

MINUTES OF THE MEETING  
JOINT MEETING OF THE JUDICIARY COMMITTEE AND  
THE HUMAN SERVICES SUBCOMMITTEE  
SPECIAL SESSION II OF THE 49TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

March 26, 1986

The first meeting of the Judiciary Committee and the Human Services Subcommittee was called to order by Chairman Tom Hannah in room 325 of the capitol at 8:03 a.m.

ROLL CALL: All members were present with the exception of Representative Bradley and Senator Story. Also present were Brenda Desmond, Staff Attorney for the Legislative Council, Marcene Lynn, Secretary for Judiciary Committee, and Alice Omang, Secretary for the Human Services Subcommittee.

Tape 1-1-A:50

CONSIDERATION OF HOUSE BILL 9: Representative Winslow, District 89, Billings, gave a brief history of the status of the welfare program in the state of Montana. He advised that the counties had charge of the welfare programs until about 1983; in 1983, many of the counties were concerned that they could not keep up with the costs of handling the program; a bill was passed that gave the counties the ability to have their welfare programs picked up by the state by assessing 12 mills, which went to the state and the state picked up all the costs. He indicated that the reason they are faced with the decision they have today is because of increased case loads and increased costs. He noted that there has been an increase of 42% in the case loads and a 47% increase in costs since 1983. He stated that last year during the session, they attempted to restrict benefits by denying the able-bodied under 35 to not receive benefits and those between 35 and 50 would receive benefits up to three months per year. He advised that that ruling was overturned by the supreme court. He contended that Montana was the only state that he could find that takes care of all of the able-bodied. He informed the committees that this bill would amend the constitution and give the legislature the authority to look at all needs and set the priorities.

PROPOSERS: (143) Dave Lewis, Director of the Department of Social and Rehabilitation Services, testified that

Joint Meeting-Judiciary Committee & Human Services Subcommittee  
March 26, 1986  
Page Two

the only way to settle all the various issues that continue to plague them and to plague the recipients of the programs is to clearly establish the fact that the legislature does have the right to set limits on the programs. They have concluded, he said, that the only way to do that is to amend the constitution. He noted that the issues are broadening rather rapidly and they have had various class-action suits other than the general assistance program.

Russ Cater, Chief Legal Counsel for the Department of Social and Rehabilitation Services, offered testimony in support of this bill. See Exhibit 1. (165)

There were no further proponents.

OPPONENTS: (300) John Ortwein, Director of the Montana Catholic Conference, gave a statement in opposition to this bill. See Exhibit 2.

Adelle Fine, representing the Women's Law Caucus, (340), a student organization at the University of Montana Law School, opposed this bill. See Exhibit 3.

George Harper, a member of the constitutional convention of 1972, declared that the constitution prescribes some priorities as a framework in which the legislature must operate on the behalf of the people and one of those priorities is the matter of assistance to people who are in need in our state family and that is why the constitutional convention said, "shall". He explained that the question of "shall" versus "may" arose at the convention and was overwhelmingly defeated and one reason was because the 1889 constitution also said "shall".

(485) Sue Fifield, representing the Montana Low Income Coalition, stated that they feel that the legislature already has the right to limit welfare benefits; that Montana is a state that has been proud of taking care of their own; and this bill challenges the integrity of the constitution and those who spent so many hours writing it.

Joint Meeting-Judiciary Committee & Human Services Subcommittee  
March 26, 1986  
Page Three

(529) Nancy, Collins, Co-Chairperson of the Women's Lobbyist Fund, submitted testimony to the committee in opposition to this bill. See Exhibit 4.

(570) Debra Floor, representing the Butte Community Union, said that she personally felt that if they did have a constitutional amendment on this, that this would be like giving up and she did not feel as though the legislature should give up on them and she feels they are worthwhile people.

(583) Earl Reilly, representing the Montana Senior Citizens' Association, indicated that they did not think that amending the constitution would solve anything and that there are a lot of people out of work and it does not seem to be getting any better. He asked that they not pass this bill.

(590) Cecil Barner, owner of Barner Management Firm in Missoula, and a contract administrator of the Missoula Housing Authority, informed the committee that he was a third-generation native Montanan; he is very proud of that fact and one of the reasons he is proud is because in Montana, they have always had a tradition in this state of not letting anyone who is hungry be left unfed and no one is left sleeping in the cold. He continued that for twenty years he has grown up with this tradition and now he sees that this attitude is changing due to economics and he felt that they have to find a way to take care of the welfare problems in our state without changing the constitution.

(653) Jim Murry, Executive Secretary of the Montana State AFL-CIO, offered testimony in opposition to this bill. See Exhibit 5.

Tape 1-1-B:09

Don Peoples, Chief Executive for Butte-Silver-Bow, expressed his concern about the path that this proposed constitutional amendment is taking. He advised that he comes from a community that has had more than its share of problems and there is an erroneous misconception that people on welfare are people that just don't

Joint Meeting-Judiciary Committee & Human Services Subcommittee  
March 26, 1986  
Page Four

want to find a job. He informed the committee that there were over 500 applications for 20 positions on a sidewalk construction job and these people are lined up in his office week after week looking for opportunities to go to work. He felt that a constitutional amendment was not the way to address the problem.

(34) Del Rodrigues, Vice-Chairman of the Montana Peoples' Action, said that he knows people right now that are on general assistance that would be out on the streets right now if it were not for the supreme court decision.

Wade Wilkison, Director of Senior Citizens' Advocates, noted that when there are big problems, people jump for big solutions even if these solutions are not totally appropriate. He urged the committee to look at pointed solutions.

(53) Greg Sanders, member of the Concerned Citizens' Coalition, stated that unemployment in Great Falls is currently at 9.5% and he is currently on general assistance and hopes not to be on it very long. He felt that if other states took the same punitive approach to people without jobs, people would be shuffled from state to state because no state has full employment.

(76) Judith Carlson, representing the Montana Chapter of the National Association of Social Workers, NASW, offered testimony in opposition to this bill. See Exhibit 6.

(97) Steve Waldron, representing the Montana Council of Regional Mental Health Boards, noted that the bill appears to remove the requirement that the state made for the disabled; and although they are concerned about those with mental disabilities, it would also include such things as developmentally disabled. He explained that there was an assumption that people on welfare were lazy and leeches on the system and that if they were made to work for their benefits, they would not work for them. He continued that with the workfare program, the exact opposite happened and the workfare program was a success. He said that the individuals who were able bodied were happy to work and felt better about themselves. He contended that a

goodly number of them simply were not job ready, so he questioned whether or not these people who are classed as able-bodied are in fact able-bodied.

(137) Dawn DeWolf, representing the Montana Association of Rehabilitation, urged the committee to vote no on this bill.

Alfred Wilson, representing the Anaconda Concerned Citizens' Group, said they oppose this bill.

Jim Smith, representing the Human Resource Development Council, advised that the SRS budget totals \$240 million; and for the sake of a \$4 million appropriation for general assistance, they appear to be willing to be putting the rest of these funds and the people served by them in severe risk by passing this bill.

Ann Barnes, representing LIGHT in Missoula, indicated that they also oppose this bill.

There were no further opponents.

Representative Winslow stated that it is a difficult decision when they have to enter any kind of limitation of benefits that people are presently relying on. He contended that it is the responsibility of the legislature to look at benefit levels and establish them. He recognized the needs of the people across the state, but he does believe that they have to set some limits. He noted that the legislature has to balance the budget and in order to do this, they have to have the ability to establish limits and duration on what benefits they can and should support. He advised that the states around Montana (Wyoming, North Dakota, South Dakota, etc.) do not take care of the able-bodied and he feels that some of the increased case load is from these people coming to Montana for that reason. He stated that 40% of these people are healthy, under the age of 26 years and are males.

(270) QUESTIONS ON HOUSE BILL 9: Representative Gould asked if there could be any definitions made as far as disabilities and developmentally disabled and how severe they must be before they can qualify for some type of assistance.

Mr. Lewis responded that the programs for the disabled and developmentally disabled are now limited by the legislature to the extent of appropriations and the intent of this amendment is that those programs not become entitlements. He advised that they have a waiting list of 900 people now for DD services. He noted that, if this becomes an entitlement program, they would be required to provide services for all of the people who now need services.

Representative Addy asked if the courts had looked at the question of able-bodied against non-able-bodied.

Mr. Cater replied that he believed that the court would throw out legislation under the current test if the legislature decided to terminate able-bodied people. He thought that it might pass the reasonable basis test. He advised that the middle-tier test is a two-tier test and the first test is whether it is reasonable. He felt there were some reasonable justifications for terminating able-bodied people, but there are other people who would disagree on that. He did not feel that it would pass the second part of the middle-tier test, which is balancing the state interest versus the misfortunate person in need.

Representative Addy asked why there was an increase of 42% in case loads and 47% in costs.

Mr. Lewis answered that it is difficult to speculate as to why the case loads are growing - a lot would be due to an increase in unemployment.

Representative Addy asked how many people would be affected by the kind of restrictions that would be on and what would be his speculation as to what would happen to those people.

Mr. Lewis responded that the total number that would be affected would be between 8 and 900, according to their estimates. He noted that in Billings, there are only about 50 or 55 people in Yellowstone County on general assistance, because the county commissioners are fairly

restrictive as to who should be on general assistance; but in Cascade County, at the present time, they have 650 people. He believed that if you compared the two counties, he doubted that there would be any more people in the streets or any more people hungry in Billings than in Cascade County. He felt that it was difficult to draw any assumptions as to what the result in a change in the program might be.

(450)

Representative Rehberg asked why the word "inhabitant" had been struck from the constitution and are they setting the groundwork for making a residency requirement if they so wish.

Mr. Cater responded that he felt that that was a step in that direction, but the U. S. supreme court has indicated that they cannot have a durational residency requirement; however, as of today, they have not said you cannot have a residency requirement.

Representative Rapp-Svrcek questioned Ms. Fifield about her comment that workfare is a limit on welfare.

Ms. Fifield answered that they work for that benefit - it is not just handed to them - and if for some reason, they can't make it to work, they get docked; if they earn any income, it is taken off their benefits and there are more limits. She contended that there are more limits that could be set without changing the constitution.

Representative Rapp-Svrcek asked if she felt that workfare was an unjustifiable limit on welfare.

Ms. Fifield replied, "No, people want to work for what they get - believe me, they do. Sometimes, being low-income, transportation is not always what it should be and your health isn't always what it should be and there are times when there is no way you can get around it, but there are limits as far as you do work for your check - you don't just get it and most people are more than willing to work for it." She contended further that if

the jobs were developed and if there were adequate training, it would cut down on the spending of welfare funds and would give people jobs and would give them their dignity back.

Representative Rapp-Svrcek asked if the goal was to conserve costs and to save money and probably better use the money that is there.

Mr. Lewis answered that their goal is to end this seemingly endless litigation on the issue of whether or not we can control the budgets for public assistance. He advised that for them to limit costs, they have to have some tools with which to do that and they don't feel that that can be done under the present constitution.

Representative Rapp-Svrcek wondered if this is the only way to control this welfare program.

Mr. Lewis responded that they are, at the present time, working on some proposals for pilot projects in the area of trying to help people get jobs, but he cannot predict whether those will be successful as far as reducing case loads or whatever.

Representative Cobb asked why are the people so afraid that the legislature is going to do something terrible and they do not like them to have any discretion in this matter.

Mr. Ortwein replied that in changing the constitution, this would be a change in intent and also the makeup of the legislature can change so much. He noted that as dollars get short, this could be very open ended.

Representative Cobb questioned as to whether there was a guarantee that the supreme court could not change its makeup in a few years also.

Mr. Ortwein responded that that is true.



Representative Cobb asked if they pass this amendment, is there any guarantee that the supreme court is going to lower their rational basis test.

Mr. Cater responded that, with the amendments he has recommended, he believes that the supreme court will have to lower that test because he put the test right in the amendment.

Representative Cobb asked if it was not there and that portion was left out, was there any guarantee that they would use the test they are using now or a lesser test.

Mr. Cater replied that that was his fear with the bill the way it is currently proposed and that the supreme court could say that the bill deals with article XII, whereas this amendment goes further and talks about equal protection and the rational basis test.

(640) Representative Cobb wondered if they left the amendment out, would they probably use a lesser test than they are using right now.

Mr. Cater responded that he thought the supreme court would still mandate a middle-tier test.

Representative Cobb asked if this would be less than the test they give right now.

Mr. Cater replied that it is possible, but he did not believe they would change.

Representative Cobb asked if it would depend on who is on the supreme court.

Mr. Cater replied, "Yes."

Representative Miles asked Neil Hayden from the Montana Legal Services of his opinion on the middle-tier test and the amendment.

Mr. Hayden said he was not prepared to discuss the amendments, but his impression is that they seem to be making a "whipping board" out of the supreme court.

Tape 1-2-A:00

Representative Spaeth asked what they would be looking at if they do present this to the voters of Montana and they do pass it, and what does he foresee as doing in January of 1987.

Representative Winslow responded that they are still going to have to look at the problems and the levels of duration. He admitted that they still have some questions that need to be answered as to how they establish those levels of duration, and there is the question of age basis. He said they would have the sense of the people and they would have that right.

Representative Spaeth asked if the work bill was successful, would they really need this constitutional amendment.

Representative Winslow replied that they did not know how effective this workfare program is going to be. He indicated that many states have implemented this type of program and have had substantial effects and if this constitutional amendment is passed, it does not mean that they are going to change anything. They are still going to have to come in the next legislative session and look at what kind of changes need to be made, he concluded, and if the work program is so successful that the numbers have decreased, then maybe nothing will come out of the next legislative session.

Representative O'Hara asked what the differences in the limitations of welfare requirements are between Cascade County and Yellowstone County.

Mr. Lewis replied that they establish the rules and regulations and they have to follow carefully the state's rules on these issues and he is not sure why Yellowstone County has such a low case load, but he is aware that they make a real effort to hold it down - the county commissioners are concerned with holding it down, but he does not know what methods they use.

Rep. Krueger noted that the supreme court did not say that they could not establish levels, they just said that they could not be arbitrary in their determinations on this and he asked Mr. Cater to comment on this.

Mr. Cater responded that he would never recommend to the legislature that they go back to the same age type criteria even if they do change the constitution. He advised that the basis for that legislation was primarily due to the fact that the state of Pennsylvania had enacted an age limitation, which was similar to HB 843, and that was upheld by the federal circuit court; there was testimony by low-income people that because of their age they had been discriminated against, witnesses indicated that older people would have a harder time; and all this was admitted in court, so he does not feel that this was completely arbitrary.

He further informed the committee that just last week he received notices from the legal services that they believe that under this middle-tier test, it is essential that all low-income people receive annual eye checkups, semi-annual dental checkups and he felt that this is taking away the discretion of the legislature and may be the next court challenge.

Rep. Eudaily asked if it was necessary to put the word "discretion" in his amendments. Mr. Cater responded by saying that the reason he left it out is because in the current bill there is an "against" clause. If the committee voted against it, in effect the committee would be against giving the legislature the discretion to provide the welfare. This could cause some confusion.

There being no further questions, the hearing on this bill closed, and the members of the Human Services Subcommittee were excused.

(Chairman Hannah had previously invited members from the House Business and Labor Committee to participate in the hearing on HB 7.)

CONSIDERATION OF HOUSE BILL NO. 7: Rep. Francis Bardanouve, House District #16, sponsor of this bill stated that HB 7 wasn't necessarily his bill but rather it is a bill that was put together by the citizens of Montana. HB 7 is a permissive piece of legislation, and if the bill passes, it will enable the 1987 legislature and subsequent legislatures to set limits as to liability of governmental units. Rep. Bardanouve said this bill doesn't necessarily say the

"King" can do no wrong, but it will give the legislature the ability to limit how wrong the "King" may be. The state of Montana is facing an insurance crisis although Rep. Bardanouve is unsure of what the reasons are. Insurance rates have soared so high that governmental entities as well as the private sector can hardly afford insurance. Some cannot even obtain liability coverage. Rep. Bardanouve stated that he has no assurance that Montanans will benefit by lower rates or the availability of insurance even if the legislature does pass limitations. Montana is only a small speck in the insurance industry; some city suburbs carry more insurance than all of Montana. In reality, no matter what happens in Montana on this issue, we are at the mercy of a Board of Directors of a giant insurance corporation. Rep. Bardanouve mentioned that a few small governmental entities with small resources are at the complete mercy of high insurance rates and large judgment awards. He said that this legislation is not a partisan issue; it crosses all political lines. Rep. Bardanouve submitted a news article concerning this particular legislation which he had previously written. (Exhibit A) In closing he feels that the private and public liability limits should not be combined in one bill.

