	9/11		10	
22	6/8		3		16	6/8		2		22	7/9		6		22	7/9		6		22	7/9		6		22	7/9		6	
32	6/8		4		32	7/9		6		32	7/9		6		32	7/9		6		32	7/9		6		32	7/9		6	
32	8/10		7		22	7/9		6		16	6/8		2		22	8/10		6		22	8/10		6		22	8/10		6	
22	7/8		6		32	7/9		6		32	6/8		5		22	6/8		3		22	6/8		3		22	6/8		3	
32	6/8		4		22	6/8		5		22	9/11		5																

TOTAL

DOUGLAS FIR	_____	LARCH	_____
LOGEPOLE PINE	<u>4070</u>	BULL PINE	_____
ALPINE FIR	_____	CEDAR	_____
SPRUCE	_____	OLD & DEAD	_____
PONDEROSA PINE	_____	WHITE PINE	_____
GRAND FIR	_____		

14188

TOTAL 4070
 + 1390
5460

MULTI-FREQUENCY SAMPLE CARD

NO TWO CARDS ALIKE - EACH CARD HAS A DIFFERENT ARRAY

Area to be Sampled SEC 35 LINTB wood Sample Point..... Card No. B 10303
 Conveyance Ticket No. 00650 to 00700 Frequency Selected 1-3

<u>00651</u>	<u>00661</u>	<u>00671</u>	<u>00681</u>	<u>00691</u>
<u>652</u>	<u>662</u>	<u>672</u>	<u>(9) 682</u>	<u>692</u>
<u>653</u>	<u>663</u>	<u>673</u>	<u>683</u>	<u>693</u>
<u>654</u>	<u>664</u>	<u>674</u>	<u>684</u>	<u>694</u>
<u>655</u>	<u>665</u>	<u>(6) 675</u>	<u>685</u>	<u>695</u>
<u>656</u>	<u>666</u>	<u>676</u>	<u>686</u>	<u>696</u>
<u>657</u>	<u>667</u>	<u>677</u>	<u>687</u>	<u>697</u>
<u>658</u>	<u>(3) 668</u>	<u>678</u>	<u>688</u>	<u>698</u>
<u>659</u>	<u>669</u>	<u>679</u>	<u>689</u>	<u>699</u>
<u>660</u>	<u>670</u>	<u>680</u>	<u>690</u>	<u>700</u>

MULTI-FREQUENCY TABLE

1 in 2 use 3, 6, 9, 10, 15	1 in 6 use 6	1 in 10 use 10	1 in 20 use 20
1 in 3 use 3, 6, 9	1 in 7 use 7, 14, 20	1 in 12 use 12	1 in 25 use 25, 50
1 in 4 use 4, 8, 12	1 in 8 use 8	1 in 14 use 14	1 in 30 use 30
1 in 5 use 5, 10, 15	1 in 9 use 9	1 in 15 use 15	1 in 50 use 50

U.S. Patent No. 3,636,771

Canada Patent No. 914,123

© 1986 Byron Greve

INSTRUCTIONS: Lift the tab for the corresponding conveyance ticket number. If the proper number appears for the selected frequency, it will be a sample.

MULTI-FREQUENCY SAMPLE CARD

EXHIBIT 4
 DATE Jan. 25, 1991
 HP 169

NO TWO CARDS ALIKE - EACH CARD HAS A DIFFERENT ARRAY

Area to be Sampled S&L 27 TRAILOR WOOD Sample Point..... Card No. B 10304
 Conveyance Ticket No. 00501 to 00551 Frequency Selected 1-3

