

February 17, 1977
11:00 a.m.

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 11:00 a.m.

ROLL CALL: All members were present.

DISPOSITION OF SENATE BILL 289. "An Act To Amend Section 79-109, R.C.M. 1947, To Revise The Provisions For Issuing A Duplicate Warrant."

Chairman Hazelbaker introduced Senator Ed Smith, District 1, Chief Sponsor of SB 289. Senator Smith read testimony he received from Josophie Ann Isaak, State Auditor's Office. This testimony is attached. (Exhibit 1)

There being no proponents or opponents, Senator Lowe made a motion that SB 289 Do Pass. Senator Kolstad seconded. All were in favor.

DISPOSITION OF SENATE BILL 290. "An Act To Amend Section 79-108, R.C.M. 1947, To Establish A Stale-Dated Warrant Account And To Provide For Disposition Of Stale-Dated Warrants."

Chairman Hazelbaker introduced Senator William E. Murray, District 50, Chief Sponsor of SB 290. Senator Murray read testimony he received from Josophie Ann Isaak, State Auditor's Office. This testimony is attached. (Exhibit #2) Senator Murray stated they would like to have subsection (3) deleted in its entirety.

There being no proponents or opponents, Senator Regan made a motion that we accept the amendment. Senator Lowe seconded. All were in favor. Senator Regan then made a motion that SB 290 Do Pass. Senator Kolstad seconded. All were in favor.

DISPOSITION OF SENATE BILL 291. An Act To Amend Section 40-2807, R.C.M. 1947, To Increase The Capital And Surplus Requirements For Insurance Companies Transacting Business In Montana And To Provide A 3-Year Saving Clause.

Chairman Hazelbaker introduced Senator Harold Nelson, District 7, Chief Sponsor of SB 291. Senator Nelson then introduced Chip Erdmann, Attorney for the Department of Insurance. His testimony is attached. (Exhibit #3)

There being no proponents or opponents, Senator Mehrens made a motion that SB 291 Do Pass. Senator Kolstad seconded. All were in favor.

DISPOSITION OF SENATE BILL 292. "An Act To Generally Revise The Laws On Unfair Insurance Claim Settlement, Favored Agent Practices, And Enforcement Procedures And Penalties."

Senator Harold Nelson, District 7, stated he was Chief Sponsor of SB 292. He then introduced Chip Erdmann, Attorney for the Department of Insurance. His testimony is attached. (Exhibit #4)

Mr. Erdmann stated they had one amendment to offer to this bill. This amendment is attached. (Exhibit #5)

Harold Paulsen, representing American Council of Life Insurance stated he supported the bill; however, he would like one amendment to the bill. He would like to insert: "The total penalty may not exceed a \$10,000 aggregate." Mr. Erdmann stated they had no objection to the amendment.

There being no other proponents or opponents, Senator Devine made a motion that the two amendments be adopted. Senator Kolstad seconded. All were in favor. Senator Devine then made a motion that SB 292 Do Pass. Senator Kolstad seconded. All were in favor.

DISPOSITION OF SENATE BILL 293. "An Act To Increase The Fee Charged By The Commissioner Of Insurance When Served With Copies Of Legal Process."

Senator Harold Nelson, District 7, stated he was Chief Sponsor of SB 293. He then introduced Chip Erdmann, Attorney for the Department of Insurance. His testimony is attached. (Exhibit #6)

There being no proponents or opponents, Senator Regan made a motion that SB 293 Do Pass. Senator Lowe seconded. All were in favor.

DISPOSITION OF SENATE BILL 294. "An Act To Amend Section 40-2726, R.C.M. 1947, To Provide For A Nonresident Insurance Agent's License Fee And Increase The Fee Required For The Insurance Commissioner's Certificate Under Seal."

Senator Harold Nelson, District 7, stated he was Chief Sponsor of SB 294. He then introduced Chip Erdmann, Attorney for the Department of Insurance. His testimony is attached. (Exhibit #7)

Harold Paulsen, representing American Council of Life Insurance stated he supported the bill.

Senator Regan made a motion that on page 5, line 5 and 6 the following be stricken: "or federal and private grant clearance fund." Senator Lowe seconded. All were in favor. Senator Kolstad made a motion that SB 294, As Amended, Do Pass. Senator Mehrens seconded. All were in favor.

DISPOSITION OF SENATE BILL 288. "An Act To Amend Section 15-2011, R.C.M. 1947, To Clarify Whic Class Of Securities Is Considered To Be Registered For Nonissuer Transactions."

Senator Turnage, District 13, stated he was Chief Sponsor of SB 288. He then introduced Rick Tucker with the Auditor's Office. His testimony is attached. (Exhibit #8)

There being no proponents or opponents, Senator Kolstad made a motion that SB 288 Do Pass. Senator Goodover seconded. All were in favor.

CONSIDERATION OF SENATE BILL 383. "An Act To Amend Section 40-3010, R.C.M. 1947, To Provide For A Mandatory Reserve For Title Insurance Companies And For A Method Of Amortizing The Reserve."

