

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
49th LEGISLATIVE SESSION -- SPECIAL SESSION II
HOUSE OF REPRESENTATIVES

March 27, 1986

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Thursday, March 27, 1986 at 11:00 a.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 17: Rep. John Mercer, House District #50, sponsor of HB 17 stated that he feels we are faced with a constitutional crisis. The separation of powers is out of balance. Rep. Mercer feels that the legislature's role has been greatly reduced. The Montana Supreme Court has determined that the Montana Constitution indicates that full legal redress is a fundamental right and therefore, it requires a compelling state interest by the state limiting the legislature to in any way affect that right. That basic concept permits the supreme court to essentially substitute its judgment with that of the legislature. Once it does that, the legislature has little, if any power.

Rep. Mercer read a portion from the Pfozt decision what he considered to be the key paragraph: "The Court said that any statute that restricts, limits or modifies full legal redress affects that fundamental right, and the state must show a compelling state interest if it is to sustain the constitutional validity of the statute." The "whereas" clauses in the bill are essentially for the benefit of the Montana Supreme Court. We are telling the supreme court that we don't like the compelling state interest test -- it is too difficult to satisfy and we want to return to rationale basis test. Rep. Mercer explained the sections of the bill. He explained why the 2/3 vote requirement was removed in the public sector. He said he had a difficult time justifying why there should be a 2/3 vote requirement in the public sector and not one in the private sector. If the 2/3 vote requirement is placed in the private sector, the legislature will be handcuffed from being able to do any meaningful tort reform.

Another question to consider is if this is really two issues or one issue. Rep. Mercer said, yes, there is a constitutional provision that says if an amendment is submitted to the people, it has to deal with one subject. It is his position that this is one subject. It is granting the legislature the historical authority that it always had in the past to deal in tort areas.

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11:00 a.m.

Rep. Mercer further pointed out that this isn't simply a question of insurance -- this is a question of having a fair tort system. Not every tort can be insured against and not everyone has insurance. We shouldn't simply look at this from the position of whether or not someone has insurance to cover themselves, but we should look at it from the standpoint of whether or not it is fair. If it is not fair, insurance shouldn't be sought to cover a wrong.

Rep. Mercer said that many are not alone in stating the supreme court has overstepped its bound in the separation of powers. Governor Schwinden is joining us on this issue. In closing, Rep. Mercer said in section 18 of the constitution dealing with the governmental area, it is clear that the people of Montana wanted to give this right to the legislature to determine whether or not there should be some kind of limits on liability. We are asking that this referendum be put before the people for decision on whether or not they want to give the legislature the authority to determine limits on liability.

PROPOSERS: Rep. Kerry Keyser, House District #74, stated that years ago the issues of public and private used to be separate. They used to be so separate that the government enjoyed sovereign immunity and almost complete protection from the lawsuits. But the private sector at that time was fair game. The authors of the 1972 Montana Constitution decided that this was an archaic and discriminatory law and felt that government bodies should be held legally responsible for their wrongs just the same as private parties were. Therefore, the new constitution removed sovereign immunity and protection for the government. In doing so, they declared in effect that government and private liability were not separate issues. To be fair about this, both sectors should be covered in the same amendment. Rep. Keyser feels we should have one standard for all, and that standard should be submitted to the people of Montana for their approval or for their rejection. He further pointed out that the Montana Constitution as it was drawn up in 1972 wanted to make sure that the people could govern themselves as they wished. So they broadened in 1972 the people's ability to amend the constitution via the initiative process. They retained the legislative referendum power and they gave both the people and the legislature the power to call a new convention to rewrite the whole constitution if they so wanted to. In closing, Rep. Keyser stated that if we think the voters are going to take away their own basic rights, we don't know the Montana voters very well.

George Bennett, a member of the steering committee for the Montana Liability Coalition, endorsed Rep. Keyser's statements. He said that civil liability raises the questions of when someone has been harmed, what the measure of damages will be and who will pay the bill. In between, however, are a whole host of very complicated questions. Mr. Bennett said that in talking with people about the civil liability area, risk management and risk distribution were discussed. He said that we will never be able to insure all of our risks. Everytime an element of uncertainty is introduced, the risk is increased. If an insurance company doesn't know what the risk is, it will either raise the premium or won't insure. At present, Montana law is uncertain; it practically changes ever day. That is the risk that insurance companies are facing and that is the risk that businessmen are facing. Montana has to have a comprehensive tort act that deals with the unanswered questions by setting some perimeters. But we have a barrier that -- the recent supreme court case, the Pfof decision. Mr. Bennett said the legislature is being put in a secondary role to the supreme court in that they act as a trial court that can always be reversed. That is not what our constitutional fathers intended. It is not what the people want, it is not the federal system, and it is not the system in any other state. In closing, Mr. Bennett said the coalition doesn't want to see the 2/3 vote requirement on every piece of tort reform, and they think the problem of the public and private sector is one that the people wish to vote on.

Wayne Waggoner, chairman of Waggoner's Trucking in Billings, stated that in 1985, his company's million dollar liability policy was \$683,000. In 1986, it is \$1,349,000. Their 1985 20 million dollar umbrella policy cost \$100,000 up front. In 1986, for a 5 million dollar policy, the cost was \$750,000. He said that is like saying no insurance. Their total increase in premiums for 1986 doing the same business amounted to \$6,375 per day. It is totally impossible for them to continue living with this. The day they have a serious wreck would be the day that 450 of the company's employees will be out of work; furthermore, 35 years' worth of work will go down the drain.

Don Stanaway, president of A & I Distributors of Billings, informed the committee that he received a notice from his insurance company stating their intent to cancel his insurance. He has no written liability coverage at this time, and if he is unable to find coverage by April 7th, they will have their doors closed.

Don Cecil, representing Cardinal Drilling Company from Billings, said their company is also experiencing difficulties with liability insurance which may perhaps drive them out of state.

Chuck Harringer, president elect of the Billings Chamber of Commerce, stated that members of the chamber support HB 17 without the amendment.

(Because several of the above witnesses would be unavailable for later questioning, Chairman Hannah allowed the committee to question them at this time.)

In response to a question asked by Rep. Brown, Mr. Cecil said his company is not experiencing problems concerning liability insurance in any of the other states they do business in.