<u>0050</u> 1..	<u>0051</u> 1..	<u>0052</u> 1..	<u>0053</u> 1..	<u>0054</u> 1..
<u>50</u> 2..	<u>51</u> 2..	<u>52</u> 2..	<u>53</u> 2..	<u>54</u> 2..
<u>50</u> 3..	<u>51</u> 3..	<u>52</u> 3..	<u>53</u> 3..	<u>54</u> 3..
<u>50</u> 4..	<u>51</u> 4..	<u>52</u> 4..	<u>53</u> 4..	<u>54</u> 4..
<u>50</u> 5..	<u>51</u> 5..	<u>52</u> 5..	<u>53</u> 5..	<u>54</u> 5..
<u>50</u> 6..	<u>51</u> 6..	<u>52</u> 6..	<u>53</u> 6..	<u>54</u> 6..
<u>50</u> 7..	<u>51</u> 7..	<u>52</u> 7..	<u>53</u> 7..	<u>54</u> 7..
<u>50</u> 8..	<u>51</u> 8..	<u>52</u> 8..	<u>53</u> 8..	<u>54</u> 8..
<u>50</u> 9..	<u>51</u> 9..	<u>52</u> 9..	<u>53</u> 9..	<u>54</u> 9..
<u>51</u> 0..	<u>52</u> 0..	<u>53</u> 0..	<u>54</u> 0..	<u>55</u> 0..

(9)

(4)

(3)

MULTI-FREQUENCY TABLE

<u>1 in 2 use 3, 6, 9, 10, 15</u>	1 in 6 use 6	1 in 10 use 10	1 in 20 use 20
<u>1 in 3 use 3, 6, 9</u>	1 in 7 use 7, 14, 20	1 in 12 use 12	1 in 25 use 25, 50
1 in 4 use 4, 8, 12	1 in 8 use 8	1 in 14 use 14	1 in 30 use 30
1 in 5 use 5, 10, 15	1 in 9 use 9	1 in 15 use 15	1 in 50 use 50

U.S. Patent No. 3,636,771
 Canada Patent No. 914,123
 © 1986 Byron Greve

INSTRUCTIONS: Lift the tab for the corresponding conveyance ticket number. If the proper number appears for the selected frequency, it will be a sample.

SAMPLE SCALING FREQUENCY CARD

FOREST SERVICE — REGION 1

Sale Designation _____ Scaling Point _____

Truck Ticket Numbers _____ to _____

Card No. _____

WARNING
Lifting tabs on this card or using any scheme to predetermine loads to be scaled may be a violation of 18 USC 1001, which is punishable by a fine of up to \$10,000 and/or 5 years imprisonment.

Sampling Frequency 1:5

1	1	1	1	1
2	2	2	2	2
3	3	3	3	3
4	4	4	4	4
5	5	5	5	5
6	6	6	6	6
7	7	7	7	7
8	8	8	8	8
9	9	9	9	9
0	0	0	0	0

Instructions: Lift tab opposite load receipt number. If letters (S) appear, it is a "sample" load and **MUST BE SCALED**. All other loads are "count" loads.

5c 5

EXHIBIT 5

DATE Jan. 25, 1988

HB 169

SUGGESTIONS FOR DISPUTES INVOLVING LOG SCALING

1. Establish a dispute resolution mechanism required in all contracts - providing for check scaling.
2. Independent third party check scaler agreed to ahead of time by both parties and specified in contract.
3. Split the fees evenly regardless of outcome.
4. Adjust the scale to reflect the check scale when outside tolerance limits as specified in forest service handbook. (Adjust to 0 tolerance.)
5. Check scaler will scale each load in accordance with contract terms.

Types of Log Scaling Available

100% Scaling:

All logs on every load are scaled. This is used on very small sales where sample scaling may not be adequate. It is also used when a logger's production is low (2-3) loads per week delivered. This method of scaling is usually only used in the above instances because of a lack of yard space for spreading the logs. It is impossible for a large mill to employ this method, since it receives upwards to 100 loads per day.

Sample Scaling:

A sample card is used corresponding to truck ticket numbers. If the random pull tag indicates the load is to be scaled (is a sample load), it (the load) is spread for scaling. If it is not a sample load, it is taken immediately from the truck and placed in the log decks at the mill yard. The sample loads are intended to be a representative sample of the entire sale volume. This method was used years ago before most sawmills had truck scales. It is much less accurate than sample-weight scaling.