Senator Jean Turnage, District 13, stated he was Chief Sponsor of this bill. He stated it had to do with mandatory reserves for title insurance companies. He stated all had been added on page 2. He stated there is some question about the taxation of the reserves and this would clarify that problem. This has only to do with title insurance companies.

There being no proponents or opponents, the Committee deferred action until adjournment of the Senate this evening.

DISPOSITION OF SENATE BILL 306. "An Act To Amend Section 40-3654, R.C.M. 1947, To Require Rates To Be Filed With The Insurance Commissioner; And To Amend Section 40-4410, R.C.M. 1947, To Require Retention By Insurers For 1 Year Of A Notice Of Cancellation, Intention Not To Renew, Or Reasons For Cancellation Of Certain Insurance Policies."

Senator Robert Lee, District 43, stated he was the Chief Sponsor of this bill. He stated this bill would require that insurance companies file their rates. He thinks this bill will not be any inconvenience to the insurance companies. He thinks this legislation would help the average policyholder to keep a handle on insurance companies.

W. Boyce Clarke, Montana Association of Insurance Agents, stated the independent insurance agents of Montana have no particular objection to this bill. His testimony is attached. (Exhibit #9)

OPPONENTS:

Mr. Chad Smith, American Mutual Insurance Alliance stated he was opposed to one portion. He offered some amendments. (Exhibit #10)

Senator Lee requested the following amendments:

1. Amend title, line 7.

Following: "for"

Strike: "1"

Insert: "3"

2. Amend page 3, section 2, line 1.

Following: "office"

Insert: "or his agent"

Senator Regan made a motion that these amendments be adopted. Senator Lowe seconded. All were in favor. Senator Regan then made a motion that SB 306, As Amended, Do Pass. Senator Lowe seconded. All were in favor.

CONSIDERATION OF SENATE BILL 345. "An Act To Encourage Competition Among Workers' Compensation Insurers By Authorizing Competitive Rating Pursuant To The Provisions Of Title 40, Chapter 36, R.C.M. 1947."

Senator William Lowe, District 33, stated he was Chief Sponsor of this bill. His testimony is attached. (Exhibit #11)

Senator Lowe then presented an amendment which will read as follows:

1. Amend page 2, section 2, line 14.

Following: "of"

Insert: "advisory"

2. Amend page 3, section 3, lines 7 through 10.

Following: "92-1012,"

Strike: " , and for ~~workmen's~~ workers' compensation

insurance issued under compensation plan

Number 3 of the ~~Workmen's~~ Workers' Compensation Act, sections 92-1101 to and including 92-1123"

PROPONENTS:

W. Boyce Clarke, Independent Insurance Agents of Montana, spoke in favor of the bill. His testimony is attached. (Exhibit #12)

Gerald T. Neils, Montana Logging Association stated he supported Senate Bill 345.

OPPONENTS:

Chad Smith, American Mutual Insurance Alliance . He is in opposition to this bill. He stated there is nothing in the law

now that prevents the workers compensation insurers from deviating. He was not in favor of taking out the stricken language on page 2. He feels the state would have lesser authority to enforcing this. He asked that a provision that will accomplish more, especially what is intended by this bill, could be done following the language from the Oklahoma Insurance Code. He read that section to the committee.

Jo Driscoll, Insurance Department, stated if they would have to approve every deviation, she would not be in favor of that.

Hearing was closed on Senate Bill 345.

DISPOSITION OF SENATE BILL 345.

Senator Goodover made a motion that we accept Senator Lowe's amendments. Senator Peterson seconded. All were in favor.

Senator Goodover made a motion that Senate Bill 345, As Amended, Do Pass. Senator Kolstad seconded. All were in favor except for Senator Regan who abstained.

DISPOSITION OF SENATE BILL 305. "An Act To Delete Restrictions On Nonresident Participation In State Licensed Insurance Firms And To Permit Foreign Insurance Firms To Conduct Business in Montana."

Senator Robert Lee, District 43, stated he was Chief Sponsor of SB 305. He then introduced Pat McKittrick, Great Falls, representing the Carpenter's Union in support of SB 305.

He stated previously the problem arose because of a pension fund that comes under the federal law under the Erisa Program. He stated the following had been deleted. Page 1, lines 23, 24 and 25 and page 2, lines 1-6.

PROPONENTS:

Jim Cadigan, Carpenter Local #112, stated he supports SB 305. He stated they established a collection and auditing program to collect uncollectable accounts. They have been successful in collecting monies.

Robert Kokoruda, Executive Secretary of the Montana State Council of Carpenters. He stated he supports SB 305. His testimony is attached. (Exhibit #13)

Mrs. Josephine Driscoll, Assistant Chief Deputy Insurance Commission also spoke in favor of the bill. She offered an amendment which is on the third page of her testimony. This testimony is attached. (Exhibit #14)

OPPONENTS:

W. Boyce Clark, Independent Insurance Agents of Montana, stated he was in opposition to SB 305. His testimony is attached. (Exhibit #15)

Senator Regan made a motion that we adopt Mrs. Driscoll's amendments. Senator Kolstad seconded. All were in favor.