PROPOSERS: Mona Jamison, legal counsel to Governor Schwinden emphasized a few points previously made by Rep. Bardanouve. She said that after the Pfost v. State of Montana, et al. decision was handed down by the supreme court, she and others started working on this issue. HB 7 is the final product of two months' of debate, consensus, comments, etc. She told the committee that the issue here is not caps -- it is not where caps should be set, if at all. The issue before the legislature is one of legislative prerogative. Should the legislature have the ability to consider the establishment of caps, she asked. The forum for the consideration of virtue of setting caps would be in the 1987 session assuming the legislature passes HB 7 and the people approve it in the November election. The referendum is the vehicle of getting the issue of establishing caps back before the people to decide. In closing, Ms. Jamison said the governor urges passage of this bill.

John H. Maynard, administrator of the Tort Claims Division, Department of Administration, stated he supported HB 7 as an effective means to implement the liability limits the legislature has already enacted three times previously. This bill gives the people of Montana the opportunity to once again demonstrate whether or not they wish the legislature to have the prerogative of setting limits. Mr. Maynard gave the committee a brief overview of what their experiences have been

in Montana under the limits and what they expect to experience now that the supreme court in the Pfof case struck those limits. A copy of his written testimony was marked Exhibit B and attached hereto.

Chip Erdmann, representing the Montana School Board Association, stated that this legislation is not a unique concept in Montana. This is something that both the people of Montana and the legislature have voted and approved three different times. He said that school districts provide mandated services. There are risks involved in some of the services that are provided. There are some school districts operating without insurance coverage and those school districts that do have it are experiencing increases in their premiums of about 300%. If an uninsured school district gets hit with a substantial judgment against it, an emergency is passed which gives the school district the authorization to spend that money. They don't have the money, so they borrow it by registering warrants. At the next levy election, that amount is placed on the taxpayers of that particular district. He said that many of these counties are increasing tax delinquencies due to the current economic conditions. The restoring of limits will allow school districts to form self-insurance pools with the help of SB 2, Mr. Erdmann said in closing.

Bill Anderson, representing the Office of Public Instruction, stated his support for HB 7 by saying it is the first step in setting necessary limits. He presented some examples of how various school districts in Montana are either having their insurance altogether cancelled or their premiums dramatically increased. There seems to be no permanent solutions to their problems at this time. Mr. Anderson stated that their office has been in contact with the people in this state and the general consensus is for limits. Superintendent Ed Argenbright sets a high priority on HB 7; however, they feel that the private sector should be added.

John Hoyt, an attorney from Great Falls, said he feels we should get our constitution back where the framers intended it to be and leave it alone. The constitution should be sacred and unchanged. All HB 7 is going to do is put the constitution back in place.

Alec Hansen, representing the Montana League of Cities and Towns, stated that his organization support HB 7. He further stated that 45 other states have some kind of liability protection for state and local governments.

Gordon Morris, executive director for the Montana Association of Counties, stated that his organization supports the long standing common law principle of sovereign immunity.

Debi Brammer, representing the Montana Association of Conservation Districts, voiced her support of this bill. She said that although there has not been a significant liability suit impact in the conservation districts within Montana, the liability threat is becoming a very large concern. A copy of her written testimony was marked Exhibit C and attached.

Jo Brunner, executive secretary of the Montana Water Development Association, stated that the association stands in full support of this bill.

Jesse Long, executive secretary for the School Administrators for Montana, stated his support for the bill. A copy of his written testimony was marked Exhibit D.

George Bennett, representing the Montana Liability Coalition, stated his support in concept for HB 7. He said that tort reform is the long term solution and the only solution to the liability issue.

Donald R. Waldron, superintendent of Hellgate Elementary School urged the committee to pass HB 7. A copy of his testimony was marked Exhibit E.

Nathan Tubergen, finance director for the City of Great Falls, said that Great Falls is one of the unfortunate cities that has been without general liability insurance since July 1, 1985. He urged the committee to pass this bill.

Larry Stollfuss, Choteau County Superintendent of Schools, representing the Montana Association of County School Superintendents, said that liability insurance in many cases is costing some of their rural schools over 10% of their general fund budgets. Hopefully, passage of HB 7 will curb some of the rising insurance costs by limiting some of the liability amounts.

Craig Burrington, Superintendent of Schools in Fort Benton, testified in support of the bill. He said that if a million dollar judgment was assessed against the school district, their taxes would triple. Because of economic conditions, they could not afford that end of an increase in their tax rate.

Bob Correa, representing the Bozeman Chamber of Commerce, stated that HB 7 is a step in the right direction in addressing the insurance crisis present in Montana.

Sandra Whitney, representing the Montana Taxpayers Association, supports the concept of this bill.

Gary Marbut, representing the Montana Council of Organizations supports the idea of a constitutional referendum for liability limitations and supports the position of the Montana Liability Coalition.

Glen Drake, representing the American Insurance Association, supports the concept of HB 7.

F. H. "Buck" Boles, president of the Montana Chamber of Commerce, supports the concept of this bill and the position of the Montana Liability Coalition.

Don Peoples, chief executive of Butte-Silver Bow, stated his support for HB 7.

Jim Van Arsdale, mayor of Billings, stated his support for HB 7.

OPPONENTS: Joe Bottomly, lawyer from Great Falls, stated that the proposal to pass a constitutional amendment to give juries the right to restrict what a severely injured person will receive less than his full legal redress is an over reaction to an insurance crisis which may or may not be based upon a liability crisis. Mr. Bottomly said that before this legislature or any legislature takes such a drastic step it should study the issue and determine what the underlying facts are. He said that a number of the proponents who testified on this bill have indicated that they don't know what the underlying facts are. Until we have facts and figures from the insurance companies, it would be grossly unfair for those people who can afford it the least -- the people who have been most severely injured -- to pass a bill without knowing all of the facts.

Mr. Bottomly submitted a number of reports which raise various questions such as the liability crisis is not the basis of an insurance crisis. (Exhibit F) If that is so, there is no justification for this type of an amendment, he said. The Washington State Legislature studied this issue in 1985 and concluded that too often people are being victimized by the insurance industry that is facing a crisis of its own making. Mr. Bottomly stated that the insurance premium crisis can be handled in this legislature by such

bills as the one introduced by Dorothy Bradley, et al. which will allow for self-insurance pooling, will allow insurance companies to obtain re-insurance and will help businesses and entities which are having difficulty in finding available insurance.

Cindy Spadginske, mother of a young man who was injured in an auto accident, said that before a bill such as this one is passed, the legislature should know the expenses incurred on victims of accidents.

Kim Wilson, representing the Montana Chapter of the American Civil Liberties Union, stated that the ACLU opposes in principle any constitutional amendment which places caps on liability. The thing that is forgotten in trying to examine this issue in such a short manner of time is the question, "What is going to happen to the victims?" Mr. Wilson feels that the liability cap proposal creates a very inequitable situation. On the one hand, if we allow public liability caps and no caps for private, we are going to have victims who are injured by public agents who may not be compensated; whereas, private victims may well be compensated for all their injuries. If on the other hand both caps are passed, we are going to have victims whose injuries fall below a certain economic level who will be fully compensated; whereas, victims whose injuries cost more are not going to be fully compensated. We feel it is important that these amendments do not pass, because they limit the right to redress. They will also limit the power of a jury to decide on the basis of the individual facts based on the individual injuries what a victim is entitled to be compensated. Finally, we feel these proposals will constitutionalize a form of discrimination by drawing the line between certain economic situations. Mr. Wilson urged the committee to study this issue further because he feels we do not have a sufficient grasp of what the true causes of the liability insurance crisis are to make such a decision.

Monte Beck, an attorney who primarily represents victims of injury, opposes any types of caps or limits upon liability. He asked the question if the insurance industry has promised anything such as a drop in premiums or an increase in the availability of insurance will result if caps are imposed. He urged the committee to ask the insurance industry to provide them with the statistics that will show that in the state of Montana municipal liability, county liability, state liability is at such a loss that it justifies tampering with such a sacred document such as our constitution. He asked, "Where are the losses for the counties and the state of Montana?" Mr. Beck feels that



this type of legislation appears to be an emotional stampede to try to convince the legislature to pass a bill which would affect the very types of people the liability system and the jury system is intended to help -- and that is injured people who have been hurt through no fault of their own.

There being no further opponents, Rep. Bardanouve closed briefly.

QUESTIONS ON HB 7: Rep. Spaeth asked if this legislation will solve the problem. Chip Erdmann responded by saying he didn't know whether or not it will solve the insurance problems from a company point of view. However, it will allow them to create a self-insurance fund that is feasible if they have limits, but it will not be feasible if they don't have limits. In response to another question, Mr. Erdmann feels that caps is a part of the answer to the problem. This bill provides the legislature authority to set those caps if they feel it is appropriate. The bill has nothing to do with installing caps; that debate will come in 1987. Mr. Erdmann said that perhaps there are other areas in tort reform that they should be looking at, but as a governmental representative he supports this bill as a means of dealing with the present problems of lack of insurance coverage. If caps are enacted that can self-insure. This will afford at least some protection for the victims.

Rep. Gould asked Ms. Jamison if she had a fear that voters won't take the time to study each of the proposed initiatives and referendums before voting this fall and just vote no. He said he is concerned for this reason with the question of combining the two issues. Ms. Jamison feels it is a test that Montanans can meet. She said they want to see both issues addressed because she feels it will reduce the areas of litigation and possible rulings of unconstitutionality.

Rep. Miles asked Mr. Maynard why they have to look at total immunity. Mr. Maynard said that it was necessary for the drafters of HB 7 to indicate that in addition to immunity from suite, the legislature has the ability by a 2/3 vote to address the issue and the extent of the state and local government's immunity from suit. In addition, the legislature has the prerogative under this legislation to set limits of liability and address both of those issues.

Rep. Cobb asked Ms. Jamison that without a constitutional amendment, can the legislature revise now and raise within reason the real and personal property exemptions from

execution of judgment against public entities as well as a time period that judgment can be paid off without violating the supreme court rulings. Ms. Jamison responded by saying that she did not have the information right now to give a legal opinion.

Rep. Thomas asked Mr. Bennett if he felt the legislature can make tort reforms without a constitutional amendment addressing the Pfost case. Mr. Bennett stated that the liability crisis as they see it is much broader than the insurance crisis. He said our law in the civil liability field is pretty much made by the courts. The legislature has allowed the courts to make the law in roughly the same way it allows bureaucrats to make laws under their administrative procedures act with rules. Tort reform involves definitions of negligence, contributory or comparative negligence, and a whole host of things that goes into who has been harmed and who pays the bill. Tort reform is a massive thing which Mr. Bennett hopes the legislature will have the opportunity to address. He feels that the Pfost case stands in the way of getting the reform that this legislature has to undertake, both in the public sector and the private sector. Until we can really get a handle on this through a tort reform act, it will continue on and on with the court creating new rights and the legislature having no ability to respond.

Rep. Addy asked Ms. Jamison if there had been any consideration given to distinguishing between economic and non-economic damages. Ms. Jamison said there had been. She believes that this referendum allows the legislature to address that issue in the 1987 legislative session. This referendum would allow the legislature to deal with the whole area of caps -- where they want to draw the lines, if any, and it gives them the authority in certain areas to even differentiate. Rep. Addy asked if the legislature should have the constitutional authority to limit economic damages (out-of-pocket losses) that the plaintiff had suffered. Ms. Jamison said this referendum would allow the legislature to do that.

In response to a question by Rep. Simon, Ms. Jamison said this bill will allow the legislature to deal directly with the issue of caps which is in direct response to the Pfost decision. She said that one lawyer's opinion is that there are areas of tort reform that could occur without this constitutional referendum; therefore, changes could be made in

Judiciary Committee  
March 26, 1986  
Page Nineteen

other areas. This referendum just allows limits to be set in the area of caps. Basically, the legislature could do both.

ADJOURNMENT: There being no further questions or discussion, Chairman Hannah adjourned the meeting at 11:10 a.m. Rep. Hannah announced that the Judiciary Committee will meet at 1:30 this afternoon in Room 312-2 to consider HB 13.

  
\_\_\_\_\_  
REP. TOM HANNAH, Chairman  
Judiciary Committee

## DAILY ROLL CALL

JUDICIARY

COMMITTEE

SECOND SPECIAL 49th LEGISLATIVE SESSION -- 1986

Date March 26, 1986 (8:00)

NAME	PRESENT	ABSENT	EXCUSED
Rep. Tom Hannah, Chairman	✓		
Rep. Dave Brown, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. John Cobb	✓		
Rep. Paula Darko	✓		
Rep. Ralph Eudaily	✓		
Rep. Budd Gould	✓		
Rep. Edward Grady	✓		
Rep. Kerry Keyser	✓		
Rep. Kurt Krueger	✓		
Rep. John Mercer	✓		
Rep. Joan Miles	✓		
Rep. John Montayne	✓		
Rep. Jesse O'Hara	✓		
Rep. Bing Poff	✓		
Rep. Paul Rapp-Svrcek	✓		
Rep. Gary Spaeth	✓		
Rep. Charlotte Neill	✓		

**APPROPRIATIONS-HUMAN SERVICES SUB COMMITTEE**  
**SPECIAL SESSION II**  
**49th LEGISLATIVE SESSION -- 1986**

**Date**

[illegible]

Exhibit,  
HB 9  
Russ Caten  
3/26/88

TESTIMONY OF THE DEPARTMENT OF  
SOCIAL AND REHABILITATION SERVICES  
IN SUPPORT OF HOUSE BILL 9

The Department of Social and Rehabilitation Services supports House Bill 9 which has been introduced by Representative Cal Winslow. This amendment to Article XII, Section 3 of the Montana Constitution is essential in order to provide more discretion to the legislature in the adoption of statutes pertaining to public assistance benefits. On January 16, 1986 the Montana Supreme Court held unconstitutional those provisions of House Bill 843 (passed by the 1985 Montana Legislature) which restricted or denied public assistance to able-bodied persons under age 50 without dependent minor children. In its ruling the court developed a "middle-tier" test which should be applied to all public assistance legislation. This test requires that the state demonstrate two factors:

- 1) that its classification of welfare recipients . . . is reasonable; and
- 2) that its interest in classifying welfare recipients . . . is more important than the people's interest in obtaining welfare benefits.

The court went on to state that there should be a balancing of the rights infringed and the governmental interest to be served by such infringement. Saving money must be balanced against the interest of misfortunate people in receiving financial assistance from the state. For example, if the state were to terminate all "able-bodied" persons from the public assistance program it might meet the first portion of the court's test regarding "reasonableness". It is questionable, however, whether such legislation

would meet the second portion of the test which requires a balancing of the misfortunate welfare recipient's interest in receiving benefits with the state's interest in saving money and encouraging employment.

The Montana Supreme Court is the first court in the nation to establish a middle-tier (heightened scrutiny) test for welfare legislation. It is believed that the court will apply this test not only to the state general relief program but also to federal welfare programs (e.g. medicaid, AFDC, food stamps, etc.) administered by our state. Montana is not required by federal law to adopt these programs but if it does, the federal government will only reimburse the state if eligibility is determined in accordance with federal rules and regulations. In many instances it is unlikely that the federal eligibility rules would pass the higher middle-tier (heightened scrutiny) test adopted by the Montana Supreme Court. The "supremacy clause" would not preclude the application of the middle-tier test in Montana because the federal programs are optional rather than mandated by federal law. If Montana courts determine that a federal eligibility rules does not meet the higher standard of review, then 100% state funds must be used to pay for equivalent welfare assistance.

While House Bill 9 is a step in the right direction, SRS does not believe that it is complete enough to provide to the legislature the discretion normally accorded to it in the adoption of state laws. The Montana Supreme Court developed the middle-tiered test not because public assistance is a fundamental

right, nor because the sections in Article XII are prefaced with the word "shall" but rather because welfare assistance is "reference[d] in the Constitution". In order to place welfare assistance in line with the federal Constitution and the decisions of other state and federal courts it is essential that the equal protection test in Article II, Section 4 be returned to that of a "rational" basis test. The attached amendment to House Bill 9 spells out that rational basis test.



PROPOSED AMENDMENT TO HOUSE BILL 9  
Introduced Bill  
(Re: Amendment to Article XII, Section 3  
of the Montana Constitution)

1. Page 1, line 25.  
Following: "discretion"  
Strike: "designate any level and duration of"  
Insert: "provide such"
2. Page 2.  
Following: line 4  
Insert: (2) "The legislature may in its discretion set eligibility criteria for programs and services, admission to institutions and facilities as well as the duration and level of benefits and services. A law implementing this section does not violate this Constitution if it is supported by any rational basis."
- Renumber: subsequent sections
3. Page 2, line 14.  
Following: "legislature to"  
Strike: Remainder of line 14 and all of line 15.  
Insert: "Restrict the scope and duration of welfare programs."
4. Page 2, line 17.  
Following: "legislature to"  
Strike: Remainder of line 17 and all of line 18.  
Insert: "Restrict the scope and duration of welfare programs."

Submitted at the request of  
Department of Social and  
Rehabilitation Services

/      /

?

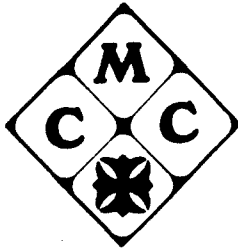
FOR amending the constitution to allow the legislature  
discretion to restrict the scope and duration of wel-  
fare programs.