In response to a question asked by Rep. Spaeth, Mr. Waggoner said that three of the major areas are the punitive damage area, the workman's compensation area and unwrongful discharge. Mr. Waggoner said that Wyoming, Iowa and Illinois have a better atmosphere in the above three items and felt perhaps we might look at their laws regarding this.

Rep. Krueger asked Mr. Cecil if he thought he could obtain liability insurance easier in Colorado or Utah than in Montana. Mr. Cecil said it has proven true so far, but it is also under blanket coverage.

TESTIMONY RESUMES ON HB 17: Bill Porter, vice-president of operations for American Chemic Corporation in East Helena, said his company was informed last mid-summer that their liability policy would run out. Without reasonable limits for claims or sufficient insurance at a reasonable cost, we and many other companies are endanger of losing our companies. By not imposing some kind of limitation, everyone would be hurt.

Chase Hibbard, rancher from Helena, stated that the escalating insurance rates have affected agriculture adversely in addition to all the other problems the agriculture industry is presently facing. He said that their insurance rates have escalated 330% since 1984. He feels that tort settlements have gotten totally out of control and something needs to be done.

Kay Cain, co-owner of Snow Bowl in Missoula, urged the committee to pass this bill in its present form. A copy of her testimony was marked Exhibit 1 and attached hereto.

Teddy Thompson, representing his outfitting service in Big Timber, said his insurance policy expires in September, and he doesn't know if they will be able to buy insurance after that. The result will probably put him out of business. He also informed the committee that they have not had one claim against them since the time they opened their business 30 years ago.

William N. Sirak, president of the Northern Rocky Mountain Easter Seal Society/Goodwill Industries, voiced his support for HB 17. A copy of his written testimony was marked Exhibit 2 and attached hereto.

Pete Hoiness, representing FDS Insurance from Billings, stated that he is an insurance agent, not an insurance company. He said that Montana is perceived as the sixth worst state in the country by insurance agents. The business climate is perceived as being poor. He further stated that Montana is behind in passing tort reform legislation. He urged the committee to pass HB 17.

Joe Wolfe, an electrical contractor representing Polar Electric of Helena, stated that they, too, are experiencing great problems with their liability insurance. Although Polar Electric has never had a claim against them, their liability insurance premiums have increased better than 60% in the last two years.

Donna Tenneson, owner of the City-County Sanitation Services in Helena, told the committee that their insurance is not going to be renewed this year. She will be unable to operate as a motor vehicle carrier unless the proper insurance is provided. She urged the committee to pass HB 17 without any amendments.

Jerry Perkins, owner of Karst Stage, Inc., stated that in 1984 his company's premium went from \$53,000 to \$169,000. Presently, they have been forced to go to the state assigned risk pool. His company is regulated by the Public Service Commission, and any rate increase that they obtain will be passed on to the people who use the charter buses. Tourism, which a very valuable commodity, is affected and the school bus contract they have with the Bozeman school district is affected.

Bill McLean, representing Valle Vista Manor in Lewistown, told the committee that 30 days before his insurance policy expired, he was sent notice that their insurance company would no longer write them insurance. After doing some shopping, he received one quote back from an agency that offered to write his insurance at a 300% higher figure than

what he had previously paid for insurance. Mr. McLean feels that HB 17 is the best of the bill that have been introduced on this particular subject. He said the message the insurance companies are giving is that the risk of insuring is too great. He feels the legislature needs some controls in this area.

John Stephenson, Jr., a lawyer from Great Falls, testified as a proponent. A copy of his written testimony was marked Exhibit 3 and attached.

R. L. Reiquam, representing himself and the banking industry, voiced his support for HB 17. A copy of his written testimony was marked Exhibit 4 and attached hereto.

Gary Marbut, representing the Montana Council of Organization, voiced his support for this bill without amendments. He submitted a petition with approximately 5,000 signatures of people across the state of Montana which was marked Exhibit 5.

Ronald Overlander, president of the Denture Corporation in Great Falls, told the committee that his business has likewise lost their liability corporate insurance. He said the main emphasis here involves jobs.

Bob Pyfer, representing the Montana Credit Union League, commented on specific issues of how this affects credit unions. Credit unions are well known for servicing the small account, making the small loan, and providing life-line services at a low cost. Credit unions tend to be very small in terms of assets. For this reason, even a threat of a single major loss could greatly reduce future services to its members. Mr. Pyfer feels that the issue is in order to avoid losses, people need to know what the law is. He urged the committee to take this opportunity through this legislation and allow the voters to tell the court that they can no longer construe Article II, Section 16 of the Montana Constitution to limit the rights of the legislature. The reason Mr. Pyfer likes HB 17 is because it goes right to the heart of the matter.

Betty Kisseck, president-elect of the Montana Relators Association, voiced her support for this bill. A copy of her testimony was marked Exhibit 6 and attached hereto.

Nancy Stephenson, director of Neighborhood Housing in Great Falls, spoke as a proponent. A copy of her testimony was marked Exhibit 7 and attached hereto.

Robert E. Stoeckig, representing Pan American Industries, Inc., urged the committee to pass this bill with no amendments. A copy of his written testimony was marked Exhibit 8 and attached hereto.

Roger W. Young, president of the Great Falls Chamber of Commerce, urged the committee to support HB 17 as written. A copy of his written testimony was marked Exhibit 9 and attached hereto.

George Allen, representing the Montana Retail Association, the Montana Tire Dealers Association, Montana Hardware and Implement Dealers Association, Montana Office Machine Association, and the Montana Packers, feels HB 17 is the best route to go for the state's small businessmen.

Forrest Boles, president of the Montana Chamber of Commerce, stated that this legislature has the opportunity to restore to itself the authority they always thought the legislature had i.e. to decide what the limits of liability will be.

Rose Skoog, executive director of the Montana Health Care Association, feels that it is critical that legislation addressing this issue include both private and public sector.

Riley Johnson, representing the National Federation of Independent Businessmen, stated that 87% of his members requested some sort of limit on private liability. He also stated that 67% of the legislators he polled support some sort of limit on private liability. HB 17 properly addresses the issue by including both private and public.