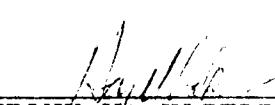
Senator Regan made a motion that Senate Bill 305, As Amended, Do Pass. Roll call vote. All were in favor except for Senator Goodover and Senator Lowe.

RECONSIDERATION OF SENATE BILL 370.

Senator Devine made a motion that the committee reconsider Senate Bill 370. Senator Goodover seconded. Another roll call vote was taken. All were in favor except Senator Regan and Senator Mehrens.

Senator Devine then made a motion that Senate Bill 370 Do Pass. All were in favor except for Senator Regan and Senator Mehrens.

ADJOURN: There being no further business, Chairman Hazelbaker adjourned the meeting at 1:20 p.m.


FRANK W. HAZELBAKER, CHAIRMAN

STANDING COMMITTEE REPORT

February 17

19 77

MR. President

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE Bill No. 288

Respectfully report as follows: That SENATE Bill No. 288

DO PASS

STANDING COMMITTEE REPORT

February 17..... 19 77

MR. President.....

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

having had under consideration **SENATE**..... Bill No. 289.....

Respectfully report as follows: That..... **SENATE**..... Bill No. 289.....

DO PASS

✓ex

STANDING COMMITTEE REPORT

.....February 17..... 19 77.....

MR. President.....

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

having had under consideration **SENATE** Bill No. **200**

Respectfully report as follows: That **SENATE** Bill No. **200** ..
introduced bill, be amended as follows:

1. Amend page 2, section 1, line 13 through 15.
Following: Line 12.
Strike: Subsection (3) in its entirety.

AND AS SO AMENDED, DO PASS

DO PASS
~~XXXX~~

JK

..... **FRANK W. HAZELBAKER,**

Chairman.

STANDING COMMITTEE REPORT

.....February 17.....19 77.....

MR. President.....

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

having had under consideration **SENATE** Bill No. **291**

Respectfully report as follows: That..... **SENATE** Bill No. **291**

DO PASS

(3d)

STANDING COMMITTEE REPORT

February 17

19 77

MR. President

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE Bill No. 292

Respectfully report as follows: That SENATE Bill No. 292, introduced bill, be amended as follows:

1. Amend page 4, section 4, line 18.

Following: "violation."

Insert: "The total penalty may not exceed a \$10,000 aggregate."

2. Amend page 9, section 7, line 15.

Following: Line 15

Insert: "Section 8. Section 40-3512, R.C.M. 1947, is amended to read as follows:

"40-3512. Unfair discrimination, rebates prohibited - property, casualty, surety insurances. (1) No title, property, casualty or surety insurer or any employee or representative thereof, and no agent, or solicitor shall pay, allow, or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in the policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

DO NOT FILE

February 18, 1977

(2) No insured name in a policy, nor any employee of such insured shall knowingly receive or accept directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

(3) No such insurer shall make or permit any unfair discrimination either between insureds or property having like insuring or risk characteristics, or between insureds because of race, color, creed, or national origin, in the premium or rates charged for insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the insurance.

(4) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, or solicitors, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, lawful dividends, savings or unabsorbed premium deposits.

Renumber: subsequent section.

AND AS SO AMENDED, DO PASS

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STANDING COMMITTEE REPORT

February 17

19 77

President

MR.

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

having had under consideration **SENATE** Bill No. **293**

Respectfully report as follows: That **SENATE** Bill No. **293**

DO PASS

STANDING COMMITTEE REPORT

February 17

19 77

MR. President

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

having had under consideration **SENATE** Bill No. **294**

Respectfully report as follows: That **SENATE** Bill No. **294** ..
introduced bill, be amended as follows:

1. Amend page 5, section 1, line 5 and 6.

Following: "fund"

Strike: "or federal and private grant clearance fund"

AND AS SO AMENDED, DO PASS

Do Pass

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STANDING COMMITTEE REPORT

February 17

19

77

MR. President

We, your committee on **Business and Industry**,

having had under consideration **SENATE** Bill No. **305**,

Respectfully report as follows: That **SENATE** Bill No. **305**,

introduced bill, be amended as follows:

1. Amend page 2, section 1, line 6.

Following: "articles."

Insert: "(2) A license may not be issued to a firm or corporation unless the transaction of business under the license is within the purposes stated in the firm's partnership agreement or the corporation's articles."

Renumber: subsequent subsection.

AND AS SO AMENDED, DO PASS

XXXXX
DRAFT

G.A.

Frank W. Hazlebaker

Chairman

STANDING COMMITTEE REPORT

February 17

19 77

President
MR.

We, your committee on
BUSINESS AND INDUSTRY

having had under consideration
SENATE Bill No. **306**

Respectfully report as follows: That Bill No. **306**,
introduced bill, be amended as follows:

1. Amend title, line 7.

Following: "for"

Strike: "1"

Insert: "3"

2. Amend page 3, section 2, line 1.

Following: "office"

Insert: "or his agent"

AND AS SO AMENDED, DO PASS

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STATE PUB. CO.
Helena, Mont.