Sample Weight Scaling:

All loads are weighed on a state-inspected truck scale as they enter the mill yard. The load is determined to be either a scale load or a non-scale load by the random ticket method. The empty truck is weighed and the difference between the loaded (gross) truck and the unloaded (tare) weight is the weight of the log load. The weight of every load in the sale is now known and the actual net board foot volume of the sample loads is determined. This formula will be then used to calculate the total volume of the sale.

Note: Sample weight scaling is the most commonly used method of calculating volume today.

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EXHIBIT 6A
DATE Jan. 25, 1991
HB 169

TESTIMONIAL STATEMENT RE: H.B. 169

My name is Bud Hall. I have 32 years of experience in the Log scaling profession currently employed by Stoltze-Conner Lumber Company.

Log Scaling is accomplished by applying an established and accepted method or rule or agreement of measuring timber and logs for payment and/or inventory.

Gross Scale is estimated volume in board feet, cubic feet, tons etc.

Net Scale is estimated volume in board feet, cubic feet, tons, etc., after deductions for "defect" are subtracted from the gross volume.

Log Scalers are not the perceived problem. The lack of contract knowledge on the part of a very minor segment of involved people is the much larger factor.

H.B. 169 Statement of Intent, line 20-21, states: "The frequency of check scaling must be sufficient to act as a deterrent to inaccurate and inconsistent scaling." If the EQC had found inaccurate and/or inconsistent log scaling practices then

legislative action would have been recommended.

H.B. 169 is an excessive bill for correcting a "Perceived Problem". The Department of Commerce will be hard pressed to make this bill workable since the introduced bill was not drafted with help from those professionals who understand Log Scaling. In its present form the bill does nothing for the plaintiff monetarily; would be awkward and clumsy to enforce; would be a large burden of expense for the Industry (mills) and it exposes individual mill information (required by this bill) to the department which then becomes public information.

F.H. Stoltze expected cost: approximately \$260,000.00 per year.

F.H. Stoltze and Stoltze-Conner Lumber Company oppose HB 169.



F. H. STOLTZE LAND & LUMBER CO.

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EXHIBIT 7
DATE Jan. 25, 1991
HB 169

Lumber Manufacturers

Box 1429 COLUMBIA FALLS, MONTANA 59912

January 24, 1991

Montana Wood Products Assn.
208 No. Montana Ave., Suite 104
Helena, MT 59601

Attn: Don Allen

Dear Committee Members,

Today you are considering House Bill #169, An Act Creating a Timber Scaling Program within the Department of Commerce. I have been directly involved in the purchase of logs at our plant for 26 years. During this time I have had only a few cases of disagreement of scale and in each case after the logs were gone over with the logger or landowner the problem was solved. I would like you to consider the following points with regard to this bill.

(1) The last legislature directed the E.Q.C. to study the log scaling problem in Montana. After conducting 3 hearings across the state the E.Q.C. council concluded in November, 1990, that log scaling was not a problem in Montana and that legislation was not needed.

(2) This bill will require 100% scaling of all logs delivered. Currently the National Forest Log Scaling Handbook is used as a basis for scaling of logs. This handbook recognizes the use of sample scaling as an acceptable method of measure. To 100 percent scale all logs delivered to our plant would require the hiring of 4 additional scalers at a cost in excess of \$100,000 per year.

(3) The proposed fee of 15 cents per thousand board feet will cost our company and its' loggers an additional \$4,500 per year. This is assuming harvest levels remain at current levels. From current indications harvest levels will fall by at least 50% which means this fee will need to be increased to 30 cents or more to fund the program. With an already depress economy in the timber industry in Montana we can not afford these additional costs.

(4) Section 6 item #2 requires a gross scaling of timber at the harvest site prior to loading. The industry has worked very hard to improve the safety of our work site. The Montana safety codes already preclude workers from being near the log truck or loader. This has been one area where we have had high injuries in the past. We cannot put workers back into this area. This will require additional land to be taken out of production in form of an area to safely scale logs away from active logging or loading activities.