      
/      /

?

AGAINST amending the constitution to allow the legisla-  
ture discretion to restrict the scope and duration of  
welfare programs.

Exhibit 2  
HB-9  
3/26/86



# Montana Catholic Conference

March 26, 1986

CHAIRMAN HANNAH AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE:

I am John Ortwein, director of the Montana Catholic Conference.

Several days ago each of you received a letter from the Conference asking you to use the issues of human rights and human dignity as your guides as you consider economic assistance to those in need. I am here today to again ask for these considerations.

The responsibility for alleviating the plight of the poor falls upon all members of society. As individuals, all citizens have a duty to assist the poor through acts of charity and personal commitment. But private charity and voluntary action are not sufficient. We also carry out our moral responsibility to help the poor by working collectively through government to establish just and effective public policies. It is with this thought in mind that the Montana Catholic Conference is here in opposition House Bill 9.

The process of placing the constitutional amendment on the November ballot takes the argument out of the public debate. It is our belief that most Montana residents voting on the proposed amendment will not have the facts and figures necessary to make an informed vote.

The public perception is that many of those on welfare would not work if given the opportunity. In the Great Falls Tribune of March 25, 1986, was an article entitled "Job Applicants flood service". The article states that when Buttrey Foods advertised for 75-80 job openings in its new store in Great Falls, about 1300 persons responded. Herb Waltermire, placement supervisor for the Great Falls Job Service office, said, "It's not uncommon for somebody to run an advertisement in the paper for one or two jobs and get 200 or 300 applicants." I have included a copy of this article with my testimony. Again, we are concerned that the perception of the public does not bear up well under the facts.

We would ask that this committee vote "no" on House Bill 9.



3-25-86

# Job applicants flood service

By JAY GOLEY  
Tribune Business Editor

Whether it's a testimony to newspaper advertising or to hard times in Great Falls, when Buttrey Foods advertised this month to fill 75 to 80 jobs in its new store, about 1,300 people responded.

Herb Waltermire, placement supervisor for the Great Falls Job Service office, said applications are still coming in response to the advertisements, which appeared in paper several times.

In another healthy response to a modest offer of jobs, ShopKo, the Green Bay, Wis., retailer that is

See JOBS, 2-A.

## Jobs

From 1-A

opening a store in the Riverview area this summer, advertised to hire 30 bookkeepers and receiving clerks and attracted more than 300 applicants.

Waltermire said Job Service is bracing for an influx of applicants next week because ShopKo plans another advertisement this weekend to fill 260 more jobs. The store will hire about 300 people altogether, Waltermire said.

There is no question, said Waltermire, that in Great Falls, "there are a lot of people looking for work."

Most of the applicants Job Service has screened for Buttrey and ShopKo so far have been people who already were registered for jobs at Job Service. Waltermire said a number are working, but are looking for better jobs. But in a town with unemployment at about 9 percent, a substantial percentage are simply out of work.

Job Service keeps no records on sex or age of the persons applying for the jobs, but Waltermire said there appear to have been more

women applying for the supermarket and discount store jobs so far.

Job Service does not hire anyone, but screens applicants for its business clients. Waltermire said that perhaps 200-250 applicants will be referred to Buttrey for the 75 or so jobs that eventually will be filled.

The supermarket chain will perform its own screening on the pool of applicants referred to it and may ask for more, Waltermire said.

Employers don't pay directly for the service, but pay a federal tax that supports Job Service activities, Waltermire said. Screening is available to any employer.

He said some of the people applying for jobs will be well-qualified, some will have marginal qualifications and some won't have any at all.

In Great Falls, at least, it is common for large numbers of people to turn out for jobs, Waltermire said.

"It's not uncommon for somebody to run an advertisement in the paper for one or two jobs and get 200 or 300 applicants," he said.

Good morning ~~Madam Chair~~/Mr. Chairman and members of the ~~Human Services and Judiciary Committees~~:

My name is Adele Fine. I am here to speak to you on behalf of the Women's Law Caucus, a student organization at the University of Montana Law School. We wish to voice our opposition to House Bill 9, which seeks to amend Article XII, Section 3(3) of the Montana Constitution.

Montanans, like many Americans, have an easy time thinking in terms of liberty, autonomy, freedom, and individualism. But for some reason, we have more difficulty when it comes to thinking in terms of taking care of others who, as stated in Article XII, "by reason of age, infirmities, or misfortune may have need for the aid of society." This provision of our state constitution is so highly commendable precisely because it reminds us of what we already know when we stop to reflect, that is, that those of us who are better off have an obligation to care for those who are worse off, and who may need our help from time to time.

We have acknowledged this obligation to help each other publicly since the adoption of the first state constitution in 1889. Almost 100 years later, the citizens of Montana reaffirmed their commitment to help poor people by adopting the present constitutional provision. Prior to its adoption, some Con Con delegates expressed concern that the language of this provision would create an absolute right to welfare assistance (but this concern has turned out to be unfounded), and that the Legislature would have no discretion in implementing welfare programs, (also untrue.) Despite these concerns, the majority of the delegates decided to go with the current provision, not because they wanted to put the Legislature in chains, but because they wanted to be certain that Montana's obligation to its less fortunate citizens was stated clearly and unambiguously in the constitution.

This brings us up to the present. At this point, I would like to discuss the case of Butte Community Union v. Lewis, in which the Montana Supreme Court affirmed the lower court grant of an injunction against the Dept. of SRS, thereby prohibiting SRS from implementing the infamous House Bill 843. This case is important because, ~~although I have not heard anyone say it here, I think it is logical to assume that~~ one of the primary purposes of House Bill 9 is to protect the legislature from having other welfare statutes it enacts overturned by the Montana Supreme Court. We feel, frankly, that this <sup>proposed</sup> course of action is unwise.

In the Butte Community Union case, the Supreme Court stated explicitly that whatever else is was, the right to welfare assistance was not a fundamental right. Underlying this assertion was the Court's recognition that the State needs to have some discretionary power in the area of welfare assistance; it needs some flexibility given its finite resources. At the other extreme, the Supreme Court also said that the "rational basis" test,

which is the test traditionally applied by federal courts and the United States Supreme Court in their analyses of welfare benefit cases, was inappropriate in the Butte Community Union case. It found it to be inappropriate because the citizens of Montana had explicitly mentioned their obligation to help poor people in the state constitution. The Court rightly concluded that, if the obligation was important enough to us that we decided to mention it specifically, then any statute seeking to diminish that obligation deserved closer scrutiny.

The Supreme Court resolved the issue by adopting a mid-level scrutiny test. This is really nothing more than a "rational basis" test with teeth, because it requires the state to justify its classifications or limitations with a factual showing of their reasonableness.

The mid-level scrutiny test is essentially a fairness test. It balances the state's need to be flexible evenly with the poor person's need for economic assistance. It and Article XII of the Constitution ask the Legislature simply to get all the facts, to think twice, before it decides to pull the plug on a welfare recipient. What this proposed constitutional amendment would do is tip the balance so that the State's discretionary power would be virtually supreme, while the poor person's need for assistance would rank much lower on the scale of importance. This, in our view, represents an unfortunate retreat from our longstanding commitment of almost 100 years to helping others.

We should welcome the Court's mid-level scrutiny test and not try to circumvent it. This is especially important when we remember what is at stake for poor people in this issue. The \$212.00 per month that a single person on General Assistance receives is literally in many cases the difference between having a roof over his <sup>her</sup> head and sleeping under a bridge. Even at the federal level, where the government is experiencing a deficit of almost incomprehensible proportions, the Gramm-Rudman bill exempted federally-funded welfare programs from cuts. Congress recognized that one, programs like AFDC, WIC, Child Nutrition, Food Stamps, Medicaid and SSI had already been cut to the bone and could not be cut further without inflicting palpable harm on the recipients of those benefits, and two, these benefits provide for life's basic necessities, the stuff people need to survive in the world. Programs like General Assistance in Montana serve the same purpose. The mid-level scrutiny test protects this interest in survival from getting lost in a budget panic, when it becomes easier for us to abrogate our long-term responsibilities in the interest of short-term crisis management.

Speaking of budget panics, there is a tendency that we hope you as legislators will guard against in your deliberations on the proposed constitutional amendment at this session. The tendency <sup>has been</sup> ~~was~~ stated by Justice Marshall of the United States Supreme Court, who said:

"It is widely yet erroneously believed that recipients of public assistance have little desire to become self-supporting. Because the recipients of public assistance

generally lack substantial political influence, state legislators may find it expedient to accede to pressures generated by misconceptions."

What Justice Marshall was referring to is a general tendency in our society to regard being poor as if it were a sin of some sort. It is especially easy <sup>to be tempted to</sup> succumb to this basically unfounded prejudice when the State is experiencing financial difficulties. Article XII as it is presently written and the mid-level scrutiny test aid us in avoiding bad habits because it forces us to evaluate our biases to see if they are really legitimate bases for action. We would hope that you will take Justice Marshall's admonition to heart and examine how much of your own willingness and the willingness of your constituents to amend the Constitution is based on misconceptions about poverty in Montana and America as a whole.

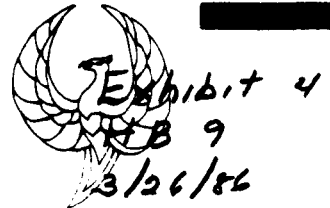
One final comment. You may be thinking that it is all very fine to speak in such lofty terms about the value of our present constitution, but that such talk still does not answer the question, what about the budget? We would respond to that question with another question. And that is, why don't we examine what we do and do not subsidize at the state level to determine whether the benefits and burdens of such subsidies really do fall out fairly? Last session the legislature had a chance to eliminate in some instances the state tax deduction for federal income taxes paid. The elimination of this deduction, which is a form of state subsidization, would have raised about 26 million dollars. The question we pose to you is, how much of a hardship would the elimination of that tax deduction <sup>have</sup> imposed on you compared to the hardship a GA recipient would suffer because the \$212.00 standing between them and the bed under the bridge was taken away? How much of a benefit is gained by lowering Burlington Northern's taxes, again, another form of state subsidization, compared to the hardship that GA recipient would suffer?

These questions and the points raised earlier revolve around issues of fairness, of remaining steadfast to longstanding commitments, and of guarding against the tendency to ignore those who traditionally have not had much political influence. We of the Women's Law Caucus ask you not to retreat from the principles lying at the heart of Article XII, and to embrace the Supreme Court's mid-level scrutiny test as a valuable tool in reconciling competing interests fairly.

We urge you to vote DO NOT PASS on House Bill <sup>9</sup><sub>1</sub>. Thank you.

# WOMEN'S LOBBYIST FUND

Box 1099  
Helena, MT 59624  
449-7917



March 26, 1986

Testimony for the House Judiciary Committee  
Submitted by Nancy Collins, Co-Chair, WLF

The Women's Lobbyist Fund opposes a constitutional amendment to allow the legislature greater discretion in determining qualifications for, and limitations on, economic assistance and social and rehabilitative services.

Montana's constitution clearly provides for our citizens who have need of assistance from society. That commitment must stand, regardless of economic and political pressures to compromise it.

The principle stated in the constitution is one which benefits not only the poor in Montana. It is a reflection of our commitment to a basic quality of life for every Montanan. We ratified this principle, as a society which wants to be humane, fair and responsible.

As women, we well understand the necessity of protecting the rights of any group which experiences economic and social discrimination. The constitution must not be changed because there is a budget crisis.

We are also confident that policymakers, and the Montana public, can come up with good, creative solutions to the needs of the economically unfortunate. The proposals that SRS and the Low Income Coalition are working on for job search and training options are an example.

The poor in Montana are increasingly women and children. General Assistance makes a critical difference for individual women. There is the example of a middle-aged woman, whose children were grown, who was a victim of spouse abuse. GA enabled her to pay the rent on a place of her own so she could get out of the abusive situation.

Or there is another case of a young woman from Butte who was earning her living through prostitution. She wanted to get out of that economic trap, and GA provided the means for her to make a transition to a more stable and promising line of work.

There is also the woman whose age, appearance and chronic powerlessness, both economically and socially, make her an outcast. GA is her livelihood. She has no other options.

The Women's Lobbyist Fund urges you to very thoughtfully assess the correctness of proposing constitutional change as a way of providing flexibility on GA funding. We also ask that the legislature make a clear commitment to the ongoing needs of Montana's poor in prioritizing state funds.





Exhibit 5  
HB 9  
3/26/86

Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF JIM MURRY, BEFORE THE HOUSE JUDICIARY COMMITTEE ON HOUSE BILL 9  
FOR A CONSTITUTIONAL AMENDMENT RESTRICTING PUBLIC ASSISTANCE -- MARCH 26, 1986

-----

Mr. Chairman and members of the Committee, my name is Jim Murry, and I'm appearing here on behalf of the Montana State AFL-CIO in opposition to House Bill 9.

There is no doubt that we are facing hard economic times, both here in Montana and across the country. The very fact that the Legislature is meeting to discuss curtailing welfare benefits shows that there is an economic crisis. If only a few people needed public assistance, there would be no question that Montana has the ability to support the needy.

Now Montana's ability to support those who need help is being called into question. But the question is not really can we help, but how can we not help?

How can we not help people in need? This question comes at a time when more and more people are losing their jobs, losing their businesses, losing their farms and ranches, while being forced to seek public assistance just to survive.

According to an Associated Press story that appeared last Monday, only 18,000 new jobs will be created in Montana in the 1984 - 1990 period. And the Montana Department of Labor and Industry projects nearly half of those jobs will be in the lower-paying service sector.

Members of the committee, there are now -- today -- almost 36,000 Montanans "officially" out of work. That means there are two unemployed workers for every new job to be created from now until 1990.

Here in Montana, the latest figures show 35,700 people are unemployed -- a 9.3 percent unemployment rate.

But these figures don't include those workers who are so discouraged they no longer even look for work, and they don't include those workers who work part-time because full-time work is unavailable.

When you add those individuals to the "officially" unemployed, you get the real unemployment rate. In Montana last month, the real unemployment was 16.74 percent, or 63,913 people. To put that number into perspective, that is equal to the combined populations of Missoula, Malta, Lewistown, Libby, Ennis, Polson, Thompson Falls, Cut Bank and my hometown of Laurel.

What are these people to do? Some suggest they move to other states to look for work -- places like Texas, or California or Florida. But the unemployment problem is there as well. In those three states, more than 3 million people are unemployed, underemployed or too discouraged to look for work any longer.

Unemployed Montanans are not going to find jobs outside the state. Nationwide, there are 8.5 million people "officially" out of work. But real unemployment means more than 15 million Americans are unemployed, underemployed or too discouraged to seek work.

Not only is there a misconception about how many people truly are out of work, but there is a misunderstanding of what kind of protection these unemployed workers have. A study by the National AFL-CIO showed that 10 years ago, 75 percent of the unemployed workers received unemployment insurance compensation. By 1984, that figure dropped to only 26 percent.

In Montana, a similar situation exists. As of 1985, only 29 percent of unemployed workers received unemployment insurance benefits.

So a desperate need for public assistance has been growing. Since 1980, general assistance caseloads have increased 250 percent.

The issue before us today is, are we going to turn our backs on Montanans in need?

Mr. Chairman and members of the Committee, the Montana Constitution is a good one. It establishes the welfare of people as its priority. It's not a document to be treated lightly or tampered with indiscriminately.

We acknowledge the financial problems facing the state of Montana today. We've given you numbers that you can attach to the faces of Montanans who are in trouble today.

We urge you, in your deliberations, not to act in haste in amending our Constitution.

## New jobs to pay less, says report

BILLINGS (AP) — The state Department of Labor and Industry is projecting 18,000 jobs will be created in the 1984-1990 period, but nearly half (8,000) will be in the lower-paying service sector.

Workers in the retail/wholesale sector earned an average of \$202.01 in December 1985, the latest figure available. Many of those workers put in fewer hours than their counterparts in other industries.

The highest paid Montana workers in 1985's fourth quarter were in the metal industry (smelting), with weekly salaries averaging \$609. Miners were in second place with \$503, and contract construction workers were third at \$485 a week.

Overall, Montana's private sector workers earned an average of \$287 per week during the fourth quarter and \$290.34 in December.

Yellowstone County led the state in per-capita income. The county's residents earned an average of \$12,300 last year, compared to \$10,500 statewide.



*Exhibit 6  
HB 9  
3/24/81*

# National Association of Social Workers

MONTANA  
CHAPTER

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE ON HB 3 & 9  
PROPOSED CONSTITUTIONAL AMENDMENTS ON ARTICLE XII Sec. 3

March 26, 1986

I am Judith H. Carlson speaking for the Montana Chapter of the National Association of Social Workers, NASW. We oppose any constitutional amendment whose purpose is to dilute this state's commitment to helping people in their time of need.