FRANK W. HAZLEBAKER.

Chairman.

STANDING COMMITTEE REPORT

February 17

19 77

MR. President.....

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

having had under consideration **SENATE**..... Bill No. **345**.....

Respectfully report as follows: That **SENATE**..... Bill No. **345**,
introduced bill, be amended as follows:

1. Amend page 2, section 2, line 14.

Following: "of"

Insert: "advisory"

2. Amend page 3, section 3, lines 7 through 10.

Following: "92-1012,"

Strike: " , and for workmen's workers' compensation insurance issued
under compensation plan Number 3 of the Workmen's Workers'
Compensation Act, sections 92-1101 to and including 92-1123"

AND AS SO AMENDED, DO PASS

DO PASS

(31)

Frank W. Hazelbaker
FRANK W. HAZELBAKER,

Chairman.

STANDING COMMITTEE REPORT

February 17

19 77

MR. President

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE Bill No. 370

Respectfully report as follows: That SENATE Bill No. 370

DO PASS



STATE PUB. CO.
Helena, Mont.

FRANK W. HAZELBAKER.

Chairman.

ROLL CALL

Business & Industry COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 2-17-77

SENATE COMMITTEE Business & Industry

Date _____ SENATE Bill No. 205 Time _____

Erminia C. Fancher
Secretary

Frank W. Hazelbaker
Chairman

Motion: As Amended, Do Pass

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

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2-17-77 Senate Bill No. 370 Time _____

| NAME | YES | NO |
|----------------------------|-----|----|
| Pat Regan, Vice Chairman | | ✓ |
| Allen Kolstad | ✓ | |
| Pat Goodover | ✓ | |
| Bill Lowe | ✓ | |
| Jack Devine | ✓ | |
| Sandy Mehrens | | ✓ |
| Bob Peterson | ✓ | |
| Frank Hazelbaker, Chairman | ✓ | |
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Erminia C. Fancher
Secretary

Frank W. Hazelbaker
Chairman

Motion: Reconsider SB 370

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

SENATE COMMITTEE Business & Industry

Date 2-17-77 Senate Bill No. 370 Time

| NAME | YES | NO |
|----------------------------|-----|------|
| Pat Regan, Vice Chairman | | ✓ |
| Allen Kolstad | ✓ | XXXX |
| Pat Goodover | ✓ | |
| Bill Lowe | ✓ | |
| Jack Devine | ✓ | |
| Sandy Mehrens | | ✓ |
| Bob Peterson | ✓ | |
| Frank Hazelbaker, Chairman | ✓ | |
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Erminia C. Fancher
Secretary

Frank W. Hazelbaker
Chairman

Motion:

No Pass

Motion: No Tax

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

| | | |
|------|-----|-----|
| SB | 288 | 305 |
| | 289 | 306 |
| | 290 | 345 |
| | 291 | 353 |
| | 292 | |
| | 293 | |
| | 294 | |
| BILL | | |

SENATE

COMMITTEE

VISITORS' REGISTER

DATE 2-17-77

| NAME | REPRESENTING | BILL # | (check one) SUPPORT | OPPOSE |
|--------------------|--------------------------------|-------------------------|------------------------|--------|
| W. Bruce Vukel | Independent Inv. Agent of Mont | 305 306 315 | ✓ | ✓ |
| Chad Smith | Amer Mutual Ins. above | | | 315 |
| BILL MURRAY | Senator-Sponsor | 290 | ✓ | |
| Ed Smith | Senator | 289 | | |
| Ray Hilmar | Agriculture Commission | 305 | | |
| Asst. J. Taylor | " " " " | 305 | | |
| John Donnen | D/Adm. | 290 | ✓ | |
| Gerald T. Neils | Montana Logging Assn. | 345 | ✓ | |
| John C. Chapman | Carpenter Local #112 | 305 | ✓ | |
| Robert G. Kobanda | mt State Council of Carpenters | 305 | ✓ | |
| Ernest Post | mt. State AF - CIO | 305 | X | |
| Sharon Donaldson | AFSCME #971 Boulder | | | |
| Harold Petersen | Amer Council of Peters | 290 291 292 | X | |
| Donna | AFSCME #971, Boulder | | | |
| Josephine Knuckles | State Auditor's Office | 289 290 291, 2, 3 | X | |
| Josephine Knuckles | State Auditor's Office | 21 (305) | X | |
| R.D. "Rock" Tucker | State Auditor T. W. Norton | SP 288 | X | |

BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

SENATE BILL NO. 289 (INTRODUCED AT REQUEST OF STATE AUDITOR)

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 79-109, R.C.M., 1947, TO REVISE THE PROVISIONS FOR ISSUING A DUPLICATE WARRANT."

These changes will enable vendors or contractors to receive payments due them in a more timely manner when State of Montana warrants are lost, stolen or destroyed.