LaDene H. Bowen, executive director of the Butte-Silver Bow Chamber of Commerce, supports this bill with no additional amendments.

Bob Correa, representing the Bozeman Chamber of Commerce, supports this bill without amendments.

Pat Underwood, representing the Montana Farm Bureau, stated his support for this bill without amendments.

Tom Krusich, representing the Montana Chapter of the National Contractors Association, urged the committee to pass this bill in its present form.

Jay Whitney, architect, testified briefly in support of HB 17.

Sandra Whitney, representing the Montana Taxpayers Association, voiced her support for this bill. Ted Rawlins, representing Asarco, Inc., urged the committee's favorable consideration of this bill. Ben G. Havdahl, representing the Montana Motor Carriers Association, testified in support of this bill. A copy of his written testimony was marked Exhibit 10 and hereto attached. Also testifying in support of the bill were Rogert Tippy, representing the Beer and Wine Wholesalers and Bill Leary, president of Montana Hospital Association.

OPPONENTS: Terry Triewelier, attorney and small businessman from Whitefish, informed the committee that none of his employees are endangered of losing their jobs because of the insurance crisis. He stated that the claims paid in Montana for lawyer's negligence in no way justifies the kind of premium increases that the law profession has experienced in the last two years. He said the constitution is supposed to be permanent -- it is supposed to protect the minority against the whims of the majority regardless of who they are. He said that the committee is being asked to change the constitution by eliminating a provision in the constitution which guarantees the people of Montana the right to full legal redress when they are the victims of someone else's unlawful conduct. He said the statement being made is untrue as to the reason why insurance premiums are increasing and why insurance is becoming unavailable. Some are blaming it on the laws of Montana, jury verdicts and supreme court decisions. The fact is that the average jury verdict in Montana is below the national average.

While he was attending a recent national conference for bar presidents, Mr. Triewelier learned that Montana is not unique. In 50 other legislatures, liability coalitions are lining up to tell their legislators that the laws of that state have to be changed and that their constitutions must be revised because of the present liability crisis. He asked the question: "Why would you want to take away peoples' rights to recover full compensation when no one can tell you that it will accomplish any of the results that people are concerned with, and no one can come and show you any actuarial relationship between the laws of the state of Montana and the premiums people are paying and the availability of insurance in Montana. In closing, Mr. Trieweiler stated that he fully supports the formation of an interim committee to study this issue.

Gary Henricks, a victim of an unsafe auto accident, feels there is no liability crisis in this country. He asked the legislators not to succumb to the tactics of the insurance industry and not to succumb to public opinion. He feels the insurance companies are trying to recoup their profit structure. Not only are they after our economic rights, he feels they are after some of our civil rights such as changing our constitutions. He recommended that the legislature form an interim study committee and find out what the underlying causes of this liability crisis really are.

Tom Winsor, representing himself, explained how he had been economically injured. He feels that limiting what a person should be able to recover from a claim doesn't make any sense.

Jim Murray, executive director of the AFL-CIO, feels that the Montana Constitution is a good one and should not be treated lightly or tampered with. He feels the legislature and the people of Montana should have firm assurances that insurance coverage will be made available to those people who cannot now obtain it and that the rates will be impacted in favor of the Montana consumers. Without assurances, it appears that the insurance industry could receive a windfall benefit with Montana consumers receiving little or no relief at all. He further feels that public and private sectors would be kept separate. If these issues are to go to the ballot, the people should have a choice of supporting both measures, one or the other, or neither measure.

Alec Hansen, representing the Montana League of Cities and Towns, stated that they are not opposed to some type of liability protection for private businesses. However, they feel that HB 7 is the most responsible answer to the question of governmental limits on liability. He said that if they could be assured that HB 17 will not jeopardize their legal position, they will withdraw their objections to HB 17. He thought the committee should consider the question of whether it is really good public policy to take both stacks (public and private) and push them into the middle of the table and "shoot the moon" on this very complicated and crucial issue.

Chip Erdmann, representing the Montana School Board Association and the Montana Association of Counties, endorsed Mr. Hansen's comments. He supports some type of legislation regarding limits for the private sectors; however, he feels that the two areas (private and public) are distinct. It was his opinion that by submitting both as separate referendums before the public would not present any confusion.

John Maynard, administrator of the Tort Claims Division of the Department of Administration, stated that there is a legal opinion upon which the authority to combine these two amendments into one is based. There seems to be no sense in risking the chance of losing everything based on this technical defect, and he urged the committee to reject the attempt to combine these two issues and these two attempts to amend two separate amendments in one single bill.

Kim Wilson, representing the Montana Chapter of the ACLU, stated that by taking away the words, "this full" in the second section of this bill as is proposed in the amendment, he feels we are essentially taking away that constitutional right that was created by the framers of the constitution back in 1972. He feels that section 3 is opening the door wide open to any action by any future legislature to do whatever they want to do as far as limiting people's claims. It seems as though bad faith laws and other laws present in Montana to protect individuals are inconveniences for the insurance companies. He reminded the committee that all of these laws have been put here because of the injuries to individuals, and we feel strongly that those laws play an important part in maintaining our current judicial system.

Furthermore, Mr. Wilson urged the committee to refrain from combining the two issues because he feels that it would be constitutionally suspect to do so. In conclusion, he asked the committee to consider two questions before taking away important constitutional rights: 1. Will these amendments really accomplish anything as far as reducing premiums and making insurance more available? He doesn't feel that there are any answers that address that question. 2. If these amendments go through, and if the legislature sets limits, who is going to take care of the victims whose injuries fall outside of the accepted level of liability?

Bill Rossbach, vice-president of the Montana Trial Lawyers, said although he is totally sympathetic to the small businessmen's plight, he question as to why premiums are rising has not been answered. "Where are the insurance companies to explain why the rates are increasing and why is insurance becoming unavailable," he asked? He contends that insurance companies are extremely profitable right now. No one has come forward to say that passing this legislation will have any impact on either premium costs or the availability of insurance. He said he admits there may be reasons to change laws. This can be done without taking away anyone's civil rights.