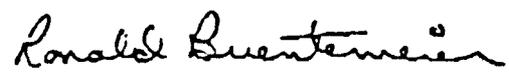
(5) Some of the information required to be reported is private information between the log or land owner and the sawmill. By requiring this information to be reported it becomes public knowledge. Such information would be amount of timber under contract and scale on each load.

(6) Section 7 and 8 concerns complaints and penalties. The American system provides for one knowing who his accuser is. Also when he is assessed penalties he has the right to appeal them. Neither of these are provided for in this bill.

I hope after you consider this bill that you will do the right thing and recommend not passing this bill. You can not legislate honesty and integrity in people.

Thank you for your consideration.

Sincerely yours,



Ronald H. Buentemeier
Logging Manager

cc Bud Hall

RHB/bw

*Billy Dee
Plum Creek Timber
Testimony 1/25/90*

EXHIBIT 8
DATE Jan. 25, 1991
HB 169

HOUSE BILL 169

The following items are submitted for your careful consideration.
The law should protect all not just timber harvesters.

The proposed legislation states that check scaling will be conducted in accordance with the N.F.L.S.H.B. (broad statement at best). It should be noted that F.S. region one has many supplements to the handbook. If scaling is conducted in accordance with the N.F.L.S.H.B., load volume across the state will decrease. This is because some companies scale to a 4 1/2" top diameter while the Forest Service scales to 5 1/2" top diameter. The Forest Service gives standard taper and some companies give actual. Actual taper is over standard taper. Section 5, if taken literally, means each load arriving at the delivery site will have to be scaled. (If all loads have to be scaled, then sampling systems used extensively throughout Montana as a cost saving technique will be lost.) Many companies including ours pay loggers on a weight basis and scaling is not necessary. If all loads are to be scaled, then we will have to employ more scalers. In our case, approximately 30. The associated cost would be approximately \$840,000.00. Some companies such as ours would have to purchase more log handling equipment. Five new pieces of equipment would cost a conservative \$1,500,000.00. Some companies will have to

Ex. 8
1-25-91
HB 169

purchase land in order to lay the logs out for scaling.

In addition to the above mentioned costs, our company estimates the administrative costs to be \$17,000 per year and assessment costs approaching \$45,000.00. Costs for the year for our company could easily exceed \$1,000,000.00.

The proposed bill states loads will be checked in the woods prior to loading. The check scale may or may not include the net scale. (This is not in accordance with the NF scaling handbook.) The handbook states that logs must be check scaled under the same conditions as nearly as possible that confronts the scaler.

The level of tolerance or variance in the bill is different than the tolerance level outlined in the N.F.L.S.H. The Forest Service specifies minimum pieces and volumes for a valid check scale. The tolerance levels adjust to the percent of defect. The bill considers one load of logs a check scale while the Forest Service requires 10,000 BF and at least 200 logs for a valid check.

The bill can enforce a \$20,000.00 fine on each load of logs. This departs dramatically from established adjustment procedures currently utilized by all agencies. Currently agencies adjust the value involved up or down to zero tolerance when a scaling error is found.

Ex. 8

1-25-91

HB 169

In 1990 the Environmental Quality Council conducted three public hearings on log scaling. One in Missoula, one in Livingston and one in Kalispell. The meetings produced very little support for any type of legislative action. Legislative action was not supported by a consensus of the Loggers Association which has hundreds of members. A letter received by the Environmental Quality Council from the Department of State Lands indicated the scale checked by the State over all, was in favor of the loggers. Also, testimony given by a third party check scaling organization stated that most often the scale is in favor of the loggers.

In Summary: Our company sells timber to external companies. In this case, the logger's interest and our interest is the same. I can assure you if anything, the scale is high. For the loggers sake and for the economic stability of Montana, we urge you to reject this bill.