An example is the mail truck hi-jacking at Livingston, Montana, the evening of June 24, 1975. The State Auditor issued over 100 duplicates to replace the stolen warrants. Several replacements took almost a year to complete. Many letters and telephone calls were required to convince payees that we had to follow the law in issuing duplicates regardless of the reason they did not receive their warrant. One payee refused to service the State of Montana and others threatened to discontinue service because of nonpayment.

STATE AUDITOR

BY Josophie Ann Isaak
Admin.
Fiscal Management & Control

BUSINESS & INDUSTRY
MONTANA STATE SENATE

SENATE BILL NO. 290 (INTRODUCED AT THE REQUEST OF
THE STATE AUDITOR)

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 79-108, R.C.M., 1947, TO ESTABLISH A STALE-DATED WARRANT ACCOUNT AND TO PROVIDE FOR DISPOSITION OF STALE-DATED WARRANTS."

These changes will simplify the record keeping of stale-dated State of Montana warrants and establish a reasonable time to be classed as unclaimed property.

At the present time stale-dated warrants are accounted for in 78 different accounting entities. Most of the accounts have had no change in their balance for several years, yet, each month the balance is printed on the monthly reports. Each line printed costs money. One accounting entity for stale-dated warrants will have total transactions recorded.

Individual agencies cannot affect stale-dated accounts.

Our records show that four years after the issuance of a State of Montana warrant, the possibility of a request for replacement is almost nil.

Section (3) should be deleted as it is already provided for in Section 67-2211. A copy of a letter from the Department of Revenue, Abandoned Property Bureau, is attached.

STATE AUDITOR

BY Josephine Ann Isaak
Admin.
Fiscal Management & Control

BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

SENATE BILL NO. 291 (INTRODUCED AT REQUEST OF
MONTANA INSURANCE DEPARTMENT)

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 40-2807, R.C.M., 1947, TO INCREASE THE CAPITAL AND SURPLUS REQUIREMENTS FOR INSURANCE COMPANIES TRANSACTING BUSINESS IN MONTANA AND TO PROVIDE A 3-YEAR SAVING CLAUSE."

Capital and surplus requirements have not been changed since 1959 when the insurance laws were recodified.

Since that time, the insurance industry has grown tremendously and has become increasingly complex. With even some of the "giants" of the industry encountering financial problems, it would be most desirous to increase Montana's minimum statutory capital and surplus requirements for the purpose of providing Montana policyholders with more adequate and realistic financial security. Raising the minimum requirements is in line with action taken by the majority of other states.

A three year period is being provided insurers transacting business prior to the effective date of this act to comply with these requirements.

MONTANA INSURANCE DEPARTMENT

BY *Frank E. Endow*

BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

SENATE BILL NO. 292 (INTRODUCED AT REQUEST OF INSURANCE
COMMISSIONER)

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS ON UNFAIR INSURANCE CLAIM SETTLEMENT, FAVERED AGENT PRACTICES, AND ENFORCEMENT PROCEDURES AND PENALTIES; AMENDING SECTIONS 40-3501 AND 40-3514, R.C.M., 1947; REPEALING 40-3516, R.C.M., 1947."

The revised Model Unfair Trade Practices Act was adopted by the National Association of Insurance Commissioners at the November-December 1971 meeting in Miami, Florida... and subsequent revisions adopted at the December 1976 meeting in Phoenix.

The Montana Insurance Department generally allows a "proving period" prior to implementation of model acts, in order to avoid hasty adoption which may result in administrative problems. We are not enacting the Model Act in its entirety, only those provisions which we feel will bolster our current act and will continue to watch the effects of the model act in other areas.

This is a strong, consumer-oriented measure which more clearly defines the responsibilities of the Commissioner and outlines procedures to deal with unfair and deceptive practices with regard to the following:

- (1) clarifies and expands the defined unfair

trade practices. The new provisions include treatment of unfair claim settlement practices, and failure to maintain complaint handling procedures.

(2) insurer claims practices are a continuing source of complaints. In the past it has been difficult for both regulators and insurers to solve these problems because there have been no ground rules. This new provision sets out desirable standards.

(3) complaint handling procedures are of increasing interest to regulators. The efficiency with which complaints are handled is a test of the public confidence in the insurer. In addition, reporting of complaint handling data will reveal much about the effectiveness of the laws, regulations and other regulatory tools used by insurance departments.

(4) prohibits discrimination by creditors in favor of certain insurers or agents and it prohibits coercion of debtors with regard to insurance required in real property financing. This section expands the scope of the law, but since the abuses relate directly to insurance they fit the purpose of this law and are a proper concern.

(5) it greatly strengthens the enforcement procedures in our existing act. Every department contacted by the task force assigned to study this aspect, expressed discontent with their previous enforcement powers.

To accomplish the changes, it is made more clear that:

(a) hearings may be held and penalties applied for violations of both defined and undefined unfair trade practices;

(b) that the optional penalties for violations of defined unfair trade practices include, in addition to cease and desist orders, payment of monetary penalties, suspension and revocation of licenses, and other relief as is reasonable and appropriate.

The model bill has been adopted by 19 states and similar legislation adopted by 5 other states.