There being no further proponents or opponents, Rep. Mercer closed. He stated this legislation was not introduced to defend insurance companies, but rather it was introduced to

defend the state legislature. It is just trying to return to the legislature its rightful authority. It doesn't enact any tort reform whatsoever. He said the thing that is so affecting the economy in this state is the threat of suit. He further stated that if the issues are separated, the possibility of one passing and the other one failing exists, and he feels this is unfair. This legislation would, in effect, send a message to the Montana Supreme Court via the people of this state that the people want the legislature to determine what injuries are and to determine what redress people should get for those injuries. It is the court's duty to simply be the forum where those laws are addressed.

QUESTIONS AND DISCUSSION ON HB 17: Rep. Spaeth noticed that most of the governmental entities did not want these two issues combined. He asked Mr. Bennett why the coalition wanted the issues combined when the governmental entities don't want to be combined with the private sector. Mr. Bennett said that everyone was concerned about a lot of different things if the issues were separate. Rep. Spaeth asked that by combining the issues, aren't we talking about pragmatic approach in which Mr. Bennett thinks they can get more votes with the school boards, county commissioners, etc. helping them. Mr. Bennett said he has no way of gauging how the public approaches this, but he has been told by various people, "to heck with the bureaucrats." However, he feels this is one issue and the two should be combined.

Rep. Krueger wanted to know why we have to address these issues (bad faith, wrongful discharge, etc.) through a constitutional amendment such as this. Mr. Bennett said that risk management is the issue. They are unsure of what the supreme court will do. If the legislature passes a bill which can be argued to limit full legal redress, in passing that bill, it would have to hold evidentiary hearings and support a compelling state interest and then prove that the bill was necessary so that it would stand up to strict judicial scrutiny because a fundamental right is being affected.

In response to another of Rep. Krueger's questions, Mr. Bennett stated that a lot of Montana's tort law is statutory. In response to another question, Mr. Bennett said it is correct to say that we have established some of these types of standards. Rep. Krueger asked why this isn't just an extension of further defining these standards. Mr. Bennett said that as he understands the Pfost case, it doesn't

matter whether the right is created by common law or whether it is created by statute. As rights are created, there is a stronger burden on the legislature to ask that right away. We don't think that ought to be law and the people should be able to vote on whether or not they want that to continue to be the law.

In response to questions asked by Rep. Grady, Carl Swanson from the USF&G office in Helena, stated that as far as a stock analysis' predictions of the profitability of the insurance industry, he'd first say speculation. Secondly, what is the insurance industry doing? Mr. Swanson said that his office has been tightening its belt since June of 1984. Their risk selection has been such that they are writing insurance that they consider to be excellent business. The reason is because they have not been making a profit. Their pricing is much higher, and they are offering less coverage at higher deductibles and lower limits for more dollars today because they have been unable to make a profit. The stock analysis also sees tax carry forwards because of the losses. The point is that this is not a climate the insurance industry wants, and it is not a climate that is good for Montana because there are a lot of people who are unable to obtain insurance, and the insurance they are able to obtain is not affordable.

Rep. Grady said that it has been suggested that even if this constitutional amendment does pass, it will probably take 10 years before an impact is realized. Mr. Swanson stated that the price of insurance is based on the cost of insurance. The insurance industry's track record indicates that the insurance industry is highly competitive. When they get profitable, prices are lowered. Pricing is reflected by their experience. Their experience is based on things that they do, such as risk selection. It is also based on tort laws and judicial climate in the state. One of the problems that Mr. Swanson has seen is that USF&G's local office in Montana is the second most unprofitable nationwide. In looking at their western divisional office, the other 13 offices, their average paid loss is 20% higher than other western division offices, and his average paid reserve per policy is 59% higher than other western division offices.

Rep. Addy asked Mr. Swanson if it was his idea that if the legislature caps damages in Montana it will result in decreases of insurance premiums. Mr. Swanson said that we first have know whatever tort reform we have will be treated in the courts. Will it hold up under supreme court scrutiny? The pricing of insurance will be reflected by our experience. We may see some results within 2 or 3 years.

If the insurance industry becomes profitable, there will be no rate increases. In fact, the profitability of the insurance industry has been proven to be under.

Rep. Miles asked Mr. Bennett if the coalition supported SB 1 and SB 4. Mr. Bennett said that although they support the concept of these bills, HB 17 is the bill they prefer.

In response to a question asked by Rep. O'Hara, Mr. Rossbach stated that he didn't say that the insurance industry was necessarily a lucrative business in Montana. He obtained his information with regard to claims and premiums from the Insurance Commissioner's Office. As he understands it, in the cities and towns situations, it is about a 5 to 1 ratio, and in the professional liability area, it is about a 2 to 1 ratio. He heard Mr. Hoiness say that insurance is profitable in Montana.

Rep. Miles asked what kinds of liability limits is this bill addressing as it pertains to punitive damages, economic damages, damages for pain and suffering, etc. Mr. Bennett said their primary issue of interest is the fact that tort law developed by case law is totally unacceptable, and this is the thing that is scaring the insurance industry. He said that they want to see the legislature take a more firm hold by getting into this area and start defining areas such as "bad faith."

EXECUTIVE SESSION: There being no further proponents or opponents, Chairman Hannah called an executive session.

ACTION ON HB 17: Rep. Mercer moved that HB 17 DO PASS. The motion was seconded by Rep. O'Hara. Rep. Mercer further moved to amend the title, page 1, line 5 following "MONTANA" by striking "AMENDMENTS" and inserting, "AN AMENDMENT". The motion was seconded by Rep. O'Hara and discussed.

Rep. Krueger said this isn't a single amendment even though it places it on the ballot as a single amendment. We are amending two specific and different portions of the constitution. We are making separate and distinct amendments in relation to our constitution, and he feels this bill should reflect what it is intended to do. In response, Rep. Mercer said he doesn't feel there is anything misleading about this amendment. The only reason why he wants to change it is because someone mentioned that the constitution talks about "amendment" and there may be some hangup over "amendments".

Rep. Miles said if she were to read a title and it said an amendment to Article II, Section 16 and 18, it would indicate to her that that amendment has to be the same amendment to both sections. And it is not. She said that we are doing two different things to two different sections with this amendment. Rep. Mercer said he proposed the change for the purposes of semantics. He feels it is very clear to anyone reading it that two different sections are being amended.