EXHIBIT _____

DATE _____

HB _____

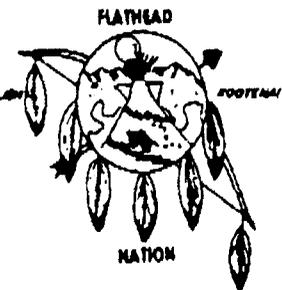
WITNESS STATEMENT

EXHIBIT 9
DATE Jan 25, 1991
HB 169

NAME Karen Atkinson BILL NO. HB169
ADDRESS P.O. Box 278 DATE 1-25-91
WHOM DO YOU REPRESENT? Confederated Salish-Kootenai Tribes
SUPPORT _____ OPPOSE AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: see attached



THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION

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

EXHIBIT 9
DATE Jan. 25, 1991
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 Laffhard
Henry "Hank" Baylor
Antoine "Tony" Incashola
John "Chris" Lozeau

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.

EXHIBIT 10
DATE Jan. 25, 1991
HB 169

STATEMENT OF
DAN CASTILLO, SALE ADMINISTRATION SPECIALIST
NORTHERN REGION FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Business and Economic Development Committee
State of Montana - House of Representatives

Concerning HB 169

Creating a timber scaling program within the Department of Commerce; requiring certain uniform timber scaling practices; requiring a check of timber scaling practices; creating a fund for program costs; authorizing timber scaling fees; establishing a civil penalty for violations; and providing an immediate effective date.

January 25, 1991

MR. CHAIRMAN 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. It can then be assumed this bill applies to National Forest 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 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.

The Region's timber sale program involves two selling methods: presale measurement and scaled. Neither one requires scaling at each site prior to loading, as specified under Part 2 Section 6 of the bill. In a presale measurement sale, we estimate the volume to come out of an area and the purchaser bids on that sale and makes payment by sale or unit based on presale estimates. The mill will determine payment to the purchaser by either scaling or weight. The Forest Service does not make adjustments on differences between estimated and actual volume. Scaled sales are done on a sample frequency basis, which means that a proportion of the sale is actually scaled and projected over the total number of loads. House Bill 169 would require that scaling take place at each sale which would conflict with practices as established by our agency. Also, the scaling on site would severely hamper timber sale operating efficiency due to the time involved and lack of adequate space for scaling.

Another consideration would be relative to associated costs of implementing this bill on National Forest lands, as presently written. Our present scaling system has a cost of approximately \$3.00 to \$4.00 per thousand board feet (MBF). The bill calls for the establishment of a reasonable fee system to be shared by the purchaser and timber harvester. These people would in effect be paying for a service which our agency presently provides on National Forest lands, thus increasing their 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 agencies and independent scaling organizations. Should this bill be enacted, with our recommended amendments, we would encourage the use of this handbook.

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

EXHIBIT 11
 DATE Jan. 25, 1991
 HB 169

STATE OF MONTANA
 FISCAL NOTE WORKSHEET
 Form BD-14

AUTHORITY: Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

TO: Committee
 Agency or Unit

A Fiscal Note estimate and statement are requested for:

S.B. _____
 H.B. 169 _____
 AS Originally Introduced Bill
 Second Reading (yellow) Copy
 Third Reading (blue) Copy
 Salmon Reference Copy
 Ivory Final Reference Copy

Completed worksheets are due in the Office of the Auditor General
 Program Planning on or before _____
 Note: The copy of the proposed legislation must be returned
 to the Budget Director with the completed worksheets.