MONTANA INSURANCE DEPARTMENT

BY John E. Edman

SUGGESTED AMENDMENT TO SB 292

AMEND THE TITLE OF THE BILL AS FOLLOWS:

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS ON UNFAIR INSURANCE CLAIM SETTLEMENT, FAVORED AGENT PRACTICES, AND ENFORCEMENT PROCEDURES AND PENALTIES, AND TO PROHIBIT REBATES BY TITLE INSURERS; AMENDING SECTIONS 40-3501, 40-3512, and 40-3514, R.C.M., 1947; REPEALING 40-3516, R.C.M., 1947."

THIS AMENDMENT WOULD ADD TITLE INSURERS TO SECTION 40-3512 WHICH NOW PROHIBITS REBATES BY PROPERTY, CASUALTY OR SURETY INSURERS. AT THE PRESENT TIME, REBATES BY TITLE INSURERS ARE NOT SPECIFICALLY PROHIBITED BY THE INSURANCE CODE. THE NEW SECTION TO THE BILL WOULD READ AS FOLLOWS:

Section 8. Unfair discrimination, rebates prohibited - property, casualty, surety insurances. (1) No title, property, casualty or surety insurer or any employee or representative thereof, and no agent, or solicitor shall pay, allow, or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in the policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) No insured named in a policy, nor any employee of such insured shall knowingly receive or accept directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

SENATE BILL NO. 293 (INTRODUCED AT REQUEST OF INSURANCE
COMMISSIONER)

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE
THE FEE CHARGED BY THE COMMISSIONER OF INSURANCE
WHEN SERVED WITH COPIES OF LEGAL PROCESS; AMEND-
ING SECTION 40-2819, R.C.M., 1947."

Present fee of \$3.00 has been in effect
since 1959 and is inadequate to cover the costs of
processing. Postage averages \$1.25, plus two hours
of secretarial time, receipting of fees, and deposit
in general fund.

Based on the present number of legal ser-
vices processed, additional revenue of \$742.00 would
be generated for the general fund.

MONTANA INSURANCE DEPARTMENT

BY John E. Erdman

BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

SENATE BILL NO. 294 (INTRODUCED AT REQUEST OF MONTANA
INSURANCE DEPARTMENT)

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 40-2726, R.C.M., 1947, TO PROVIDE FOR A NONRESIDENT INSURANCE AGENT'S LICENSE FEE AND INCREASE THE FEE REQUIRED FOR THE INSURANCE COMMISSIONER'S CERTIFICATE UNDER SEAL."

I. During fiscal year 1975-76, there were 1,671 nonresident agents licensed to do business in Montana.

Licensing of a nonresident, entails more man hours and costs. For example, clearance must be received from other states.

Practices of nonresidents are more difficult to regulate, as it is difficult to contact them and to keep informed as to their practices in other states.

Request for increased fees is two-fold:

- (1) to provide for a license fee more equal to the expense involved in administrative costs; and
- (b) as a deterrent to those individuals who may be of the "fly-by-night" variety who usually pass through the state leaving problems in their wake.

Based on the present number of nonresident

BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

S.B. NO. 288

INTRODUCED AT THE REQUEST OF THE
STATE AUDITOR INVESTMENT DIVISION

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 15-2011, R.C.M., 1947, TO CLARIFY WHICH CLASS OF SECURITIES IS CONSIDERED TO BE REGISTERED FOR NONISSUER TRANSACTIONS."

THIS AMENDMENT REPRESENTS ONLY A VERBAGE CHANGE FOR CLARITY, EVIDENCING THE DEPARTMENT'S PAST AND PRESENT INTERPRETATION OF THIS SECTION.

Submitted By:



R. G. "RICK" TUCKER
CHIEF DEPUTY INVESTMENT COMMISSIONER

Exhibit A

SENATE BILL NO. 306

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

INDEPENDENT INSURANCE AGENTS OF MONTANA HAVE NO PARTICULAR OBJECTION TO THIS BILL. UNTIL APPEARING HERE TODAY, HOWEVER, WE DON'T KNOW THE REASON FOR ITS PRESENTATION.

UNDER PRESENT STATUTES, ALL FORMS OF INSURANCE ARE FILED WITH THE COMMISSIONER. ALL RULES, RATING PLANS AND RATES ARE NOW MAINTAINED WITHIN THE STATE AND AVAILABLE TO THE COMMISSIONER AT ANY TIME. NOTE THE PRESENT LANGUAGE AT LINE 13, PAGE 2 OF THE BILL. EVIDENTLY THE COMMISSIONER HAS NO OBJECTION TO THE ACTUAL PHYSICAL FILING OF RATES IN HIS OFFICE. IT JUST SEEMS AN ADDED PROCEDURE.

AS TO THE RETENTION OF NOTICES OF CANCELLATION OR INTENTION NOT TO RENEW BEING AVAILABLE FOR THREE YEARS, I BELIEVE THIS IS COMMON PRACTICE ^{NOW}. OUR OFFICE PURGES FILES AT THE END OF THREE YEARS, BUT THIS INFORMATION PROBABLY WOULD BE AVAILABLE FOR EVEN A GREATER LENGTH OF TIME IN COMPANY RECORDS. AGAIN, THERE IS NO PARTICULAR OBJECTION. JUST ADDED STATUTORY LANGUAGE.