The question was called on Rep. Mercer's motion to amend, and said motion CARRIED 8-6. (See roll call.)

Rep. Brown spoke on the bill. He said it bothers him that there is a minimum of one year between the passing of this particular bill or any bill dealing with a constitutional amendment before there is any actual relief out on the countryside. He feels the legislature is not doing anything in this special session so far about handling the liability insurance crisis which is present in Montana. In a year, we may not have anyone left in the state to worry about. He doesn't feel this bill will solve the crisis. He further stated that he still has difficulty understanding how much is this whole area a Montana problem and how much is it related to a national problem. Rep. Brown moved the following amendment:

Page 2, line 23

Following: "proceeding"

Insert: "statute enacted implementing this subsection must be enacted by a 2/3 vote of each house of the legislature."

The motion was seconded by Rep. Darko and discussed. It was Rep. Mercer's opinion that we would be better off without the bill than having the 2/3 vote requirement in it. Rep. Gould spoke against the above motion to amend by saying there is a safeguard in the process with the governor having the ability of vetoing any bill passed by the legislature that is totally out of line.

It was Rep. Miles' opinion that this is such a wide-open door. She said that we are asking people to change their constitution and give the legislature the power that we all thought we had anyway. What we are not telling them is that in any single one of these cases right on down the line, we could not only limit things reasonably, but we could limit their right of protection under this law. This is the main problem Rep. Miles has with the bill. She also feels that the 2/3 vote requirement should be placed in the bill as a safeguard. The question was called, and the motion to amend FAILED due to a tie vote. (See roll call vote.)

Rep. Addy moved the following amendment:

Page 2, line 22
Following: "remedies"
Insert: "or"

Page 2, line 23
Strike: ", or damages"

The motion was seconded by Rep. Brown. Rep. Addy said this amendment makes it clear that the legislature does have the power to enact tort reform, but it does not have the power to sit as a jury in each civil case in Montana. It would simply place it right where you say you want it. The legislature can re-define tort, it can re-define and modify remedies and it can do other things procedurally. Rep. Mercer said that the one negative thing he could see with deleting the word "damages" is that perhaps it would infer that damages therefore cannot be limited. The question was called on Rep. Addy's motion to amend, and it failed 6-8. (See roll call vote.)

Rep. Gould moved that HB 17 DO PASS AS AMENDED. The motion was seconded by Rep. Eudaily and carried 10-8. (See roll call vote.)

ADJOURNMENT: There being no further business, the meeting was adjourned at 3:10 p.m.


Rep. TOM HANNAH, Chairman

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Rep. TOM HANNAH, Chairman

DAILY ROLL CALL

JUDICIARY

COMMITTEE

SECOND SPECIAL 49th LEGISLATIVE SESSION -- 1986

Hearing on HB 17

Date March 27 , 1986 11:00

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	✓		

STANDING COMMITTEE REPORT

March 27

19 86

Mr. Speaker: We, the committee on JUDICIARY
report HOUSE BILL NO. 17

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

TOM HANNAH

Chairman

AUTHORIZE LIMITS ON LIABILITY

BE AMENDED AS FOLLOWS:

- Page 1, line 5
Following: "MOSTANA"
Strike: "AMENDMENTS"
Insert: "AN AMENDMENT"

FIRST

WHITE

reading copy ()
color

ROLL CALL VOTE

HOUSE JUDICIARY

COMMITTEE

DATE 3-27-86

BILL NO. H.B. 17

NUMBER 2:33

NAME	AYE	NAY
BROWN, Dave (Vice-Chairman)		✓
ADDY, Kelly		✓
COBB, John	✓	
DARKO, Paula		✓
EUDAILY, Ralph	✓	
GOULD, Budd	✓	
GRADY, Ed	✓	
KEYSER, Kerry	✓	
KRUEGER, Kurt		✓
MERCER, John	✓	
MILES, Joan		✓
MONTAYNE, John		✓
O'HARA, Jesse	✓	
POFF, Bing		
RAPP-SVRCEK, Paul		
SPAETH, Gary		
NEILL, Charlotte		
HANNAH, Tom (Chairman)	✓	

TALLY

8

6

Marcene Lynn

Secretary

Tom Hannah

Chairman

MOTION: Rep. Mercer moved to amend the title of HB 17 on line
5 following "MONTANA" by inserting the word "A" and striking the
"S" on AMENDMENTS. The motion was seconded by Rep. O'Hara and
carried 8-6.

ROLL CALL VOTE

HOUSE JUDICIARY

COMMITTEE

DATE 3/27/86

BILL NO. H.B. 17

NUMBER 240

NAME	AYE	NAY
BROWN, Dave (Vice-Chairman)	✓	
ADDY, Kelly	✓	
COBB, John		✓
DARKO, Paula	✓	
EUDAILY, Ralph		✓
GOULD, Budd		✓
GRADY, Ed		✓
KEYSER, Kerry		✓
KRUEGER, Kurt	✓	
MERCER, John		✓
MILES, Joan	✓	
MONTAYNE, John	✓	
O'HARA, Jesse		✓
POFF, Bing	✓	
RAPP-SVRCEK, Paul	✓	
SPAETH, Gary	✓	
NEILL, Charlotte		✓
HANNAH, Tom (Chairman)	✓	✓

TALLY

9 4

Marcene Lynn
Secretary

Tom Hannah
Chairman

MOTION: Rep. Brown moved to amend page 2, line 23 following
the word "proceeding" by inserting "statute enacted implementing
this subsection must be enacted by a 2/3 vote of each house of
the legislature". The motion was seconded by Rep. Darko and
FAILED due a tie vote.

ROLL CALL VOTE

HOUSE JUDICIARY

COMMITTEE

DATE 3-27-86

BILL NO. HB 17

NUMBER 301

NAME	AYE	NAY
BROWN, Dave (Vice-Chairman)	✓	
ADDY, Kelly	✓	
COBB, John		✓
DARKO, Paula	✓	
EUDAILY, Ralph		✓
GOULD, Budd		✓
GRADY, Ed		✓
KEYSER, Kerry		✓
KRUEGER, Kurt	✓	
MERCER, John		✓
MILES, Joan	✓	
MONTAYNE, John	✓	
O'HARA, Jesse		✓
POFF, Bing		
RAPP-SVRCEK, Paul		
SPAETH, Gary		
NEILL, Charlotte		
HANNAH, Tom (Chairman)		✓

TALLY

6 8

Marcene Lynn

Secretary

Tom Hannah

Chairman

MOTION: Rep. Addy moved to amend HB 17 on page 2, line 22
following "remedies" by inserting "or"; on page 2, line 23
strike ", or damages". The motion was seconded by Rep. Brown
and FAILED 6-8.