It appears that legislators in general have been frustrated in their attempts to solve a problem - frustrated by the Supreme Court which has ruled HB 843 from the 49th General Assembly to be unconstitutional. Acting from this frustration and faced with mounting financial crises, proposals are being made to change the Constitution. If this proposal is adopted by this Special Session, and if it passes the public scrutiny in November, I guess the next session of the legislature will severely curtail welfare benefits to the poorest of the poor - and that the "mandate of the people" - the vote on the referendum - will be used as justification. If read carefully, the proposed referendum is worded so as to give discretion to the Legislature. But I predict it will be used to say "the people want us to cut benefits."

There are many welfare programs - for the aged, for the disabled, for dependent children and their parents. But

Testimony on HB 3 & 9

all except General Assistance are essentially federal programs administered by the counties or state. General Assistance is the final safety net - the catchall - for people in need who do not fit anywhere else. These are the poorest of the poor - they are immediately disqualified if they have more than a pittance in resources. Why, in times of financial cutbacks, do we start to pick on those who have the least?

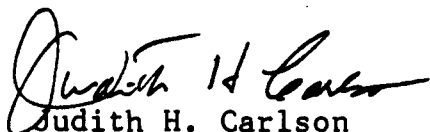
The Legislature does, in my opinion, already have the discretion to set up its welfare program in the way it chooses - as long as it treats everyone equally. It can set the standards for who can get welfare; that is, everyone with less than so much income and with less than so much in assets - is eligible.

The Legislature <sup>(+ does)</sup> can determine how the program is administered - will it be the counties or the state or some combination of the two? It <sup>(+ does)</sup> can decide that everyone must work if they are able as a condition of receipt of welfare. It can (and has) decide that everyone must register to work at the JOB Service before becoming eligible.

This Legislature must deal with its budget problems to be sure. Cuts must be made or new revenues found. While sympathizing with that problem, the NASW urges continued study and action on jobs and job training opportunities as the solution to our problem. We urge rejection of the passage of these constitutional amendments which are unneeded

Testimony on HB 3 & 9

which, if passed, will open the door to cutbacks not only in economic assistance but in all areas of social and rehabilitation services.

A handwritten signature in cursive script, appearing to read "Judith H. Carlson".

Judith H. Carlson  
Lobbyist, Montana Chapter, NASW.

## FACT SHEET

March 1986

### Why A Constitutional Amendment is Not Needed to Solve Welfare Costs

#### 1. Will the proposed amendment affect the integrity of the Constitution and human rights?

Montana has one of the finest constitutions in the country, and is far reaching in protecting human rights. Among these are the right to the basic necessities to sustain life, such as food, clothing and shelter. The proposed constitutional amendment would abrogate those rights and relegate them to the whim or good will of whatever political party is in power at the moment. We believe the constitutional framers intended more protection than this for needy Montanans. Constitutional amendments should not be taken lightly and not considered hastily in a special session where debate is limited by time constraints. In addition, in 1992, the Montana electorate will have the opportunity to decide upon a constitutional convention where changes can be comprehensively debated and acted upon.

#### 2. Should the Constitution be changed to solve budget problems?

Obviously, it would be totally unrealistic to change the Constitution each time the state is faced with serious budget problems where other alternatives exist but have not been tried.

The goal to limit GA by the 1985 legislature was to save money. There is nothing in the constitution which prevents the legislature from saving money and the it still has the power to set limits. In fact, does so now by determining eligibility requirements for welfare. MLIC supports the goal of reducing welfare costs through just alternatives. MLIC and it's member groups have long been calling for employment and training alternatives. We have worked diligently for the past year to get the Job Partnership Training Act (JPTA) programs to provide increased opportunities for Montanans receiving general assistance. We have submitted proposals to the two Private Industry Councils, the Joint Training Coordinating Council and to the Governor. All of these requests fell on deaf ears. Last year, only 6% of JPTA placements went to GA recipients. The state JPTA plan continues to set a goal of only 2% for GA placements. MLIC recommended goals of up to 60%, and if our recommendations had been followed there would be no need for a GA supplemental appropriation at this time.

#### 3. What are the alternatives?

Because of the failure of JPTA programs to respond to the job/training needs of GA people, and thereby reduce welfare costs, MLIC and it's member groups decided to join with SRS and other state organizations to develop innovative, job/training, job creation approaches, many of which have been very successful in other states in reducing welfare costs.

SRS has taken these ideas and has developed six (6) pilot projects to be tried around the state completed, evaluated and recommendations made to the 1987 legislature. We recommend legislators defeat the proposed amendment, support job/training initiatives which will reduce welfare expenditures, preserve a just constitution and human dignity for all Montanans who are now in need or will be in the future.

# Rep. Bardanoue explains bill work

Rep. Francis Bardanoue presented the following letter concerning the problem of liability limitations for public governmental bodies which was ruled unconstitutional by the Montana Supreme Court recently.

Rep. Bardanoue has been active in laying groundwork for a constitutional amendment this November, which must receive approval from the special session of the Montana Legislature.

He has explained that process for readers which we feel has been done clearly and concisely. Here is his report:

It might be of interest to understand how legislation is formed.

A legislative bill isn't found full blown under a cabbage leaf or a toadstool. Quite often, on serious bills, a great deal of pre-planning and leg work has to be undertaken before you have a drafted bill that will receive strong support.

This process has been going on for several months in regards to the proposed limitation of liability for public governmental bodies. The recent State Supreme Court opinion striking down legislative imposed limitations on liability claims came at a most unfortunate time. Insurance rates for several months, across the nation, have been soaring and in many states some companies have completely withdrawn.

In December, even before the court opinion, Michael Young, our very able administrator of our state insurance program, on his retirement, wrote me a concerned report

on the potential heavy liability that our state insurance fund faced. Montana has been operating under a partial self-insured and private insurance coverage program.

Several years ago I was largely responsible for creating the self insured portion of our coverage when I "borrowed" about three million dollars from a temporary surplus account for start up seed money. This was done by a short amendment to the principal appropriations bill. The self insured fund is replenished each session by appropriating money to the account that would normally be paid out to insurance companies.

The program has been highly successful — the \$3,000,000 has been paid back, the claims against the state have been paid and, as of now, there is approximately \$9,000,000 surplus in the account to pay future settlements.

Shortly after the court opinion I began contacting key people that are involved in providing coverage for public entities. First I contacted the legal research staff of the Legislative Council on how to best solve the problem.

Their advice was to amend either one or two sections of our state constitution. With this information I contacted the principal concerned parties; Mr. Erdman of the Montana School Boards Association, Mr. Hanson of the League of Cities and Towns, Mr. Morris of the Montana Association of Counties and Mrs. Feaver, director of the Department of State Administration which handles the state insurance pro-

gram. I strongly urged them to work together and arrive at a common consensus of opinion on the proposed legislation so as to avoid conflicting and often self defeating approaches.

In the meantime I contacted Governor Schwinden urging him to include the liability issue in the special session. At that time there was doubt that the governor would expand the session to include this issue.

Later all parties met with the governor and his chief legal counsel, Mrs. Jamison, and at my suggestion the legal staff of the Legislative Council met with the group. The Legislative Council staff never meets with the governor's office staff but I felt it important that the lawyers get their act together to avoid any hassles on legal procedures.

Later all parties agreed to a common approach after another meeting with the governor's staff. A constitutional amendment has been drawn up for presentation to the session. I have contacted the able

Senator Mazurek for his expert support in the Senate. You never want to forget the opposite legislative body or you may end up dead!

The amendment, if passed, will go to the voters this November for either approval or rejection. If it is passed by the electorate, then the 1987 legislative session can set the liability limits at whatever level they deem proper for public bodies.

The private sector now wants to "piggy back" their approach to limitation of liability onto this proposal. This is not all bad but it would amend a different section of the constitution and it would leave hanging in the constitution a sentence which might cause mischief in future years. The court in the past has made note of this sentence but has not ruled directly on it. Some future court may make a ruling on it.

I hope this review hasn't been too long. It is only written so that citizens can understand a little better the pre-legislative process.



Exhibit B  
March 26, 1986  
H.B. 7  
John Maynard

HOUSE BILL NO. 7

TESTIMONY OF JOHN H. MAYNARD, ADMINISTRATOR  
TORT CLAIMS DIVISION, DEPARTMENT OF ADMINISTRATION

BEFORE THE HOUSE JUDICIARY COMMITTEE  
MARCH 26, 1986, 8:00 A.M.  
ROOM 325, CAPITOL BUILDING

The function of the Tort Claims Division is twofold. First, it must provide for the investigation, defense, and payment of bodily injury and property damage claims incurred by all agencies, officers and employees of the State of Montana under Article II, Section 18, Constitution of Montana, and the Montana Tort Claims Act. Second, the Division must assess the fire, casualty and bond risks of the state for all state-owned buildings, equipment, fixtures, boilers, aircraft, cash and securities, etc. and provide either commercial or self-insurance protection for the financial loss of such property.

The vast majority of the Division's time and effort is concentrated in the comprehensive general liability risks that are fully self-insured by the Division. Examples of coverages include owner/landlord tenant liability, professional errors and omissions, medical malpractice, defamation, false arrest and imprisonment, wrongful discharge, violation of covenants of good faith and fair dealing, civil rights violations, and general common law negligence. Activities of state government

that may create financial liability but are not administered by the Division are such items as collective bargaining, unfair labor practice charges, employment discrimination claims under the Human Rights Act, claims payable by other state funds, i.e., claims against the uninsured employer's fund, retirement system benefits wrongfully denied, and the wrongful collection and distribution of taxes.

Currently the state building schedule, including furnishings and equipment, is commercially insured for replacement costs subject to a \$100,000 deductible per occurrence which is self-insured. Similarly, all aircraft, helicopters, boilers, money and securities and fine arts are commercially insured for stated values. These policies are publically bid on a three-year basis by the Division and premiums are billed on a pro rata basis to each participating agency.

Up until June 30, 1985, we obtained commercial insurance to cover our auto liability. Since that date, we have been unable to get a bid from the commercial insurance sector. Therefore it has been necessary to pick up auto liability in our self-insurance reserve fund. The premiums billed to agencies which we use for coverage have been placed in the self-insurance fund. The cost of the insurance protection provided, as well as the claims

experience to date, is set forth in the attached schedule.  
(Exhibit No. 1)

The most recent actuarial estimate of adequacy of the comprehensive general liability self-insurance fund was prepared by Coopers & Lybrand, Certified Public Accountants, on September 28, 1984. The next review of the adequacy of the self-insurance fund is scheduled to be completed in June of 1986. A copy of the 1984 report is attached. (Exhibit No. 2) The 1984 report estimated a reserve deficiency of approximately \$11.2 million. The estimates applied only to the statutory limits of \$300,000 per claim and \$1,000,000 per occurrence for economic and noneconomic damages.

The recent decision of the Montana Supreme Court in Pfost v. State of Montana, et al striking the statutory limits has significantly changed the assumptions on which the 1984 report was prepared. The Department of Administration supports passage of House Bill No. 7 to give the people of Montana the opportunity to enable the Legislature to impose limits of liability at the next legislative session. The integrity of the self-insurance fund depends on the Legislature's authority to set limits of liability where the state is named as a defendant.

DEPARTMENT OF ADMINISTRATION  
Tort Claims Division

PART I - Insurance protection provided

	<u>Annual Cost</u>
	<u>FY86 (11-26-85)</u>
<u>A. Commercial Insurance:</u>	
Property Insurance	139,852
Boiler Insurance	15,544
Fidelity Bond	18,279
Fine Arts Policy	14,370
Airport Liability	5,850
Money & Securities	852
Aircraft Liability & Physical Damage	35,677
Helicopter Liability & Physical Damage	107,452
Misc. Inland Marine Policies	<u>21,281</u>
TOTAL	<u><u>359,157</u></u>

B. Self-Insured:

Auto Fleet Insurance	400,518
Comp General Liability	1,615,635
Retail Liquor Stores	12,136
Auto Physical Damage	19,687
Inland Marine	73
Property Insurance Deductible	<u>139,852</u>
TOTAL	<u><u>2,187,901</u></u>

PART II - Self Insured Comp-General Liability

A. Actual payments made for claims and expenses:

	<u>FY78&amp;79</u>	<u>FY80&amp;81</u>	<u>FY82&amp;83</u>	<u>FY84</u>	<u>FY85</u>	<u>FY86<sup>1</sup></u>
Claims						
Paid	47,115	144,339	2,943,589	1,305,784	2,096,214	712,54
Leg. Fees	19,956	137,840	299,270	308,749	362,084	174,45
Misc. Exp.	<u>578</u>	<u>14,007</u>	<u>95,085</u>	<u>74,728</u>	<u>130,147</u>	<u>41,37</u>
TOTALS	<u><u>67,649</u></u>	<u><u>296,186</u></u>	<u><u>3,337,944</u></u>	<u><u>1,689,261</u></u>	<u><u>2,588,445</u></u>	<u><u>928,37</u></u>

B. Income by Fiscal Year:

	<u>Billings to Agencies</u>	<u>Interest Earned</u>	<u>Total</u>
FY78	1,047,684	150,534	1,198,218
FY79	1,260,030	345,821	1,605,851
FY80	1,106,604	526,532	1,633,136
FY81	1,166,625	815,119	1,981,744
FY82	1,016,058	1,062,550	2,078,608
FY83	1,006,865	950,949	1,957,814
FY84	1,440,000	260,729	1,700,729
FY85 <sup>1</sup>	1,440,000	921,052	2,361,052
FY86 <sup>1</sup>	1,615,635	887,452	2,503,087

PART III - Fund Balance by Fiscal Year - Comp-General Liability

	<u>Beg. F. Balance</u>	<u>Receipts</u>	<u>Expenses</u>	<u>Ending F. Balance</u>
FY78	-0-	1,823,218 <sup>2</sup>	36,037	1,787,181
FY79	1,787,181	2,230,851 <sup>2</sup>	31,612	3,986,420
FY80	3,986,420	1,633,136	71,921	5,547,635
FY81	5,547,635	1,981,744	224,265	7,305,114
FY82	7,305,114	2,078,608	797,844	8,585,878
FY83	8,585,878	1,957,814	2,540,100	8,003,592
FY84	8,003,592	1,700,729	1,689,261	8,015,060
FY85 <sup>1</sup>	8,015,060	2,361,052	2,588,445	7,787,667
FY86 <sup>1</sup>	7,787,667	2,503,087	928,374	9,362,380

PART IV - Comp-General Liability Claims Filed by Year of Occurrence

<u>FY78</u>	<u>FY79</u>	<u>FY80</u>	<u>FY81</u>	<u>FY82</u>	<u>FY83</u>	<u>FY84</u>	<u>FY85</u>	<u>FY86</u>	<u>Total</u>
107	110	151	94	123	125	189	155	89	1143 <sup>3</sup>

PART V - Self-Insured Automobile Fleet Insurance Claims Filed<sup>4</sup>FY86

114

A. Amounts Paid

Liability Claims	20,073
Adjusting Expenses	2,652
Fire and Theft	1,004
TOTAL	<u>23,729</u>

B. Fund Balance Summary

Beginning Balance	-0-
Billings to Agencies	400,518
Amounts Paid	<u>23,729</u>
ENDING BALANCE	<u>376,789</u>

- 
- 1 Amounts as of February 28, 1986.
  - 2 In FY78 and FY79, General Fund appropriations were utilized to augment the self-insurance fund. This General Fund support was discontinued in the 80-81 biennium.
  - 3 Of the total claims filed, 231 remain outstanding as of 03/25/86.
  - 4 Amounts as of March 24, 1986.

STATE OF MONTANA

ACTUARIAL ESTIMATES OF ADEQUACY OF  
COMPREHENSIVE GENERAL LIABILITY SELF-INSURANCE FUND  
for the accident period July 1, 1977  
through June 30, 1984

Prepared for: State of Montana  
Department of Administration  
Insurance and Legal Division

Prepared by: Coopers & Lybrand

Date: September 28, 1984

Coopers  
& Lybrand

Certified Public Accountants

September 28, 1984

Mr. Steve Weber  
Assistant Administrator  
Department of Administration  
Insurance and Legal Division  
State of Montana  
Room 111, Mitchell Building  
Helena, Montana 59620

Dear Steve:

Attached are three (3) copies of our preliminary report entitled "Actuarial Estimates of Adequacy of Comprehensive General Liability Self-Insurance Fund for the State of Montana, as of June 30, 1984". Estimates are made for the accident period July 1, 1977 through June 30, 1984.

We estimate ultimate loss and loss adjustment expense to be approximately \$23.9 million. Reserves are estimated to be approximately \$19.8 million. Since the State's reserves are approximately \$8.6 million, we estimate a reserve deficiency of approximately \$11.2 million. This estimate does not reflect any investment income earned on reserves. If future payments were discounted to present value at an assumed interest rate of 10% per annum, the indicated reserves would be approximately \$16.1 million. This would reduce the reserve deficiency to \$7.5 million.

The ultimate estimate is much higher than our estimate in our previous report dated June 22, 1982. Much of this difference is reflected in ultimate estimates for the additional years 1982-1983 and 1983-1984. We are witnessing increased claim reportings and higher average claim costs. We are aware of a number of claims with the potential to close at large amounts. Also, we understand that the State's liability for tort damages has been expanded to include noneconomic as well as economic damages, thus causing an additional increase in claim costs.