W. BOYCE CLARKE, LEGISLATIVE COUNSEL
MONTANA ASSOCIATION OF INSURANCE AGENTS

Section 36-906(f)

Every member of, or a subscriber to, a licensed rating organization shall adhere to the filings made on its behalf by such organization except that any such member or subscriber may deviate from such filing if it has filed with the rating organization and with the ~~Commissioner~~ at least fifteen (15) days before the effective date thereof the deviation to be applied and the information upon which such deviation is based. The ~~Commissioner~~ shall disapprove such deviation after ~~he~~ finds that the deviation to be applied would not be uniform in its application or would be inconsistent with the provisions of this title.

Richard J. Smith
Chairman

17 FEB 77

Exhibit #12

SENATE BILL NO. 345

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

THIS IS THE ONLY DIRECT LEGISLATIVE EFFORT INDEPENDENT INSURANCE AGENTS OF MONTANA WILL PRESENT TO THIS LEGISLATIVE SESSION. AS HAS BEEN MENTIONED, PLAN II WORKERS' COMPENSATION INSURERS HAVE BEEN LOCKED IN TO RATES PRESCRIBED BY THE NATIONAL COUNCIL OF COMPENSATION INSURANCE SINCE 1969. THERE WAS NO WAY TO COMPETE BETWEEN THEMSELVES AND CERTAINLY NOT WITH THE MONTANA WORKERS' COMPENSATION FUND.

EVEN WITH THIS LEGISLATION, PLAN II INSURERS WILL BE HARD PRESSED TO COMPETE WITH THE STATE FUND, BUT AT LEAST THEY WOULD BE ABLE TO APPLY FLEXIBILITY TO RATES BY CLASS AMONG THEMSELVES. THE NATIONAL COUNCIL WILL CONTINUE TO ACCEPT THE EXPERIENCE OF THE MONTANA FUND AS WELL AS THE PLAN II INSURERS AND TO DEVELOP RATES AS IN THE PAST, HOWEVER, ON AN ADVISORY BASIS ONLY. PLAN II COMPANIES CAN THEN FOLLOW THE ADVISORY RATES OR DEVIATE AS THEIR INDIVIDUAL EXPERIENCE WOULD DICTATE.

THE BILL HAS BEEN REVIEWED AND DISCUSSED THOROUGHLY WITH MR. GROSSFIELD, ADMINISTRATOR OF THE MONTANA WORKERS' COMPENSATION FUND AND, AS AMENDED, IS TAKING NO POSITION IN THE MATTER.

BY TELEPHONE YESTERDAY, MY SON, TOM CLARKE, CHAIRMAN OF THE TECHNICAL AFFAIRS COMMITTEE OF OUR ASSOCIATION, DISCUSSED THIS BILL WITH MR. BOB HEINTZMAN, EXECUTIVE VICE PRESIDENT OF THE NATIONAL COUNCIL OF COMPENSATION INSURANCE. MR. HEINTZMAN STATED HIS COUNCIL WOULD OPERATE UNDER WHATEVER LAW WE HAVE. HE EXPRESSED NO CRITICISM OF OUR INDEPENDENT AGENT'S ACTION IN DEVELOPING THIS BILL.

I WILL APPRECIATE YOUR FAVORABLE CONSIDERATION.

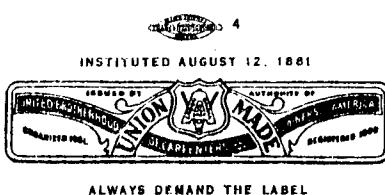
W. Boyce Clarke
W. BOYCE CLARKE, LEGISLATIVE COUNSEL
INDEPENDENT INSURANCE AGENTS OF MONTANA

Montana State Council of Carpenters

Robert G. Kokoruda
Executive Secretary
P. O. Box P
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United Brotherhood of Carpenters and Joiners of America

Phone
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406/442-4326



February 16, 1977

To the Senate Business and Industry Committee

Mr. Chairman and Members of the Committee:

My name is Robert Kokoruda. I am the Executive Secretary of the Montana State Council of Carpenters. I am also a Trustee on the Washington-Idaho-Montana Carpenters Employers Retirement Trust Fund and the Montana State Carpenters Health and Welfare Plan.

Our Health and Welfare Program went into effect in 1964, and the Pension Program went into effect in 1967. Our Health and Welfare Program was started by an administrator here in the State of Montana. We were new at the business of Health and Welfare, but it didn't take us long to realize this administrator didn't have the ability or the experience to do a proper job. Therefore, we changed administrators in 1967 and the present administrator and consultant resides in the city of Spokane, Washington.

Our Health and Welfare Plan covers approximately 3,000 carpenters in the State of Montana and our Pension Program covers Eastern Washington, Northern Idaho and the entire State of Montana with approximately 5,000 people benefiting from the plan. The Trustees of these two Trusts are responsible for well over \$28,000,000.