Senate Amendments (pink)
 House Amendments (green)
 Other, as described _____

	First Fiscal Year of Next Biennium - FY - 92		Second Fiscal Year of Next Biennium - FY - 93	
	Estimated Amount Under Current Law	Estimated Amount Under Proposed Law	Estimated Amount Under Current Law	Estimated Amount Under Proposed Law
1. Estimated Effect on Revenue and/or Expenditures				
A. Effect on Revenue by Source: (List in Detail)				
FEES	0	150,000	0	150,000
TOTAL REVENUE	0	150,000	0	150,000
B. Effect on Expenditures by Category:				
Personal Services	0	77,476	0	79,074
Operating Expenses	0	51,207	0	49,396
Capital Outlay	0	31,249	0	0
Local Assistance, Grants Benefits & Claims				
TOTAL EXPENDITURES	0	159,932	0	125,470
NET EFFECT (A LESS B)	0	(9,932)	0	24,530
C. Fund Information:				
General Fund	0	159,932	0	125,470
earmarked Special Revenue Fund				
Fed & Private Special Revenue				
Capital Project Fund				
Proprietary Fund				
Other (describe)				

EXHIBIT 11
 DATE Jan 25, 1991
 HB 169

STATE OF MONTANA
 FISCAL NOTE WORKSHEET

REQUEST NO. HB 169
 Form BD-14

II. ASSUMPTIONS USED IN OBTAINING ESTIMATES:

1. Assume that the program proposed by this bill cannot be administered by the Department of State Lands, since the potential for conflict of interests exists.
2. Assume that with the responsibilities established by the bill that the program will need to be a section within the Weights & Measures Bureau and the section will have a timber scaler supervisor, a scaler and administrative assistant.
3. Assume there will be one billion board feet of lumber subject to the program. Further assume that the fee to support the program will be \$.15 per thousand board feet.
4. Assume that the section will only need to spot check approximately 25% of the timber harvest.
5. Assume that the monitoring scale checks will be conducted at the loading sites.

III. DERIVATION OF ESTIMATES:

FTE's REQUIRED

1 Scaler Supervisor Grade 16 Step 2, Salary 26,618 Benefits 5,590 Total 32,208	1.00
1 Field Scaler Grade 13, Step 2, Salary 20,669 Benefits 4,340 Total 25,009	1.00
1 Secretary Grade 10 Step 2, Salary 16,743 Benefits 3,516 Total 20,259	1.00
TOTAL	3.00

COSTS

Personal Services	FY92	FY93
Bureau Chief	32,208	32,888
Field Scalers	25,009	25,516
Secretary	20,259	20,670
TOTAL PERSONAL SERVICES	77,476	79,074

Operating Expenses

Other Services

Rules 20 pages @ \$70	1,400	350
Insurance & Bonds	500	500
Contract Legal 200 hrs x \$50/hr	10,000	10,000
Printing	2,500	1,500
Audit Fees	2,500	0
Computer Services	600	600
Subtotal	17,500	12,950

Supplies & Materials

Fuel 35,000 mi/scalr x 2 sclrs/12mpg x \$1.40/gal.	8,167	8,167
Forms	500	500
Reference Documents	500	500

Office Supplies
Data Processing Supplies
Subtotal

300
300
9,367

300
300
9,367

Communications
Postage & Mailing
Telephone Equipments
Long Distance Calls
Credit Card Calls
Subtotal

2,500
1,000
300
250
4,050

2,500
600
300
250
3,650

EXHIBIT _____
DATE _____
HB _____

Travel
In-State Meals
In-State Lodging
In-State Meals Overnight
Subtotal

1,000
4,500
2,500
8,000

1,000
4,500
2,500
8,000

Rent Space 200 sq. ft. @ \$4.60/ sq. ft.
Photo Copy
Subtotal

920
275
1,195

920
275
1,195

Repair & Maintenance
Vehicle 2 veh. @ \$500/yr.
Computer
Subtotal

1,000
800
1,800

1,000
800
1,800

Other Expenses
Indirect 8.77% x \$77,476
Division Overhead
Subtotal

6,795
2,500
9,295

6,934
2,500
9,434

TOTAL OPERATING EXPENSES

51,207 46,396

Equipment
2 4x4 Pickups \$12,412
Computer Terminals & Ports
2 Desks @ \$800
3 File Cabinets @ \$670
1 Book Case @ \$225
TOTAL EQUIPMENT