Mr. Steve Weber  
Assistant Administrator  
Department of Administration  
Insurance and Legal Division  
State of Montana  
September 28, 1984  
Page 2

Please realize these estimates are subject to a great deal of variability. There is much uncertainty in the ultimate outcome of many of these claims. Also, the factors used to adjust for noneconomic damages were derived from a limited data base as discussed in our report. Exhibit 5 in our report sets forth the estimated distribution of loss outcomes. As your experience develops, we will be able to provide more accurate estimates.

Steve, I apologize for the delay in issuing our report. Our original estimate of the cost and timing of the report was based on the assumption that it would be similar to the analysis we made in our last study. However, the change in the State's statute regarding noneconomic damages has required additional analysis and increased the variability in our estimates. It has been very difficult to quantify this effect as relatively little data was available from industry sources.

It is a pleasure to again be of service to the State of Montana. I look forward to responding to any questions you may have.

Sincerely,



Richard J. Fallquist, FCAS, MAAA  
Director

RJF:gm

Enclosures -  
As stated

cc: Michael Young  
Rick Sherman, C&L San Francisco

## TABLE OF CONTENTS

---

	<u>Page</u>
Introduction	1
Findings and Recommendations	1 - 2
Methodology	2
Data	3
Assumptions	3
Estimated Ultimate Losses and Adjustment Expenses and Reserves - Exhibit 1	4
Property Damage Liability - Exhibits 2, 8-15	4
Bodily Injury Claims - Exhibits 3, 16-23	5
Estimated Ultimate Adjustment Expenses - Exhibit 4	5
Estimated Interest Income to be Earned - Exhibit 5	6
Runoff of 6/30/84 Reserves with Funding at Present Value of Future Expected Payments - Exhibit 6	6
Estimated Variability Around Expected Reserves - Exhibit 7	6

The purpose of this report is to estimate the ultimate liabilities of the State of Montana's Comprehensive General Liability Self-Insurance Fund. These estimates are for accidents occurring during fiscal years 1977-1978 through 1983-1984.

On July 1, 1973, the "Montana Comprehensive State Insurance Plan and Tort Claims Act" became effective. From July 1, 1973 through June 30, 1977, the State of Montana purchased comprehensive general liability insurance from private insurance companies. Beginning July 1, 1977, the coverage was provided by the Self-Insurance Fund which is administered by the Insurance and Legal Division of the Department of Administration.

We understand that the State's liability for tort damages has changed since our last report. Previously, the State was liable for only economic damages. Due to a recent court decision, the State is now liable for both economic and noneconomic damages. This applies retroactively to all open claims as of the date of the court ruling as well as to all claims reported in the future. Liability for economic and noneconomic damages is limited to \$300 thousand for each claimant and \$1 million for each occurrence. Liability for punitive damages is excluded. We have assumed these limits and exclusion in our calculations and projections.

#### Findings and Recommendations

1. It is estimated that the expected ultimate loss and loss adjustment expense for comprehensive general liability for accidents occurring during the fiscal years 1977-1978 through 1983-1984 are approximately \$23.9 million. The indicated reserve is approximately \$19.8 million. Since the State's current reserve is \$8.6 million, we estimate a reserve deficiency of approximately \$11.2 million. This deficiency does not reflect investment income earned on reserves. If future payments were discounted to present value at an assumed interest rate of 10% per annum, the indicated reserve would be approximately \$16.1 million. This would reduce the reserve deficiency to approximately \$7.5 million. Exhibit 6 shows the run-off of payments with this discounted amount. These estimates apply only to statutory limits of \$300 thousand per claim and \$1.0 million per occurrence for economic damages and noneconomic damages.
2. The estimated variability in these estimates is provided on Exhibit 7 at the 50%, 75%, 95% and 99% levels for accidents occurring during fiscal years 1977-1978 through 1983-1984. These levels imply there is an estimated 50%, 25%, 10%, 5% and 1% chance, respectively, that total future payments on claims open or incurred and unreported will exceed the amounts indicated. For example, we estimate a 5% chance that total payments will exceed \$24.45 million.

## Findings and Recommendations, Continued

3. Because of the variability in these estimates, the State of Montana may wish to fund reserves at levels higher than the expected estimate. This would provide the additional funds necessary for adverse claims experience greater than expected.
4. We recommend that the State computerize the historical claim information. For purposes of actuarial projections, we recommend, at a minimum, capturing individual claim characteristics and amounts and dates of payments, amounts and dates of estimated reserve amounts, amounts and dates of other expense and attorney fee payments, incident date, report date and closed date. We will provide an expanded letter to the State regarding this topic within two weeks.
5. Because of the inherent variability in these estimates and because of the limited data base available, we recommend annual updates in estimating ultimate amounts and reserves.

## Methodology

Our approach for this study was to group claims into two categories: Property damage liability and bodily injury liability. Loss amounts (payments and incurred amounts) were grouped by accident year developed as of June 30, 1984. Loss payments, attorney fees and other expenses were each grouped by fiscal year end. Reported claims, grouped by property damage and bodily injury, were summarized for each Accident Year developed as of June 30 through June 30, 1984.

Ultimate economic loss amounts were estimated using the historical experience of the State of Montana. In addition, data from other sources was used where deemed appropriate. Actuarial techniques employed consisted of payments development, incurred development, reported claim development, average claim cost and development of a size-of-loss distribution.

As the State's historical experience is largely based on liability for economic loss only, we had to adjust our ultimate amounts to include the liability for noneconomic damages. Based on data from other sources such as Closed Claim Surveys, and using our best judgement, we applied factors to adjust estimated ultimate economic loss to total loss for bodily injury claims as shown on Exhibit 3. We made this adjustment only to bodily injury ultimate amounts as we determined that a similar adjustment for property damage claims would be negligible.

## Data

The data used in the study was the actual experience of the Self-Insurance Fund as provided by the Insurance and Legal Division. This data was supplemented by data from other sources. Data utilized was not audited by Coopers & Lybrand.

Data provided consisted of the Division's Register of Accident/ Incident Reports for Self-Insurance and a payments of record as of June 30, 1984. Information was also provided by the Division's staff and gathered by reviewing selected claim files.

Throughout this study we have combined individual claims together and have made estimates using the grouped data only. We have not estimated ultimate amounts on individual claims.

## Assumptions

We have used a number of assumptions in this study for estimating ultimate loss amounts. These assumptions are as follows:

1. Historical reported claim development patterns in the fund are reasonable estimates of future reported claim development.
2. The estimated size-of-loss distribution for accident year 1979 can be approximated using the average of reported claims for accident years 1977-1978 through 1980-1981 and the estimated size-of-loss experience from other sources may be used as a guide.
3. Incurred loss development factors and increased limits tables for several general liability sublines can be used as a guide in projecting ultimate costs.
4. The ratio of calendar year expense and attorneys fees payments to loss payments may be used as a reasonable estimate of the ultimate ratio.
5. +11% per annum and +13% per annum is a reasonable rate of change in average cost per occurrence for property damage and bodily injury claims, respectively.
6. Several industry studies relating economic and noneconomic damage and costs can be used as a basis for estimating noneconomic costs, subject to inherent variability.
7. A 10% per annum interest rate was assumed based on current interest earnings of the fund.
8. An estimated "typical" payments pattern based on data from other sources can be used to approximate interest earnings in the future.

Our estimates would vary to the extent these assumptions would change.

Estimated Ultimate Losses and Adjustment Expenses and Reserves - Exhibit 1

Exhibit 1 sets forth a comparison of our estimate of ultimate liabilities of the Self-Insurance Fund versus the State's estimate as of June 30, 1984. We estimate an expected reserve of approximately \$19.8 million while the fund balance is currently \$8.6 million. This translates to an estimated reserve deficiency of approximately \$11.2 million. This estimate does not reflect investment income earned on reserves.

Property Damage Liability - Exhibits 2, 8-15

Exhibits 2 and 8 through 15 set forth our analysis of property damage liability claims. Exhibit 2 summarizes ultimate loss amounts and loss reserves for each accident year. Exhibits 8-11 estimate ultimate reported claims for each accident year. Exhibits 12-15 provide a basis for estimating ultimate loss amounts.

Exhibit 2 shows estimate ultimate loss for each accident year based on development methods (Column 1) and on size-of-loss estimates (Column 2). Column 3 sets forth our selected estimates. Column 5 is the estimated loss reserves as of June 30, 1984 which is calculated as ultimate loss (Column 3) loss payments as of June 30, 1984 (Column 4).

Exhibits 8-11 present the basis for estimating ultimate counts. Incremental counts (Exhibit 8) were cumulated (Exhibit 9) and development factors were calculated and selected using historical factors as a guide (Exhibit 10). The estimated ultimate claims for each accident year are shown on Exhibit 11.

Size-of-loss distributions of property damage liability claims are shown on Exhibits 12 and 13. Exhibit 12 shows claims for each accident year by size-of-loss category reported through June 30, 1984. On Exhibit 13 we have estimated the ultimate distribution of claims for Accident Year 1979. To estimate this distribution, we reviewed Accident Year 1977-1978 through 1980-1981 on Exhibit 12 and the ultimate estimates for these same years shown on Exhibit 15.

Exhibit 14 sets forth estimates of ultimate loss for each accident year using ultimate counts from Exhibit 10 and the average loss shown on Exhibit 13 trended +11% per annum. This estimate was selected using data from other sources as a guide. These estimates are also summarized on Exhibit 2, Column 2.

An ultimate estimate based on development was calculated on Exhibit 15 using both paid and incurred development factors. These development factors are multiplied to cumulative amounts as of June 30, 1984 and produce ultimate estimates of payments and incurred amounts. Selected estimates are shown in Column 7 and on Exhibit 2, Column 1. Development factors were selected using data from other sources.

### Bodily Injury Liability - Exhibits 3, 16-23

Exhibits 3 and 16 through 23 present our analysis of bodily injury liability claims. Exhibit 3 summarizes ultimate loss amounts and reserves for each accident year. Exhibits 16-19 estimate ultimate counts for each accident year and Exhibits 20-23 provide the basis for estimating ultimate economic loss amounts.

On Exhibit 3 is shown our estimate of ultimate loss (Column 5) and the estimated reserves (Column 7) for each accident year. Again, ultimate economic loss amounts (Column 3) were selected based on estimates using the development method (Column 1) and the size-of-loss method (Column 2). Then a factor (Column 4) was selected for each accident year to adjust for noneconomic damages to arrive at our estimated ultimate loss. This factor, was developed after comparing economic and total losses from several studies.

Ultimate reported counts are shown on Exhibit 19. Ultimates were selected using the historical experience set forth on Exhibits 16 through 18.

Ultimate economic loss amounts on Exhibit 22 were calculated using both ultimate counts and average economic loss. Average economic loss was selected based on the ultimate size-of-loss distribution for Accident Year 1979 (Exhibit 21) trend +13% per annum. The size-of-loss distribution was constructed after reviewing the reported distribution of claims for each accident year (Exhibit 20) and the average estimates for Accident years 1977-1978 through 1980-1981 shown on Exhibit 22, Column 9.

Estimated ultimate economic loss based on paid and incurred development is displayed on Exhibit 23. Cumulative amounts in Columns 1 and 2 were multiplied by selected development factors (Column 3 and 4) to produce ultimates in Columns 5 and 6. We then selected ultimates in Column 7. Development factors were based on data from other sources.

### Estimated Ultimate Adjustment Expenses - Exhibit 4

Because adjustment expenses were unavailable by accident year, we were unable to compare adjustment expenses to loss by accident year as we used in our prior report.

The approach selected as to compare adjustment expenses to loss payments for each fiscal year. Exhibit 4 sets forth loss payments, other expenses and attorney fees for each fiscal year and the ratio of other expenses to loss and attorney fees to loss. The total ratio to date is .296 (other expense - .064, attorney fees - .232). Because we expect an increase in this ratio as claims mature and new claims are reported, we selected an ultimate ratio of adjustment expense to loss of .325. This estimate, which is subject to a great deal of variability, is shown in Exhibit 1, Row 2.

#### Estimated Interest Income To Be Earned - Exhibit 5

Exhibit 5 shows the calculation of interest income on the reserves as of June 30, 1984. Interest is earned through June 30, 1991 which is the estimated payment period.

This exhibit shows beginning reserves of approximately \$19.8 million. As of June 30, 1985, we estimate a reserve of approximately \$15.8 million. This assumes payments during the year of approximately \$5.7 million and interest income of approximately \$1.7 million earned at a 10% rate per annum. We have assumed the payments occurred as of December 30. This same calculation is continued through June 30, 1991.

The assumed payment pattern is based on liability payments from other similar data sources. Because of the lack of an appropriate payments data source for the State, we have substituted this assumed payment pattern. We believe this substitute provides a reasonable estimate of future interest earned.

#### Runoff of 6/30/84 Reserves With Funding at Present Value of Future Payments - Exhibit 6

Exhibit 6 shows the present value of future expected payments of \$19.8 million to be approximately \$16.1 million assuming a 10% per annum interest rate. The same assumptions made in the previous exhibit are also used here. This exhibit illustrates the runoff of these reserves to accident year 1990-1991.

#### Estimated Variability Around Expected Reserves - Exhibit 7

Exhibit 7 sets forth the probability distribution of expected reserves, shown as the probability that the total actual future payments on incurred claims should not exceed various indicated totals shown in Column 2. These estimates, developed using a Coopers & Lybrand model, display amounts at various probabilities: .50, .75, .90, .95., .99. Thus, a .99 probability translates to a 1% chance that estimated future payments will exceed \$26.7 million. These reserve amounts do not reflect the present value of future payments or investment income earned on reserves.



STATE OF MONTANA  
ESTIMATED ULTIMATE LOSSES AND ADJUSTMENT EXPENSES AND RESERVES  
Property Damage and Bodily Injury Claims

(1)	Estimated Ultimate Expected Loss	\$18.05 million
	A. Property Damage Claims	2.61 million
	B. Bodily Injury Claims	15.44 million
(2)	Estimated Ultimate Expenses and Attorneys Fees (1) x .325	\$ 5.87 million
(3)	Estimated Payments as of June 30, 1984	\$ 3.20 million
	A. Property Damage Claims	.76 million
	B. Bodily Injury Claims	2.44 million
(4)	Estimated Expenses and Attorneys Fees Payments as of June 30, 1984	\$ 942 thousand
(5)	Estimated Expected Reserves as of June 30, 1984	\$19.77 million
	A. Property Damage Claims (1A)-(3B)	1.85 million
	B. Bodily Injury Claims (1B)-(3B)	12.99 million
	C. Expenses and Attorneys Fees (2) - (4)	4.93 million
(6)	State of Montana's Reserve "Accounts 06511 and 06532" as of June 30, 1984 (estimated)	\$8.58 million
(7)	Estimated Reserve Redundancy (+) or Deficiency (-) (6)-(5)	-\$11.19 million

Note:

1. These estimates were not adjusted to reflect interest income.

STATE OF MONTANA  
ESTIMATED ULTIMATE LOSSES  
Property Damage Claims

<u>Accident Year</u>	<u>Estimated Ultimate Loss</u>		
	<u>Based on Development (1)</u>	<u>Based on Size-of-Loss Projection (2)</u>	<u>Selected (3)</u>
1977-1978	\$140.0	\$ 260.4	\$ 140.0
1978-1979	168.0	284.1	170 0
1979-1980	660.0	407.8	675.0
1980-1981	250.0	301.8	275.0
1981-1982	-	281.4	275.0
1982-1983	-	349.5	350.0
1983-1984	-	<u>734.6</u>	<u>725.0</u>
Total		\$2,619.6	\$2,610.0

<u>Accident Year</u>	<u>Payments as of 6/30/84 (4)</u>	<u>Estimated Reserves as of 6/30/84 (3) - (4) (5)</u>
1977-1978	\$101.2	\$ 38.8
1978-1979	152.0	18.0
1979-1980	459.1	215.9
1980-1981	11.1	263.9
1981-1982	17.7	257.3
1982-1983	11.0	339.0
1983-1984	<u>5.8</u>	<u>719.2</u>
Total	\$757.9	\$1,852.1

Notes:

1. The estimates in Column (1) are from Exhibit 15 and the estimates in Column (2) are from Exhibit 14.
2. Amounts are in thousands of dollars.