ROLL CALL VOTE

HOUSE JUDICIARY

COMMITTEE

DATE 3-27-86

BILL NO. HB 17

NUMBER 3:03

NAME	AYE	NAY
BROWN, Dave (Vice-Chairman)		✓
ADDY, Kelly		✓
COBB, John	✓	
DARKO, Paula		✓
EUDAILY, Ralph	✓	
GOULD, Budd	✓	
GRADY, Ed	✓	
KEYSER, Kerry	✓	
KRUEGER, Kurt		✓
MERCER, John	✓	
MILES, Joan		✓
MONTAYNE, John	✓	
O'HARA, Jesse	✓	
POFF, Bing		✓
RAPP-SVRCEK, Paul		✓
SPAETH, Gary		✓
NEILL, Charlotte	✓	
HANNAH, Tom (Chairman)	✓	

TALLY

10

8

Marcene Lynn

Secretary

Tom Hannah

Chairman

MOTION: Rep. Gould moved that HB 17 DO PASS AS AMENDED. The
motion was seconded by Rep. Eudaily and carried 10-8.

NAME: Kay Cain DATE: 27 Mar '86

ADDRESS: 7905 Leme Springs Tr. Missoula

PHONE: 721-1116 / office - 728-4160

REPRESENTING WHOM? Recreation

APPEARING ON WHICH PROPOSAL: HB #17

DO YOU: SUPPORT? yes AMEND? NO! OPPOSE?

COMMENT: I live in Missoula. I am the office manager of a medical office in Missoula, the treasurer of our local youth soccer association as well as the wife of one of the owners of a local ski area. Montana Snow Bowl is owned by 6 investors & has been owned by them for 2 years. We had 28,000 skier days this year, 44,000 last year. Our maximum is probably 50,000. We have 35 employees.

These owners purchased the area to keep it from closing. They feel that skiing is an important reason why people live in Montana, and that Missoula would be a much less attractive place to live ^{without} ~~the~~ Snow Bowl. Recreation of all kinds is one of the reasons why people come to Mt., especially new businesses. A growing Missoula, a growing Mt needs ski areas as well as other forms of recreation.

We are luckier than some — we have insurance, but the cost is crippling. Three years ago the previous owner paid \$15,000 — last year we paid \$30,000 — DOUBLE. This year it doubled again to \$60,000. That \$40,000 is money we planned to spend to expand — new runs, new building, new employees. Instead, in a bad snow year, we are faced with a crippling insurance bill

If it doubles again, we will be faced w/ a bill for \$120,000. In 10 years we would ~~be forced~~ to spend over a million dollars. This would force us to consider some very drastic and negative measures — cutting employment, closing parts of the area, or closing altogether.

The ski industry in Ht. is struggling to stay alive. Not only are we at the mercy of the weather, we are also at the mercy of those who set insurance premiums. It is important to note:

① There has never been a suit filed against Montana Snow Bowl

② There has never been a judgement against any ski area in Montana.

This record increase has not been confined to the ski industry — outfitters of all kinds, rafting companies, riding instructors, etc ~~are~~ have all been hit with huge increases.

Please help us — we're counting on you!

We also want you to know we approve any of the removed changes, esp. a ^{to this bill} $\frac{2}{3}$ majority requirement.

3/27/86

HB 17

W. Sirak

House bill #17

TESTIMONY REGARDING LIABILITY INSURANCE
FOR HEALTH CARE AND HUMAN SERVICE PROVIDERS*William N Sirak*

My name is William N. Sirak. I am president of the Northern Rocky Mountain Easter Seal Society/Goodwill Industries of Montana.

The non-profit organization I represent provides direct services to disabled and disadvantaged children and adults in the states of Montana, Wyoming and Idaho.

In cooperation with the Montana Division of Developmental Disabilities of the Department of Social & Rehabilitation Services, we operate Montana's largest sheltered workshop; employing 120 adults with disabilities.

As a part of our work training and vocational services, we have for many years manufactured a wooden rocking horse which was for sale to the general public. Hundreds of these rocking horses have been sold throughout the state of Montana.

We no longer make those rocking horses because we were told by our insurance broker that no insurance company would bid on coverage for the Northern Rocky Mountain Easter Seal Society if we continued making our rocking horses or decided to become a provider of day-care services for children.

We, incidently, have never had an insurance claim or lawsuit filed against our organization, which has been providing services since 1946.

We now have an opportunity and a desire to provide personal care attendant services for severely disabled adults in their homes. Such a service would not only improve the quality of life

of the elderly and disabled, but also keep individuals out of costly institutions.

The question we are now exploring is can we find an insurance company that will provide liability coverage for us and at what cost.

Although I do not have any recommendations for you concerning this difficult issue, I do know that providers of human services and health care agencies may be unable to carry out their mission of serving people in need of their help unless this insurance issue is resolved.

TESTIMONY OF JOHN D. STEPHENSON, JR.

ON BEHALF OF MONTANA ASSOCIATION OF DEFENSE COUNSEL

My name is John D. Stephenson, Jr. and I have practiced for more than 25 years in Great Falls. I represent persons and businesses who have been sued in civil litigation. About fifty percent of the time my clients have liability insurance and any settlements or fees are paid by liability carriers. In the remaining fifty percent of the cases, my clients carry no insurance and pay any settlements or judgments, as well as my fees, directly. Some of these noninsured clients are large organizations who find it more economical not to be insured. Many others however are individuals or small businesses who cannot find or cannot purchase insurance coverage to protect the risks which are at issue.

I am a member of the Montana Association of Defense Counsel, a past president, and presently Chairman of the Counsel's legislative committee. Our organization consists of about 200 Montana attorneys who spend a substantial portion of their practice defending individuals and businesses in civil litigation. Our Board of Directors and a majority of our membership firmly support the legislation which is before you today.