Between the industrial and the construction workers of the Montana State Council of Carpenters, we have members in excess of 6,000 people, whose benefits would be affected if we were forced to use inexperienced consultants and administrators. Not only would the carpenters be affected by this action but all other Taft-Hartley Trusts in the State of Montana, would be affected *also*.

Under the Federal Employees Retirement Income Security Act, (ERISA), we as Trustees have the fiduciary responsibility to hire the most experienced and qualified people that are available. So far, the State of Montana is unable to supply this kind of service. Therefore, if we are forced to use consultants and administrators in the State of Montana, we would be in violation of ERISA.

BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

SENATE BILL NO. 305

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 40-3310, R.C.M., 1947, TO DELETE RESTRICTIONS ON NON-RESIDENT PARTICIPATION IN STATE LICENSED INSURANCE FIRMS AND TO PERMIT FOREIGN INSURANCE FIRMS TO CONDUCT BUSINESS IN MONTANA."

MY NAME IS JOSEPHINE DRISCOLL, ASSISTANT CHIEF DEPUTY INSURANCE COMMISSIONER, REPRESENTING E. V. "SONNY" OMHOLT, STATE AUDITOR & EX OFFICIO, COMMISSIONER OF INSURANCE.

AT THE REQUEST OF THE SPONSORS, WE WISH TO CLARIFY CERTAIN PROVISIONS OF OUR PRESENT INSURANCE LAWS.

AT THIS TIME, LICENSING OF A FIRM OR CORPORATION IS PROHIBITED UNLESS:

- A. ORGANIZED UNDER THE LAWS OF THIS STATE,
- B. MAINTAINING ITS PRINCIPAL PLACE OF BUSINESS IN THIS STATE, AND
- C. THE TRANSACTION OF BUSINESS UNDER THE LICENSE IS WITHIN THE PURPOSES STATED IN THE FIRM'S PARTNERSHIP AGREEMENT OR THE CORPORATION'S ARTICLES.

THIS WOULD, THEREFORE, PRECLUDE NON-RESIDENT FIRMS OR CORPORATIONS FROM BEING LICENSED. IN ORDER TO

SENATE BILL NO. 305

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

OUR PRESENT INSURANCE LAWS PERMIT OUT OF STATE AGENTS TO OBTAIN NON RESIDENT LICENSES AND TO WRITE INSURANCE ON MONTANA PROPERTIES AND OPERATIONS. THE COVERAGE MUST BE PLACED WITH A COMPANY LICENSED TO DO BUSINESS IN MONTANA AND THE POLICIES COUNTERSIGNED BY A MONTANA RESIDENT AGENT. RECIPROCAL ARRANGEMENTS EXIST WITH MANY OTHER STATES.

THE PASSAGE OF THIS BILL WOULD PERMIT LARGE, CORPORATE NON RESIDENT AGENTS, LOCATED IN COMMERCIAL CENTERS LIKE CHICAGO, SAN FRANCISCO, DENVER AND NEW YORK, TO SOLICIT BUSINESS IN MONTANA FROM THEIR DISTANT OFFICES. THEY WOULD NOT HAVE TO ESTABLISH OFFICES IN THE STATE OR ASSUME THE RESIDENT RESPONSIBILITY INCUMBENT ON MONTANA RESIDENT AGENTS.

IT IS READILY EVIDENT, ESPECIALLY IN VIEW OF MONTANA'S INCREASING ECONOMIC ACTIVITY, THAT THESE OUT OF STATE CONCERNS WOULD BE EXTREMELY INTERESTED IN SOLICITING BUSINESS IN MONTANA. EXCEPT IN BORDER AREAS, MONTANA AGENTS WOULD HAVE LITTLE OPPORTUNITY TO INSURE PROPERTIES OR OPERATIONS IN COLORADO, CALIFORNIA, ILLINOIS OR TEXAS.

INDEPENDENT INSURANCE AGENTS OF MONTANA FULL WELL KNOW THAT WE CAN'T BUILD AN INSURANCE WALL AROUND MONTANA. AT THE SAME TIME, WITH THIS LEGISLATION AND THE PAYMENT OF A MODEST \$100 FEE, THESE CORPORATE NON RESIDENT AGENTS CAN COMPETE DIRECTLY FROM A DISTANCE AGAINST THE LOCAL MONTANA RESIDENT AGENTS. THE NON RESIDENT WOULD NOT HAVE TO ESTABLISH AN OFFICE, MEET MONTANA PAYROLLS OR ASSUME THEIR EQUIVALENT SHARE OF OUR MONTANA TAX RESPONSIBILITY. IT IS OUR FEELING THAT IF THESE CORPORATE ENTITIES WANT TO COMPETE FOR THE MONTANA INSURANCE BUSINESS, THEY SHOULDCOME INTO THE STATE, SET UP THEIR OFFICES AND ASSUME THEIR COMMUNITY RESPONSIBILITIES, JUST AS WE INDEPENDENT RESIDENT AGENTS DO.