STATE OF MONTANA  
ESTIMATED ULTIMATE LOSSES  
Bodily Injury Claims

Accident Year	Estimated Ultimate Economic Loss			Factor to Adjust Economic to Total Loss (4)
	Based on Development (1)	Based on Size-of-Loss Projection (2)	Selected (3)	
1977-1978	\$ 350.0	\$ 860.8	\$ 700.0	1.00
1978-1979	640.0	895.9	750.0	1.00
1979-1980	1,300.0	1,302.1	1,300.0	1.05
1980-1981	1,500.0	1,046.3	1,300.0	1.10
1981-1982	2,000.0	2,253.8	2,200.0	1.20
1982-1983	1,600.0	3,298.4	3,000.0	1.40
1983-1984	-	2,972.2	2,900.0	1.50
Total		\$12,655.1	\$12,150.0	

Accident Year	Estimated Ultimate Loss (3) x (4) (5)	Payments as of 6/30/84 (6)	Estimated Reserves as of 6/30/84 (5) - (6) (7)
1977-1978	\$ 700.0	\$ 210.1	\$ 489.9
1978-1979	750.0	372.1	377.9
1979-1980	1,365.0	923.0	442.0
1980-1981	1,430.0	373.1	1,056.9
1981-1982	2,640.0	420.1	2,219.9
1982-1983	4,200.0	141.2	4,058.8
1983-1984	4,350.0	4.9	4,345.1
Total	\$15,435.0	\$2,444.5	\$12,990.5

Note:

1. The estimates in Column (1) are from Exhibit 23 and the estimates in Column (2) are from Exhibit 22.
2. Amounts are in thousands of dollars.

STATE OF MONTANA  
ESTIMATED ULTIMATE ADJUSTMENT EXPENSES  
Property Damage and Bodily Injury Claims

<u>Fiscal Year</u>	<u>Loss (1)</u>	<u>Expenses (2)</u>	<u>Ratio of Expenses to Loss (2)/(1) (3)</u>	<u>Attorneys Fees (4)</u>	<u>Ratio of Attorneys Fees to Loss (4)/(1) (5)</u>
1978	\$ 3,057	\$ 25,023	8.185	\$ 7,957	2.603
1979	19,058	555	.029	11,999	.630
1980	10,584	3,806	.360	57,531	5.436
1981	133,755	10,201	.076	80,309	.600
1982	616,304	39,350	.064	142,190	.231
1983	1,270,785	55,626	.044	164,465	.129
1984	1,135,706	67,995	.060	274,836	.242
Total	\$3,189,249	\$202,556	.064	\$739,287	.232

Selected Factor: 0.325

STATE OF MONTANA  
ESTIMATED INTEREST INCOME TO BE EARNED  
Property Damage and Bodily Injury Claims

Accident Year	Reserves as of 6/30/84	Estimated Annual Payments as of June 30						
		1985	1986	1987	1988	1989	1990	1991
1977-1978	\$ 704.3	\$ 704.3						
1978-1979	527.4	351.6	\$ 175.8					
1979-1980	876.4	350.6	350.6	\$ 175.2				
1980-1981	1,759.5	659.8	439.9	439.9	\$ 219.9			
1981-1982	3,300.0	900.0	900.0	600.0	600.0	\$ 300.0		
1982-1983	5,858.5	1,562.3	1,171.7	1,171.7	781.1	781.1	\$ 390.6	
1983-1984	6,746.4	1,124.4	1,499.2	1,124.4	1,124.4	749.6	749.6	\$ 374.8
Total	\$19,772.5	\$ 5,653.0	\$ 4,537.2	\$ 3,511.2	\$ 2,725.4	\$1,830.7	\$1,140.2	\$ 374.8
Beginning Reserves		\$19,772.5	\$15,820.8	\$12,644.2	10,226.0	\$8,390.2	\$7,309.2	6,844.3
Less Payments		5,653.0	4,537.2	3,511.2	2,725.4	1,830.7	1,140.2	374.8
Plus Interest Income		1,701.3	1,360.6	1,093.0	889.6	749.7	675.3	666.1
Ending Reserves		\$15,820.8	\$12,644.2	\$10,266.0	\$ 8,390.2	\$7,309.2	\$6,847.3	\$7,135.6

Note:

- The assumed payments pattern used in the calculation above was based on data from other sources.
 

0-12 months	10%
12-24 months	15%
24-36 months	20%
36-48 months	15%
48-60 months	15%
60-72 months	10%
72-84 months	10%
84-96 months	5%
- The calculation assumes a 10% interest rate per annum and that payments are made at the midpoint of each year.
- Amounts are in thousands of dollars.

STATE OF MONTANA  
RUNOFF OF 6/30/84 RESERVES WITH FUNDING AT PRESENT VALUE  
OF FUTURE EXPECTED PAYMENTS  
Property Damage and Bodily Injury Claims

	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
Beginning reserves	16,110.8	11,793.0	8,213.6	5,352.4	3,029.2	1,412.1	357.5
Less payments	5,653.0	4,537.2	3,511.2	2,725.4	1,830.7	1,140.2	374.8
Plus interest income	1,335.2	957.8	650.0	402.2	213.6	85.6	17.3
Ending reserves	11,793.0	8,213.6	5,352.4	3,029.2	1,412.1	357.5	0

Note:

1. Amounts are in thousands of dollars.
2. Accident year ends June 30.
3. Beginning reserves (1985) are as of June 30, 1984.

STATE OF MONTANA  
ESTIMATED VARIABILITY AROUND EXPECTED RESERVES  
Property Damage and Bodily Injury Claims

Probability that Actual Should Not Exceed Indicated Total (1)	<u>Indicated Total</u> (2)
.99	\$26.69 million
.95	24.45
.90	23.30
.75	21.50
.50	19.64
Average	\$19.77 million

Note:

1. These variability estimates were developed using a Coopers & Lybrand's model.

STATE OF MONTANA  
Number of Reported Claims  
Property Damage Claims

Accident Year	Months of Development					
-----	12	24	36	48	60	72
	--	--	--	--	--	--
1978	39	10	4	4	2	
1979	43	11	2	1	1	
1980	60	8	4	3		
1981	30	12	5	2		
1982	24	12	4			
1983	32	9				
1984	64					

Note:

1. Accident year ends June 30.



STATE OF MONTANA  
Cumulative Reported Claims  
Property Damage Claims

Accident Year	Months of Development						
	12	24	36	48	60	72	84
-----	--	--	--	--	--	--	--
1978	39	49	53	57	59	59	59
1979	43	54	56	57	58	58	
1980	60	68	72	75	75		
1981	30	42	47	49			
1982	24	36	40				
1983	32	41					
1984	64						

Note:

1. Accident year ends June 30.

STATE OF MONTANA  
Reported Claim Development  
Property Damage Claims

Accident Year	Months of Development					
	12	24	36	48	60	72
-----	--	--	--	--	--	--
1978	1.256	1.082	1.075	1.035	1.000	1.000
1979	1.256	1.037	1.018	1.018	1.000	
1980	1.133	1.059	1.042	1.000		
1981	1.400	1.119	1.043			
1982	1.500	1.111				
1983	1.281					
1984						
Average	1.304	1.082	1.044	1.018	1.000	1.000
Weighted Average	1.331	1.091	1.041	1.012	1.000	1.000
3 Year Average	1.394	1.096	1.034	1.018	1.000	1.000
Linear Trend						
Slope	0.032	0.014	-0.007	-0.018	0.000	
Intercept	1.192	1.039	1.063	1.053	1.000	
R2	0.220	0.416	0.167	1.000	0.000	
Projected	1.417	1.124	1.026	0.982	1.000	
Exponential Curve						
Slope %	2.436	1.307	-0.699	-1.710	0.000	
Intercept	1.194	1.040	1.063	1.053	1.000	
R2	0.214	0.411	0.161	1.000	0.000	
Projected	1.413	1.124	1.026	0.983	1.000	
Selected	<u>1.200</u>	<u>1.090</u>	<u>1.040</u>	<u>1.015</u>	<u>1.005</u>	<u>1.000</u>
						<u>1.000</u>

Note:

1. Accident year ends June 30.

STATE OF MONTANA  
 Ultimate Claims Based on Reported Claim Development  
 Property Damage Claims

Accident Year =====	Cumulative Reported Claims =====	Selected Development Factor =====	Cumulative Development Factor =====	Ultimate Claims (1)X(3) =====
	(1)	(2)	(3)	(4)
1978	59	1.000	1.000	59
1979	58	1.000	1.000	58
1980	75	1.005	1.005	75
1981	49	1.015	1.020	50
1982	40	1.040	1.061	42
1983	41	1.090	1.156	47
1984	64	1.200	1.388	89
Total	386			420

Note:

1. Accident year ends June 30.

STATE OF MONTANA  
REPORTED CLAIMS ARRANGED BY SIZE-OF-LOSS CATEGORY

Property Damage Claims

Size-of-Loss Category	Number of Claims Accident Year						
	1977-1978	1978-1979	1979-1980	1980-1981	1981-1982	1982-1983	1983-
\$ 0	33	45	48	32	25	19	2
1-500	17	4	10	5	7	12	19
501-1,000	2	2	4	2	3	5	1
1,001-2,500	1	1	5	0	1	3	1
2,501-5,000	3	1	3	6	4	2	0
5,001-10,000	0	2	1	0	0	0	0
10,001-25,000	1	1	1	1	0	0	0
25,001-50,000	1	0	0	2	0	0	0
50,001+	<u>1</u>	<u>2</u>	<u>3</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>59</u>	<u>58</u>	<u>75</u>	<u>49</u>	<u>40</u>	<u>41</u>	<u>2</u>

Size-of-Loss Category	Number of Claims as Ratio of Total Accident Year						
	1977-1978	1978-1979	1979-1980	1980-1981	1981-1982	1982-1983	1983-
\$ 0	.56	.78	.64	.65	.63	.46	.6
1-500	.29	.06	.13	.11	.17	.30	.29
501-1,000	.03	.04	.06	.04	.08	.12	.02
1,001-2,500	.02	.02	.06	.00	.02	.07	.1
2,501-5,000	.05	.01	.04	.12	.10	.05	.00
5,001-10,000	.00	.04	.02	.00	.00	.00	.0
10,001-25,000	.02	.02	.01	.02	.00	.00	.00
25,001-50,000	.01	.00	.00	.04	.00	.00	.2
50,001+	<u>.02</u>	<u>.03</u>	<u>.04</u>	<u>.02</u>	<u>.00</u>	<u>.00</u>	<u>.02</u>
Total	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>

Note:

1. Reported claims are estimated as of June 30, 1984.

STATE OF MONTANA  
ESTIMATED SIZE-OF-LOSS DISTRIBUTION  
FOR ACCIDENT YEAR 1979

Property Damage Claims

<u>Size-of- Loss Category</u>	<u>Estimated Percentage (1)</u>	<u>Estimated Average Loss (2)</u>
\$ 0	66.5%	\$ 0
1-1,000	18.0	300
1,001-5,000	7.5	2,600
5,001-10,000	2.0	6,700
10,001-25,000	2.0	14,500
25,001-50,000	1.5	32,500
50,001+	2.5	160,000
Total	100.0%	-
Average	-	\$ 5,161

Note:

1. The distribution was estimated using the reported distributions for accident years 1977-1978 through 1980-1981, estimated development factors and data from other sources.

STATE OF MONTANA  
ESTIMATED ULTIMATE LOSS BASED ON SIZE-OF-LOSS DISTRIBUTION  
Property Damage Claims

<u>Accident Year</u>	<u>Estimated Average Loss</u> (1)	<u>Estimated Ultimate Number of Claims</u> (2)	<u>Estimated Ultimate Loss (1) x (2)</u> (3)
1977-1978	\$4,413	59	\$260,367
1978-1979	4,899	58	284,142
1979-1980	5,437	75	407,775
1980-1981	6,035	50	301,750
1981-1982	6,699	42	281,358
1982-1983	7,436	47	349,492
1983-1984	8,254	89	734,606

Note:

1. The estimated average loss amounts in Column (1) were developed from the accident year 1979 estimate on Exhibit 11, trended an estimated 11% per annum.

STATE OF MONTANA  
ESTIMATED ULTIMATE LOSS BASED ON PAID AND INCURRED DEVELOPMENT  
Property Damage Claims

Accident Year	Months of Development	Payments (1)	Losses Incurred (2)	Selected Paid Factor To Ultimate (3)	Selected and Incurred Factor To Ultimate (4)	Estimated Ultimate Loss (1)x(3) (5)	Estimated Ultimate Loss (2)x(4) (6)	Selected Ultimate Loss (7)	Estimated Ultimate Number Of Claims (8)	Average Loss (7)/(8) (9)
1977-1978	84	\$101.2	\$136.2	1.07	1.02	\$108.3	138.9	140.0	59	\$2,373
1978-1979	72	152.0	162.0	1.08	1.04	164.2	168.5	168.0	58	2,897
1979-1980	60	459.1	600.6	1.12	1.09	514.2	654.6	660.0	75	8,800
1980-1981	48	11.1	209.1	-	1.14	-	238.4	250.0	50	5,000
1977-1981	-	723.4	1,107.9	-	-	-	1,200.4	1,218.0	242	5,033
1981-1982	36	17.7	20.3	-	-	-	-	-	42	-
1982-1983	24	11.0	20.0	-	-	-	-	-	47	-
1983-1984	12	5.8	56.0	-	-	-	-	-	89	-

Note:

1. Payments in Column (1) and Incurred amounts (Column 2) are developed through June 30, 1984.
2. Amounts in Columns (1), (2), (5), (6), and (7) are in thousands of dollars.

STATE OF MONTANA  
Number of Reported Claims  
Bodily Injury Claims

Accident Year	Months of Development					
	12	24	36	48	60	72
-----	--	--	--	--	--	--
1978	14	9	8	4	3	
1979	9	9	1	9	4	2
1980	16	11	8	8		
1981	9	6	5	9		
1982	17	14	10			
1983	22	18				
1984	18					

Note:

1. Accident year ends June 30.



STATE OF MONTANA  
Cumulative Reported Claims  
Bodily Injury Claims

Accident Year	Months of Development						
	12	24	36	48	60	72	84
-----	--	--	--	--	--	--	--
1978	14	23	31	35	38	38	38
1979	9	18	19	28	32	34	
1980	16	27	35	43	43		
1981	9	15	20	29			
1982	17	31	41				
1983	22	40					
1984	18						

Note:

1. Accident year ends June 30.

STATE OF MONTANA  
Reported Claim Development  
Bodily Injury Claims

Accident Year	Months of Development					
	12	24	36	48	60	72
-----	--	--	--	--	--	--
1978	1.643	1.348	1.129	1.086	1.000	1.000
1979	2.000	1.056	1.474	1.143	1.063	
1980	1.688	1.296	1.229	1.000		
1981	1.667	1.333	1.450			
1982	1.824	1.323				
1983	1.818					
1984						
Average	1.773	1.271	1.320	1.076	1.031	1.000
Weighted Average	1.781	1.286	1.356	1.062	1.042	1.000
1 Year Average	1.818	1.323	1.450	1.000	1.063	1.000
Linear Trend						
Slope	0.009	0.023	0.072	-0.043	0.063	
Intercept	1.740	1.203	1.141	1.162	0.938	
R2	0.017	0.087	0.302	0.355	1.000	
Projected	1.806	1.339	1.500	0.990	1.125	
Exponential Curve						
Slope %	0.623	1.977	5.852	-4.029	6.250	
Intercept	1.731	1.194	1.138	1.167	0.941	
R2	0.024	0.091	0.321	0.373	1.000	
Projected	1.808	1.343	1.513	0.990	1.129	
Selected	<u>1.775</u>	<u>1.320</u>	<u>1.340</u>	<u>1.060</u>	<u>1.030</u>	<u>1.010</u>

Note:

1. Accident year ends June 30.

STATE OF MONTANA  
 Ultimate Claims Based on Reported Claim Development  
 Bodily Injury Claims

Accident Year =====	Cumulative Reported Claims =====	Selected Development Factor =====	Cumulative Development Factor =====	Ultimate Claims (1)X(3) =====
	(1)	(2)	(3)	(4)
1978	38	1.010	1.010	38
1979	34	1.010	1.020	35
1980	43	1.030	1.051	45
1981	29	1.060	1.114	32
1982	41	1.340	1.492	61
1983	40	1.320	1.970	79
1984	18	1.775	3.497	63
Total	243			353

Note:

1. Accident year ends June 30.

STATE OF MONTANA  
REPORTED CLAIMS ARRANGED BY SIZE-OF-LOSS CATEGORY

Bodily Injury Claims

Size-of-Loss Category	Number of Claims Accident Year						
	1977-1978	1978-1979	1979-1980	1980-1981	1981-1982	1982-1983	1983-1984
\$ 0	18	15	17	9	20	15	8
1-1,000	3	2	4	4	5	5	3
1,001-2,500	5	0	2	2	2	3	0
2,501-5,000	2	5	4	1	1	4	3
5,001-10,000	1	2	7	3	2	3	0
10,001-25,000	3	4	2	2	3	4	1
25,001-50,000	5	3	3	2	1	1	2
50,001-100,000	1	1	1	3	5	5	0
100,001+	<u>0</u>	<u>2</u>	<u>3</u>	<u>3</u>	<u>2</u>	<u>0</u>	<u>0</u>
Total	<u>38</u>	<u>34</u>	<u>43</u>	<u>29</u>	<u>41</u>	<u>40</u>	<u>18</u>

Size-of-Loss Category	Number of Claims as Ratio to Total Accident Year						
	1977-1978	1978-1979	1979-1980	1980-1981	1981-1982	1982-1983	1983-1984
\$ 0	.47	.44	.40	.31	.49	.38	.44
1-1,000	.08	.06	.09	.14	.12	.12	.17
1,001-2,500	.13	.00	.04	.07	.05	.08	.00
2,501-5,000	.06	.15	.10	.03	.02	.10	.17
5,001-10,000	.02	.06	.16	.11	.05	.07	.00
10,001-25,000	.08	.11	.05	.06	.07	.10	.05
25,001-50,000	.13	.09	.07	.07	.03	.03	.11
50,001-100,000	.03	.03	.02	.11	.12	.12	.00
100,001+	<u>.00</u>	<u>.06</u>	<u>.07</u>	<u>.10</u>	<u>.05</u>	<u>.00</u>	<u>.06</u>
Total	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>

Note:

1. Reported claims are estimated as of June 30, 1984.

STATE OF MONTANA  
ESTIMATED SIZE-OF-LOSS DISTRIBUTION  
FOR ACCIDENT YEAR 1979

Bodily Injury Claims

<u>Size-of-Loss Category</u>	<u>Estimated Percentage (1)</u>	<u>Estimated Average Economic Cost (2)</u>
\$ 0	41.5%	\$ 0
1-1,000	10.0	300
1,001-5,000	13.0	2,800
5,001-10,000	8.0	6,900
10,001-25,000	8.0	15,000
25,001-50,000	8.0	34,000
50,001-100,000	5.0	70,000
100,001+	6.5	290,000
Total	100.0%	-
Average	-	\$ 27,216

Note:

1. The distribution was estimated using the reported distributions in accident years 1977-1978 through 1981-1982, estimated development factors and data from other sources.