The Montana Trial Lawyers, on the other hand oppose this legislation. The Montana Trial Lawyers have a very effective and vocal organization which has been very good at getting its message across. Sometimes the

impression is created that they speak for all attorneys in the State of Montana. This is not true, however, and many attorneys in the State of Montana do not agree with their political views.

The Montana Trial Lawyers Association is attempting to defeat this legislation by telling you that there is no liability crisis. They claim that the problems which your constituents have been complaining about are simply a "phony crisis" generated by insurance companies. However, the real issue before you is not an insurance crisis, it is a liability crisis. The Trial Lawyers are attempting to create a red herring when they blame the insurance companies. They want to make you and the people of Montana mad at all insurance companies and hope that in the meantime you will forget about the real crisis which is affecting Montana individuals and businesses.

I do not know the answers to the conflicting claims concerning the liability insurance situation, but I do know that whatever cycle we are passing through, liability insurance in the future will be more expensive, will be less available and will offer less coverage than it has in the past. This means that Montana individuals and businesses will bear a larger share of liability than they have in the past. Furthermore many areas of liability which have newly created never have been, and probably never will be covered by liability insurance. The real

problem then is how do we strike a balance between peoples' rights to be compensated for injuries and defendants' rights to be treated fairly.

This constitutional amendment provides an opportunity for the State of Montana to strike a balance. The Pfost case recently decided by our Supreme Court indicates that under our state constitution any legislative attempt to restrict either liability or damages, whether it is public or private liability, may be unconstitutional. I hasten to urge that I do not agree with or support this view, but only state that many lawyers may advocate this position in future cases before the Court.

Knowledgeable attorneys in the State of Montana, including our Board of Directors, feel that the only way that some balance can be achieved in this area, is to have a constitutional amendment which restores to the Legislature the right to pass the kinds of laws which have traditionally been within its domain. This constitutional amendment will not in itself limit any liability and it will not in itself impose any damage limitations. It will however permit the Legislature to impose reasonable limitations at future legislative sessions. Each of these laws, if and when passed, will have to go through all of the careful debating which any law must pass, and of course any such law will have to meet the very strict requirements of the United States constitution as well as avoid con-

flicting with other provisions of the Montana constitution.

This constitutional provision will not strip anyone of any rights, but it will provide a means by which a reasonable balance can again be achieved between the rights of an injured party to recover reasonable compensation against the rights of a defendant to be treated fairly.

WITNESS STATEMENT

NAME R. L. REIQUAM BILL NO. 17
ADDRESS 705 FOREST HILLS 59404 DATE 3-27-86
WHOM DO YOU REPRESENT? Self & Banking Industry
SUPPORT YES - w/out amendments OPPOSE _____ AMEND NO

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Legal climate in Montana invites Punitive Damages lawsuits & that is very anti-business.

The ever present threat of Bad Faith suits, raises costs to borrowers in the following ways:

1. Virtually every line of credit requires a detailed loan agreement. These cost money and time to prepare and are borrowed pay. Any adverse action in collecting is handled by attorneys. That costs the borrower. Insurance, when available, has an increased cost.

2. It creates extra paper-work and longer delay for borrowers.

3. It restricts credit. A lender can't be paid enough interest to take any risk on loans or on borrowers. It is more profitable to sell Fed Bonds or Government Securities than to take chance on being sued.

The Gov. nor the Legis. can pass enough bills to develop business in Montana with the current legal environment.

HB 17 is not perfect, but it's the best way to go. Please pass w/out amendments.

R. L. Reiquam

TESTIMONY to SENATE COMMITTEE on "PUNITIVE DAMAGES"
"BAD FAITH LAWSUITS" and
House Committee

HELENA, MONTANA

MARCH 27, 1986

Robert L. Reigman

President, First Banker Great Falls

Members of the Committee :

HB 17/
Senate Bill
12

Distance from markets, high taxes, and even adverse weather is not nearly as negative for business in Montana as the current legal climate. "Bad faith" and "punitive damage" suits are creating havoc in business circles throughout the state. Since I have made my living for the past twenty one years making loans and managing banks, my remarks will focus on the credit issuer of the notorious punitive damage law suits.

There is no doubt that every lender in Montana is vitally aware of the threat of multi-million dollar law suits. The worst part is that we don't know how to prevent them or what we did to cause them. A normal lending transaction involves a borrower pledging collateral to cover a note specifying money received, interest charged, and when and how the note is to be repaid. If the borrower fails to pay the note, it is assumed the collateral is to be forfeited. Now we find trial lawyers say there is no need to repay because lenders act in "bad faith" when they ask for their collateral pledged by the contract.

The current atmosphere in Montana causes three major things to happen with every astute lender in the state:

1. It raises COSTS. Most lines of credit now involve detailed loan agreements between the bank and the borrower. These are prepared, or at least examined by an attorney. The borrower pays. If the note is not repaid as agreed, attorneys prepare all notices and advise on procedures. That is a cost to that borrower or subsequent ones.

Our bank has one full time officer checking loans and documentation for exceptions that could lead us into legal hassle. That administrative work costs and the borrower must pay. Costs of insurance, particularly for banks, is skyrocketing. The borrower has to pay that cost in the final analysis.

2. Customers dislike the time and paper shuffle it takes to complete a loan transaction. Awareness of legal action against banks causes all lenders to document every detail and double check every form before granting a loan. This paperwork is costly and annoying.

3. Credit becomes more difficult to obtain with each lawsuit filed. Why take that risk when you can deal in Government Securities or make other investments without getting sued. When you are threatened with court action that could wipe out the bank's capital, why take the chance? There are numerous attorneys eagerly awaiting clients that think they can win the "Montana lottery" and get a million dollar judgement in their favor.

Not an insurance issue.
Other costs.

It is absolutely not worth it to make a loan that has any degree of risk. A lawsuit not only costs if you lose, but the hours of preparation and the legal fees can be devastating too.