24,824
2,500
1,600
2,100
225
31,249

0
0
0
0
0
0

TOTAL BUDGET

159,932 125,470

REVENUE
1,000,000 tbf x \$.15 = \$150,000 per year

FY92 FY93

STATE OF MONTANA

REQUEST NO. HB 169

Form BD-14

FISCAL NOTE WORKSHEET

IV. EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES: NA

EXHIBIT 11

DATE Jan. 25, 1991

HB 169

V. LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: UNKNOWN

VI. TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION: UNKNOWN

Agency Representative Who Prepared Estimates:

Office of Budget and Program Planning:

W. JAMES KEMBEL PUBLIC SAFETY DIVISION/DOC
(Name)

Received
Analyzed By

ADMINISTRATOR 444-3934
(Title) (Phone No.)

1/15/91
(Date)

Fiscal Note By
Date

EXHIBIT 11

DATE 1-25-91

HB 169

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB 169, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

The bill creates a timber scaling program within the Department of Commerce, requires certain uniform timber scaling practices, requires a check of timber scaling practices, creates funding for the program and authorizes timber scaling fees as well as establishes a civil penalty for violations.

ASSUMPTIONS:

1. Assume that the program proposed by this bill cannot be administered by the Department of State Lands, since the potential for conflict of interests exists.
2. Assume that with the responsibilities established by the bill that the program will need to be a section within the Weights & Measures Bureau and the section will have a timber scaler supervisor, a scaler and administrative assistant.
3. Assume there will be one billion board feet of lumber subject to the program. Further assume that the fee to support the program will be \$.15 per thousand board feet.
4. Assume that the section will only need to spot check approximately 25% of the timber harvest.
5. Assume that the monitoring scale checks will be conducted at the loading sites.

FISCAL IMPACT:
Expenditures:

	FY92			FY93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE's	0	3	3	0	3	3
Personal Services	0	77,476	77,476	0	79,074	79,074
Operating Expenses	0	51,207	51,207	0	46,496	46,396
Equipment	0	31,249	31,249	0	0	0
TOTAL	0	159,932	159,932	0	125,470	125,470
Revenues:	0	150,000	150,000	0	150,000	150,000
Net Impact:	0	(9,932)	(9,932)	0	24,530	24,530

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: NA

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: UNKNOWN

TECHNICAL NOTES: UNKNOWN

BUDGET DIRECTOR DATE
Office of Budget and Program Planning

PRIMARY SPONSOR DATE

1062

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Econ Dev.

COMMITTEE

BILL NO. HB 169

DATE Jan. 25, 1991

SPONSOR(S) Rep. Thaft

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
W. James Kember	Public Safety Div / DOC	Information	
DAN CASTILLO - MSLA	U.S. Forest Service		
Michael Buchholz	Plum Creek		X
Craig Thomas Stevensville	Champion		X
Billy L. Dean	Plum Creek Timber Co.		X
Michael Orndorff	Plum Creek Timber Co		X
Rick Manger	Logger		X
GORDON SANDERS	Champion		X
GERALD V. PARKER	PYRAMID MOUNTAIN LUMBER, INC		X
Michael Atwood	BRANDS LUMBER - LIVINGSTON		X
Bud Hall	Stoltze Conner Lbr		X
Manx Skillman	Champion		X
GAIL FREMONT	plum Creek timber.		X
Sherman Williams	SELF	X	

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

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

2 of 2

BUSINESS & ECON. DEV. COMMITTEE BILL NO. HB169
DATE 25 JANUARY 1991 SPONSOR(S) REP THOFT

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Raymond Loss	S&R Logging	X	
ELDEN ROBERTS	Logging SELF	X	
Ed Wincey	Logging	X	
Jack Mahon	Timber industry		X
Beth Baker	Dept of Justice		
Joe Chaffell	Forester	X	
Richard E Smith	Smith Ballou Smith Logging	X	
Karen Atkinson	Confidential Slisk + Customs Timber		✓
Don Allen	Mr. Wood Products Assoc		X
KAKUK, Michael (ECC)		INFORMATIC	

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