STATE OF MONTANA  
ESTIMATED ULTIMATE ECONOMIC LOSS BASED ON SIZE-OF-LOSS DISTRIBUTION  
Bodily Injury Claims

<u>Accident Year</u>	<u>Estimated Average Economic Loss</u> (1)	<u>Estimated Ultimate Number of Claims</u> (2)	<u>Estimated Ultimate Economic Loss (1) x (2)</u> (3)
1977-1978	\$22,653	38	\$ 860,814
1978-1979	25,598	35	895,930
1979-1980	28,936	45	1,302,120
1980-1981	32,698	32	1,046,336
1981-1982	36,948	61	2,253,828
1982-1983	41,752	79	3,298,408
1983-1984	47,179	63	2,972,277

Note:

1. The estimated average loss amounts in Column (1) were developed from the accident year 1979 estimate on Exhibit 17 trended an estimated 13% per annum.

STATE OF MONTANA  
ESTIMATED ULTIMATE ECONOMIC LOSS BASED ON PAID AND INCURRED LOSS DEVELOPMENT  
Bodily Injury Claims

Accident Year	Months of Development	Payments (1)	Losses Incurred (2)	Selected Paid Factor To Ultimate (3)	Selected and Incurred Factor To Ultimate (4)	Estimated Ultimate Economic Loss (1)x(3) (5)	Estimated Ultimate Economic Loss (2)x(6) (6)	Selected Ultimate Economic Loss (7)	Estimated Ultimate Number Of Claims (8)	Average Economic Loss (7)/(8) (9)
1977-1978	84	\$210.1	\$ 337.1	1.15	1.08	\$ 241.6	\$ 364.1	\$ 350.0	38	\$ 9,211
1978-1979	72	372.1	589.2	1.25	1.13	465.1	665.8	640.0	35	18,286
1979-1980	60	923.0	1,031.5	1.45	1.18	1,338.4	1,217.2	1,300.0	45	28,888
1980-1981	48	373.1	1,212.6	2.00	1.30	746.2	1,575.7	1,500.0	32	46,875
1981-1982	36	420.1	1,382.1	3.25	1.70	1,365.3	2,349.6	2,000.0	61	32,787
1977-1982	-	2,298.4	4,552.5	-	-	4,156.6	6,172.4	5,790.0	211	27,441
1982-1983	24	141.2	633.0	-	2.50	-	1,582.5	1,600.0	79	20,253
1983-1984	12	4.9	442.4	-	-	-	-	-	63	-

**Note:**

1. Payments in Column (1) and incurred amounts (Column 2) are developed through June 30, 1984.
2. Amounts in Columns (1), (2) and (4), (5), (6) and (7) are in thousands of dollars.



# Montana Association Of Conservation Districts

Exhibit C  
3/26/86 HB 7  
Power Block  
Bldg. Suite 4G  
Sixth and Last Chance  
Helena, Montana 59601  
Ph. 406-443-5711

HB7

Mr. Chairman and members of the Committee, my name is Debi Brammer and I represent the Montana Association of Conservation Districts.

Although there has not been a significant liability suit impact in the Conservation Districts within Montana, the liability threat is becoming a very large concern of most of our supervisors. Each Conservation District has five to seven supervisors who serve basically on a volunteer basis. There are, in many cases, farmers, ranchers, and or professionals who are deeply concerned with losing their <sup>positions</sup> and or livelihoods. An increasing amount of demands are being placed upon Conservation Districts and their supervisors by federal, state and local laws. This, along with the public's demands on soil and water resources put demands on supervisors that require personal and professional judgments. Basically, our supervisors feel that the demands put on them in their voluntary capacity creates needs for liability protection. Many of our supervisors are considering resigning due directly to the increasing threat of liability suits. We feel that this is a valuable human resource that has helped protect the soil and water resources of Montana Since the 1930's, and that it would be devastating to the state if it were lost. We urge your support of House Bill Number Seven.

Thank you.

Debi Brammer  
Executive Vice President  
Montana Association of Conservation Districts





**School Administrators of Montana**  
**515 North Sanders**  
**Helena, MT 59601-4597**  
**(406) 442-2510**

Exhibit D  
3/26/86  
HB 7  
Jesse Long

March 26, 1986

TO: Chairman Tom Hannah  
House Judiciary Committee

FROM: School Administrators of Montana

RE: House Bill No. 7

The School Administrators of Montana are in support of HB 7 to submit a Constitutional Amendment to the people of Montana to allow the Legislature to set limits for liability recovery from governmental entities.

School districts' liability insurance costs have escalated in the past five years. Premiums have increased between 5% to 500% from 1981-82 school year and the 1985-86 school year.

School Administrators of Montana did a "quicky" survey of school districts in Montana. Seventy (70) districts responded. Eleven (11) of the schools were dropped or denied coverage by an insurance company. The reasons given:

- the company no longer had the capacity.
- the company determined a high frequency of claims.
- the company quit writing the coverage.
- the company determined possible exposure to asbestos.
- the premiums were not commensurate with the exposure.
- the company ceased writing business in Montana.
- the company cancelled because 2 buildings were vacant.
- the company had excessive claims in Montana.

In the handout are some suggested solutions, several probably won't set too well.

School districts have always attempted to create a safe environment for both students and the people employed with the budgets available.

Once again School Administrators of Montana are in support of HB 7.



School Administrators of Montana

515 North Sanders  
Helena, MT 59601-4597  
(406) 442-2510

February 12, 1986

WHAT'S BEHIND THE CLIMB IN INSURANCE RATES?

Insurance rates have increased sharply in the last year. Jumps of 100% to 200% are being greeted with relief and pleasant surprise. That's because it has become increasingly difficult to find any insurance company that will accept the business at any price.

The problem was created in the industry by deficit loss ratio underwriting by the companies. Until recently, companies were willing to pay more in claims than they received in premiums because they could more than make up the difference by investing the premiums. But as interest rates turned down the companies were left with significant losses. As a result many companies could not write any new business, nor could they continue without restricting their coverages. Undoubtedly the liberal awards granted by the courts has contributed to the wariness of the insurance industry.

In December SAM solicited responses from district superintendents as to what has happened in their school districts with liability insurance rates. Although the responses were somewhat mixed, probably because of the way the questions were constructed, the results are rather interesting.

Of the 70 respondents to the survey, eleven schools were dropped or denied coverage by an insurance company. Some of the reasons given were: the company no longer had the capacity; they determined a high frequency of claims; the company quit writing coverage; the company determined possible exposure to asbestos; the premiums were not commensurate with the exposures; the company ceased writing business in Montana; the company cancelled because two buildings were vacant; and excessive claims on coverages in Montana.

Some suggested solutions to the dilemma are listed here:

- self insurance or organization such as MSBA
- legislation to place punitive damage limits on suits against schools
- state funded coverage
- ban use of contingency fees system by attorneys
- require unsuccessful plaintiffs to pay the defense costs
- require insurers to adopt "consent to use" rules on rating
- return to sovereign immunity for schools
- limit the number of law school graduates to no more than three per law school
- provide a good second reduction for no claims
- legislative review of civil courts
- educate the public as to the consequences of suits to public entities
- form a pre-court judgement board
- do not elect any more liberal, bleeding hearts to the Supreme Court
- eliminate half the lawyers in Montana

*AASA Prof. Liab. cancelled*

*3 yr. contracts cancelled after 1 yr*

General Liability

<u>1981-82</u>	<u>1985-86</u>	<u>Percent Change</u>
12,000	39,200	+ 227%
1,200	2,200	+ 83
46,000	47,700	+ 4
900	3,300	+ 267
8,500	14,700	+ 73
1,400	1,000	- 29
1,300	4,300	+ 231
1,000	1,900	+ 90
450	1,600	+ 256
600	3,000	+ 400
400	600	+ 50
5,300	8,300	+ 57
5,000	8,200	+ 64
2,700	4,500	+ 67
1,100	1,300	+ 18
7,200	20,600	+ 186
600	2,300	+ 283
24,900	40,500	+ 63
27,000	98,900	+ 266
7,000	12,600	+ 80
1,600	4,000	+ 150
13,300	30,300	+ 128
4,800	16,000	+ 233
7,000	14,900	+ 113
5,600	9,500	+ 69
2,500	3,600	+ 44
800	1,000	+ 25
11,300	12,700	+ 12
31,900	48,400	+ 52
5,900	8,900	+ 51
1,100	1,300	+ 18
4,800	7,800	+ 63
1,200	5,000	+ 317
2,700	8,200	+ 204
700	1,600	+ 129
400	2,400	+ 500
6,800	11,400	+ 68
2,500	10,500	+ 320
6,400	9,800	+ 53
900	3,100	+ 244
10,500	14,300	+ 36
16,900	18,500	+ 9
5,000	7,000	+ 40

# HELLGATE ELEMENTARY SCHOOL

DISTRICT NO. 4

2385 FLYNN LANE

MISSOULA, MONTANA 59802

Established in 1869

K-5th PRINCIPAL 721-2160  
6th-8th PRINCIPAL 549-6109

SUPERINTENDENT 728-5626  
BUSINESS OFFICE 728-5626

March 26, 1986

Representative Thomas E. Hannah  
Central Station  
Helena, Montana 59620

Dear Representative Hannah:

Realizing the time was short today for the hearing on House Bill <sup>#7</sup> 5, I felt a need to express my views in writing for future consideration. I expressed that the 700 some odd administrators belonging to the School Administrators of Montana whole-heartedly support HB 5. I would like to add a couple comments that might better express our viewpoint. As chairman of the legislative committee of this group, our committee met and relayed some of the following concerns regarding entering the debate on liability limitations for public agencies.

First and foremost, was that we did not want to misread that they were not responsible for their actions. We wanted to make sure that we had some way to be responsible in protecting our district taxpayers from excessive suits that may jeopardize the stability of the school district.

We want to be responsible to those that are in need of some kind of compensation for mishaps that would arise, but we feel that this compensation needs to be just; and the only way to have this just is to have it reviewed by the legislature from time to time and the limits adjusted to fit the needs of the times.

In being responsible to the taxpayers in our district, we feel that we need to have some kind of limitation that can be set and then we in turn can secure proper insurance to protect the district from excessive financial loss. We feel that once the legislature in their wisdom sets the limit, we will be able to find the proper coverage to protect the taxpayers in our district.

We do not want to debate public and private limitations as a collective item. The reason being that presently we are excluded from some things that the private sector are not. We think it would only be confusing the issue to put them on the same referendum. We fully support HB 5 in setting up a separate referendum for the public to make a decision if they want to limit their exposure through their public agencies which they in turn support with their tax dollars. We also feel the legislature is the forum to determine those limits and review those limits as needed.

We realize the tremendous task and the support for both sides of this issue. Thank you for your time at your committee hearing and for reviewing this followup letter to further express our support of House Bill #5.

  
Donald R. Waldron

Legislative Chairman of  
Montana School Administrators

**Over One Century of Quality Education**

Exhibit F  
3/26/86  
HB 7  
J. Bottomly

INSURANCE CRISIS INFORMATION  
AND REPORTS

FEB 26 1986

PROPERTY AND CASUALTY LIABILITY LOSS REPORT

(REPORTING PERIOD 1981-1985)

COUNTY	CLAIMS PAID	CLAIMS RESERVE	PREMIUMS 1984-85	COUNTY	CLAIMS PAID	CLAIMS RESERVE	PREMIUMS 1984-85
BEAVERHEAD *				MCONE	\$6,497.74	\$0.00	48,299
BIG HORN	\$0.00 (1)	\$0.00	121,409	MERGER	\$0.00	\$0.00	39,113
BLAINE	\$0.00	\$0.00	43,955	MINERAL	\$77,809.00	\$0.00	32,492
BROOKWATER	\$14,852.24	\$0.00	43,476	MISSOULA *			
CARBON *	\$112,000.00	\$0.00	50,749	MUSSELSHELL	\$0.00	\$0.00	27,244
CARTER	\$0.00	\$0.00	2,593	PARK	\$177,840.00	\$0.00	10,671
CASCADE	\$785,659.00	\$161,639.00	364,705	PETROLEUM	\$10,703.00	\$0.00	19,548
CHOUTEAU	\$22,782.00	\$0.00	55,556	PHILLIPS	\$3,475.11	\$0.00	57,130
CLUSTER	\$65,246.81	\$0.00	37,794	PONDERA	\$0.00	\$0.00	49,403
DANIELS	\$0.00 (2)	\$0.00	31,554	PONDER RIVER	\$27,393.79	\$0.00	77,036
DAWSON	\$223,531.00	\$0.00	61,329	PONELL	\$227,133.00	\$0.00	50,014
DEER LODGE	\$13,041.36	\$19,100.00	49,339	PRAIRIE *	\$158,949.21		102,131
FALLON	\$31,198.00	\$102,000.00	50,092	RAVALLI			
FERGUS	\$48,000.00	\$185,000.00	56,800	RICHLAND *			
FLATHEAD	\$114,763.00	\$157,000.00	285,375	ROOSEVELT	\$29,842.00	\$0.00	69,121
GALLATIN	\$17,991.00	\$0.00	192,308	ROSEBUD	\$8,118.00	\$0.00	97,986
GAFFIELD	\$3,509.39	\$0.00	18,477	SANDERS	\$12,900.00	\$0.00	58,254
GLACIER	\$1,800.00	\$0.00	102,665	SHERIDAN	\$66,490.00	\$0.00	80,902
GOLDEN VALLEY	\$2,663.39	\$0.00	21,886	SILVER BOW *			
GRANITE *				STILLWATER	\$49,876.76	\$0.00	68,598
HILL *				SHEET CROSS	\$0.00	\$0.00	38,652
JEFFERSON	\$102,915.00	\$0.00	44,117	TETON	\$17,809.66	\$0.00	38,536
JUDITH BASIN	\$0.00	\$0.00	41,487	TOOLE *			123,403
LAKE	\$76,165.00	\$0.00	44,676	TREASURE	\$0.00	\$0.00	17,220
LEWIS & CLARK	\$0.00	\$0.00	82,168	VALLEY *			
LIBERTY	\$8,792.00	\$0.00	17,115	WHEATLAND *			
LINCOLN	\$419,840.00	\$0.00	65,473	WIBAUX	\$14,684.91	\$0.00	23,071
MADISON	\$9,032.94	\$0.00	47,779	YELLOWSTONE *			
	2,073,782	624,739	1,955,038		889,522	0	1,128,824
				TOTAL	\$2,963,304.31	\$624,739.00	\$3,093,862.00

\* NO RESPONSE

0 NONE REPORTED

(1) Windy Boy civil suit pending

(2) One pending

GOVERNOR'S COUNCIL ON ECONOMIC DEVELOPMENT  
INSURANCE SUBCOMMITTEE

March 24, 1986

MEMORANDUM

TO:       Judiciary Committee  
          Montana House of Representatives

FROM:     Kay Foster, Chairperson

RE:       Referenda on Private and Public Liability Caps

The Insurance Subcommittee of the Governor's Council on Economic Development has held extensive deliberative sessions and has heard a great deal of informed testimony on the crisis related to liability insurance in Montana. While we are not yet in the final stages of preparing specific recommendations on this complex problem, we have arrived at some preliminary conclusions regarding the issues of public and private liability caps.

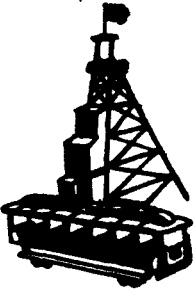
The subcommittee recommends that referenda on giving the Legislature authority to enact both private and public caps be placed before the voters. However, the subcommittee also recommends that the issues be presented as separate referenda items.

These conclusions were reached after hearing the viewpoints of defense and plaintiffs' attorneys, the Montana Trial Lawyers Associations, representatives of the insurance industry, and representatives of the Insurance Commissioner and the Office of the Governor.

Because the insurance crisis is causing such widespread damage to the operations of public and private entities statewide, the legislature must have before it the best range of possible solutions to bring the situation under control. The authority to enact liability caps may prove to be a vital tool in the control process.

Keeping public and private caps separate in presenting referenda to the electorate will allow the clearest presentation of the issues without the cloud of additional legal problems. Sufficient testimony was received to convince the subcommittee that the issues are so inherently different in terms of passing constitutional muster that combining them in one referendum is not advisable.

Please accept this as the subcommittee's formal testimony as part of the legislative process during this special session. Feel free to contact me through the Department of Commerce if we can provide further information.



**Butte Silver Bow**  
**Chamber of Commerce**

March 25, 1986

Montana State Legislature  
Helena, MT 59601

The insurance liability problem has reached crisis proportions for Butte businesses, as well as, the non-profit organizations in our community.

The business liability premiums are soaring. Some businesses are unable to obtain coverage at any price and must go without or close their business. State-wide, this includes hospitals, restaurants, trucking companies, day-care centers and financial institutions, just to name a few.

Figures released on an Insurance liability survey of business people and professionals by the U.S. Chamber of Commerce show 60.3% had difficulty obtaining affordable general liability insurance. 40.7% said that product liability insurance presented problems and 13.2% said the same of professional liability insurance. More than 14% were unable to obtain the type of coverage they needed. 51.3% reported premium increases of more than 100% with almost 10% stating their increase was over 500%.

We understand the causes of the problem are very complex and urge the Montana State Legislature address the conditions in Montana and take a course of action to improve conditions for the private business sector.

Sincerely,

LaDene H. Bowen  
Executive Director  
BUTTE SILVER BOW CHAMBER OF COMMERCE

lhb

---

**Historic Butte**

**Fascinating**

• **Spirited** •

**Resourceful**



# THOMPSON DISTRIBUTING, INC.

Phone 723-6528  
845 So. Wyoming  
Butte, Montana 59701

March 25, 1986

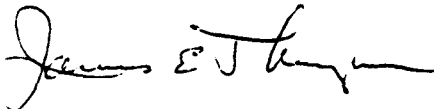
Montana State Legislature  
Helena, Montana 59601

To Whom It May Concern:

I would like to respectfully submit that the current liability crisis in the small business community is at a crisis proportion. We have recently been able to get our insurance placed but at a cost of twice what it cost in 1985. We were cancelled from Home Insurance at the end of the policy in March. We had been with them for 6 years with no claims.

The over all effect of such adverse insurance problems has been such that instead of expanding with one new job this year I have pulled back and will not fill that position. The money available for jobs has been taken in the form of insurance payments.

Respectfully yours,



James E. Thompson  
President

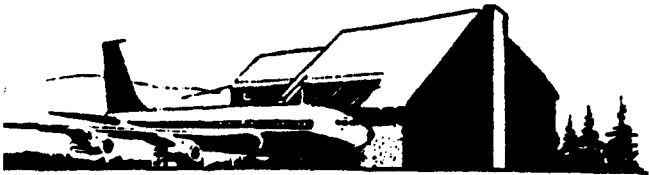
JET/all



ADOLPH COORS CO.—ANHEUSER-BUSCH, INC.



# BERT MOONEY AIRPORT AUTHORITY



MEMBERS:  
Thomas C. Brophy  
Dave Brown  
William Evans  
Keith P. Johnson  
Shag Miller

SECRETARY-MANAGER:  
Angelo Petroni

AIRPORT ATTORNEY:  
Lawrence G. Stimatz

BUTTE, MONTANA 59701  
Phone 406-484-3771

March 25, 1986

Montana State Legislature  
Montana Capitol  
Helena, MT 59601

Dear Legislators:

The Bert Mooney Airport Authority has over the years carried 6 million dollars of liability at a cost of \$4,400.00 per year. Last year the premium was raised to \$9,500.00 and the same coverage for this year was increased to \$27,500.00.


The airport increased the insurance budget to \$14,000.00 to cover anticipated increases for 1986, but the quote for the coverage increased \$13,500.00 more than was budgeted. This increased amount is more than the total repair and maintenance amount budgeted for the airport.

A survey of the past 5 years, losses at the airport revealed three slip and falls being reported. Two of the incidents had no claims turned in and the third resulted in a \$94.00 claim.

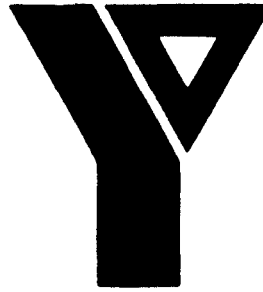
Sincere efforts must be made to correct this inequity.

Yours truly,

BERT MOONEY AIRPORT AUTHORITY

By:   
Angelo Petroni  
Airport Manager

AP/ld



**BUTTE FAMILY YMCA**

405 WEST PARK ST.  
BUTTE, MONTANA 59701

Telephone (406) 782-1266

March 25, 1986

Montana House of Representatives  
State Capital Building  
Helena, Montana

Honorable Representatives,

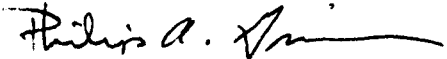
I am writing to you about the current crisis in our state and country created by drastically escalating insurance premiums. These unprecedented increases in insurance rates are affecting non profit organizations just as severely as our business and governmental counterparts. Insurance premiums have always been a major cost to any of us who operate recreational programs and facilities. However, increases like we have experienced within the past year make it increasingly difficult to provide needed programs and properly manage our facilities. At a time when increasing demands are being placed on the private sector to provide social and recreational services, more, not less, financial resources are needed to meet these needs. Diverting funds from programs and services to pay unreasonably priced insurance policies is not in the best interest of the general public, particularly those without the financial means to provide for all of their own necessities.

The insurance premiums for property and liability insurance at our YMCA increased three hundred percent [300%] in 1985. Our insurance broker tells us to expect continued increases during the coming years. Other YMCAs in our state are experiencing similar escalations in their insurance costs. Because of our limited financial resources, we cannot individually "self-insure" like many large businesses and municipalities have done. And it would be unconscionable to try to operate without proper insurance protection. We are looking at the possibility of joining with YMCAs and related agencies throughout the country in some type of group self-insurance program. However, because we are all locally governed and financially autonomous, this will be a difficult and time consuming task. And, I am not sure if collectively we have the financial resources to provide adequate protection for our organizations and potential injured parties. In any event, for the foreseeable future, we must pay the increasing premiums. We can and must pass some of these costs on to our constituents. We can also ask our supporters to increase their charitable giving. Undoubtedly, we will also have to reduce services and defer less immediate expenses to meet our insurance obligations. In the long run, the insurance companies will probably lose our business and the public will have suffered needlessly.

I urge you to examine this issue carefully during your special session. Insurance companies must meet their expenses and obligations and, in the long run, be profitable. However, the principal of fairness must also be applied. Their costs and profits must also be examined to insure that the policy holders are not receiving the brunt of the insurance industry's current problems.

Thank you for your consideration of this important issue and for your service to our great state of Montana.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Philip A. Grimm", with a long, sweeping horizontal line extending to the right.

Philip A. Grimm  
Executive Director

# ROACH AND SMITH DISTRIBUTORS INC.

## WHOLESALE

CIGARS, TOBACCOS, CONFECTIONERY & BAR SUPPLIES

Phone 563-2041 — Anaconda, Montana 59711

March 25, 1986

Montana Legislative Special Session  
Gary Marbut  
Montana Chamber of Commerce  
P. O. Box 1730  
Helena, Montana 59624

Dear Gary,

We have been effected by the current liability crisis dramatically. An example is the increase in insurance premiums.

I am very concerned about our business with the liability crisis at hand. If it were to continue we would not be able to expand our business due to the cost of liability insurance. We could not afford new vehicles or additional inventories. We have increased our deductables, to date as a method of controlling current premiums. I have thought in the past that insurance premiums were too high but now I know we cannot survive in business with anymore insurance premium increases. We are counting on you, personally so as we may continue in business.

Best regards,

  
Joe Markovich





4655 Harrison Avenue South • Butte, Montana 59701 • Telephone 406/494-6666

March 25, 1986

The Montana Legislature  
Capitol Hill Station  
Helena, Montana

Dear Sirs:

The Copper King Inn, located in Butte, Montana, has a business volume of more than \$3,000,000 and employs 125 people year-round. The Copper King Inn is a service business which offers lodging, food and liquor service.

Our annual insurance renewal date is in May for our property and liability coverage, and our workers' compensation policy renews in December. In the past year, we were cancelled by our property and liability carrier and our workers' compensation carrier. A considerable effort was necessary to locate a carrier. Our property and liability policy doubled with the new carrier. In an effort to control costs, we found it necessary to reduce our umbrella policy by two-thirds.

In December our workers' compensation carrier cancelled, and we were able to locate a second carrier with our increase estimated at 15 percent.

At this time, we are approaching our renewal date. There is a great deal of uncertainty as to whether we can find a carrier and coverage at the level we require. Our insurance broker has prepared us for a stiff increase in our umbrella policy and is finding more companies which, because of the recent Supreme Court decision, no longer wish to write a liquor liability policy.

The uncertainty of recent changes in the insurance market has made it difficult to make future plans. We are particularly concerned with the effect of recent court decisions on our liquor liability.

We hope the Legislature will take steps to make our insurance market more manageable.

Sincerely yours,

Douglas G. Smith  
General Manager  
DGS/blf

**MONTANA'S FINEST MOTEL AND LARGEST CONVENTION FACILITY**

For Reservations Call Toll Free 1-800-548-6008 • In Montana Call 1-800-332-8600  
(Best Western Toll Free 1-800-528-1234)

PLUMBING, HEATING and  
VENTILATING CONTRACTOR

PLUMBING  
FIXTURES

BUTTE, MONT. PH. 782-5404 782-2929  
1716 HARRISON AVENUE

GARY QUAM

## WALSH ENGINEERING

March 25, 1986

Montana State Legislators  
Helena, Montana

Gentlemen:

At this time I would like to request that some action be taken during the next Legislature session in regards to the rising Liability insurance costs.

We are a small business concern, incorporated in the State of Montana, employing between 15 to 30 people on an annual basis, depending on work load.

The rising cost of Liability insurance has definitely worked a hardship on small business's in the surrounding area, causing some to cease operations as increased costs cannot be passed on to the public at this particular time.

Hoping some action will be taken on this request, I remain,

Respectfully yours,

WALSH PLUMBING & HEATING

  
Gary Quam  
President

GQ:bm



northAmerican  
VAN LINES

(406) 782-5915 Or 782-5338

## EVANS TRANSFER & STORAGE, Inc.

750 Utah  
BUTTE, MONTANA 59701

March 25, 1986

Montana State Legislature  
Helena, Montana 59601

Dear Legislators:

During the past two years we have been insured through the Home Insurance Company of Manchester, New Hampshire. We have had both our warehouseman and trucking policy through this firm. During the past two years we have been faced with 40% increases yearly. Our basic premium that we pay each year is over \$15,000.00 and because of the difficulty people in our line of business have been experiencing we are hesitant to even file a claim with our insurance company for fear of cancellatin or non-renewal. Last week we had notification that our insurance policies will not be renewed and have had to search for other carriers who would be interested in insuring us.

When we received notification of non-renewal I immediately contacted our insurance company to find out why we had received notice and was informed that Home Insurance Company was no longer writing that type of coverage, trucking insurance. My only question to him was that for the past two years we have paid premiums in excess of \$30,000.00 and have had no claims other than one in 1984 for \$1100.00 and at that rate I do not believe we are a bad risk.

If I, and others like myself were financially able to hold enough funds in reserve for insurance purposes we would not have these problems but unfortunately we are at the insurance company's mercy, without them we can not operate. By law we are required to have insurance and without this insurance we will be out of business.



BUTTE

VOCATIONAL  
EVALUATION

WORK  
ADJUSTMENT

FOOD  
SERVICE  
TRAINING

SHELTERED  
EMPLOYMENT

JOB  
PLACEMENT

SOCIAL  
ADJUSTMENT

COUNSELING

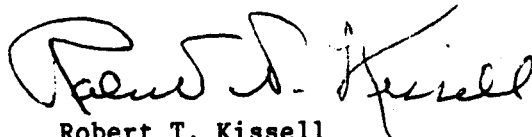
March 25, 1986

Montana State Legislature

Our agency provides services to handicapped men and women of South Western Montana. Briefly, the programs of service include vocational, habilitation, diagnostic, and residential. In order to provide these services our agency receives funds from the State of Montana, Social and Rehabilitative Services. One of the conditions for receiving these funds is that we maintain \$1,000,000.00 in general liability coverage. During 1985 we paid approximately \$8,000.00 for our total insurance package, including the million dollar liability policy. For our present premium year, 1986, our coverage will cost \$22,000.00, however we can only get \$300,000.00 in general liability coverage.

Our program is obviously effected in two serious ways, 1. We do not have the required amount of coverage and 2. the increased premiums puts serious restrictions on other areas of our programs. We have had to get a loan to pay the premiums over a nine month period and also we have had to rebudget in other areas of our contract with the State.

I have attached a list of the insurance companies our broker has tried to get coverage from and failed, it should be noted that we have been fortunate not to have ever had a claim.



Robert T. Kissell  
Executive Director

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 9DATE March 26, 1986SPONSOR Rep. C. Winslow

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
EARL J. Pelly	M. S. C. - Helena		X
George Harper	Helena		X
Darren DeWalt	Helena		X
Jim Smith	TRAC		X
JUDITH CARLSON	HELENA NASW		X
Wayne Collins	Winnipeg - Libby's Food		X
Adile Fine	Women's Law Caucus		X
Louise Kung	MT Low - women		X
Juan Garcia	M L C / LIGHT		X
Paul S. Carpenter	M L C		X
Don Wilson	ACC Anacosta		X
Alford Wilson	ACC Anacosta		X
High Shubley	LIGHT M L C		X
Kenneth Richmond	Anacosta		X
Paul Carpenter	Anacosta		X
Sue F. Field	Clinton		X
Gunn Bannister	Helena		X
Anne Blodgett	MSA		X
Steve Walston	Helena		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 9DATE March 26, 1986SPONSOR Rep. C. Winslow

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Doug Arnold	621 1st Ave N <sup>W</sup>		✓
Cecil Barnes	2769 Highland Ave		✓
Charles Burrey	6860 Applegate Hall		✓
Marvin Myberg	3885 Hwy 12 E		✓
Del Rodriguez	722 Cedar		✓
Kalvin W. Punt	MT Optometrist Assoc		
John McGrath - M.H.A.M.	Helena		X
Johns Int'l - Mont. Cath Conf	Helena		X
Jacqueline L. Lohy	1512 - Silver Bow		X
Paul H. Lohy	211 N. 2nd St. Butte		X
Maile Rodriguez	722 Cedar St. Helena		X
Jim Murray	Mont. State AFL-CIO		X
WADE WILKISON	HELENA		X
Bill Walker	Helena	✓	
Thane Duchs	MSA - Wm. H. H. J. H.		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 7DATE March 26, 1986SPONSOR Rep. F. Bardanoue

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Debi Brammer	MACD - Helena	X	
Chip Schumann	MA	X	
Robert Anderson	MA	X	
Don Walker	Dept H. Dept. Elen	X	
Tim BERGSTROM	MSFA		
Gordon Morris	MA Co	X	
A.R. Arquer	MA Co	X	
Chris Jensen			
Ken Waterman	USFEE	✓	
Kym Wilson	ACLU		X
Brookes Morin	City of Helena	✓	
Janet Jessup	City of Helena	✓	
Danica Hilary	Montana	✓	
Cecilia E. Flores	Butte Community Center		✓
Marion Hypers	Butte Community Center		✓
Grogueline Becking	Butte, Com - Union		✓
Bill Anderson	City of Helena	✓	
Jim Jensen	MT. ENVIR. INFO CENTER		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 7

DATE March 26, 1986

SPONSOR Rep. F. Bardanouve

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
EARL KELLY	U.S.C.A.		X
Bob Cornea	Boneman Chamber	—	
LaDene H. Bowen	BUTTE CHAMBER	—	
Joe Baltowky	Great Falls		X
Carol Spadgenike			X
John C Hoyt	Great Falls	X	
F. J. Dick Jones	MONTELEONE CHAMBER	—	
M. J. Jones	PIA & N. E. B.	—	
John Jones	PIA & N. E. B.	X	
John Jones	PIA & N. E. B.	X	
John Jones	PIA & N. E. B.	X	
Thomas Jones	Mont Credit Union League	X	
Bob Pyfer	Mont Credit Union League	X	
Don Jones	PIA & N. E. B.	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.