You people, our elected representatives have the power to restore some degree of sanity to the Montana legal system. The best way to develop business in Montana and assure financing for legitimate, profitable, well managed business and agriculture is to restrict the punitive damage lawsuits. I support the action of the coalition and support Senate Bill 12, without any amendments.
House Bill 17

* * * * PETITION TO LIMIT LIABILITY * * * *

THE UNDERSIGNED MONTANA CITIZENS AND VOTERS STRONGLY URGE THE LEGISLATURE TO PASS A CONSTITUTIONAL REFERENDUM WHICH WOULD ALLOW THE LEGISLATURE TO LIMIT OR CONSTRAIN PRIVATE SECTOR LIABILITY. LET THE PEOPLE OF MONTANA VOTE ON THIS ISSUE!

THIS PETITION WAS SIGNED BY OVER 4200 MONTANA CITIZENS FROM THE FOLLOWING COMMUNITIES:

ANACONDA	ANTELOPE	ARLEE	BAINVILLE
BAKER	BASIN	BELFRY	BELGRADE
BELT	BIGFORK	BILLINGS	BONNER
BOULDER	BOZEMAN	BRADY	BROADUS
BROCKTON	BROWNING	BUTTE	BYNUM
BIG TIMBER	CARDWELL		
CARTER	CHESTER	CHINOOK	CLANCY
CLINTON	CLYDE PARK	COHAGEN	COLSTRIP
COLUMBIA FALLS	CONRAD	CORAM	CORVALLIS
CULBERTSON	CUT BANK	DAGMAR	DEER LODGE
DEVON	DILLON	DRUMMOND	DUPUYER
DUTTON	EAST HELENA	EMIGRANT	EUREKA
EVERGREEN	FALLON	FLAXVILLE	FLORENCE
FORSYTH	FORTINE	FOUR BUTTES	FRENCHTOWN
GALATA	GALLATIN GATE	GARDINER	GLASGOW
GLENDIVE	GREAT FALLS	HAMILTON	HARDIN
HARLOWTOWN	RYGATE		
HAURE	HELENA	HERON	HIGHWOOD
HINGHAM	HINSDALE	HUNGRY HORSE	HUNTLY
HUSON	HYSHAM	JEFFERSON CITY	JOPLIN
KALISPELL	KEVIN	KILA	KREMLIN
LAKE SIDE	LAMBERT	LAUREL	LEDGER
LEWISTOWN	LIBBY	LINCOLN	LINDSAY
LIVINGSTON	LOLO	MALTA	MANHATTAN
MARION	MEDICINE LAKE	MELSTONE	MILES CITY
MILLTOWN	MISSOULA	MONTANA CITY	NOXON
OPHEIM	OUTLOOK	PARK CITY	PEERLESS
PENDROY	PLAINS	FLENTYWOOD	POLSON
POPLAR	PRAY	PRYOR	RAYMOND
RED LODGE	REDSTONE	RESERVE	REXFORD
RICHLAND	ROBERTS	ROSEBUD	ROUNDUP
SCOBY	SEELEY LAKE	SHAWMUT	SHELBY
SHEPHERD	SIDNEY	SOMERS	STEVENSVILLE
STOCKETT	SUNBURST	SUPERIOR	SWEETGRASS
THOMPSON FALLS	THREE FORKS	TOWNSEND	TREGO
TROY	VALIER	VICTOR	WESTBY
WEST YELLOWSTONE	WHITEFISH	WHITETAIL	WH. SULFUR SPRINGS
WIBAUX	WILLOW CREEK	WILSALL	WISE RIVER
WOLF POINT			

N.B. Copies of completed petitions on file with the President of the Senate and the Speaker of the House. and the Montana Historical Society.

WITNESS STATEMENT

NAME Betty H. Kisseck Kisseck Realty BILL NO. H.B. 17
ADDRESS 3215 Harrison Ave Butte DATE 3-27-86
WHOM DO YOU REPRESENT? Montana Assn. of Realtors
SUPPORT X OPPOSE NO AMEND NO

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Montana will loose major tax payers
with out relief in insurance premiums -
Please pass H.B. 17 with the unamended version
to enable much needed Tort Reform -
to take place -

WITNESS STATEMENT

NAME Nancy Stephenson BILL NO. HB 17
ADDRESS 200 3rd Ave, N. DATE 3/27/86
WHOM DO YOU REPRESENT? Neighborhood Housing
SUPPORT ✓ OPPOSE ✓ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

As the Director of a non-profit I would urge you to think of the non-profits that you personally have been involved in. Can those organizations that deal with the elderly, disabled, low-income, etc. withstand the budgetary crunch of having insurance rates escalating at 300% a year. Non-profits have no one to pass that increase along to yet they must protect the thousands of volunteers that sit on their Boards of Directors, serve on committees, and provide services free of charge -

Think of Montana without non-profits to provide low-cost services because that will happen if the insurance problem is not solved.

I ask you if it is worth giving a few injured people excessive awards far in excess of their actual damages =

to give up the services of the
thousands of volunteers and the hundreds
non-profits that serve the needy
in our State on a daily and
on-going basis—



Neighborhood Housing Services, Inc.

OF GREAT FALLS

615 THIRD AVENUE SOUTH • GREAT FALLS, MONTANA 59405 • TELEPHONE (406) 761-5861

March 26, 1986

Montana Senate Judiciary Committee
Helena, MT

Gentlemen:

Neighborhood Housing Services is a non-profit organization that is a public-private partnership of residents, lenders, businesses, and local government. Its goal is to revitalize the declining core neighborhoods of Great Falls by providing low-interest home improvement loans, construction supervision, financial counseling, and many other services. NHS has a three person staff and supervises approximately \$400,000 of rehabilitation and/or new construction work a year.

Liability insurance to cover our volunteer Board of Directors and Officers was \$515 in 1985. For 1986 it is \$4,110. This is an increase of 698 percent.

Our general corporate liability, fire, and real estate insurance was \$1,037 in 1985. For 1986 the same coverage will cost us \$3,300. The increase is 218 percent.

This means for our non-profit with an operating budget of under \$90,000 that our insurance has increased by almost \$6,000 in one year. In more than five years we have never had a claim filed on any of our liability coverage. All of the contractors and subcontractors who work on NHS projects are required to carry liability insurance.

We know that other small non-profits are being faced with similar increases in insurance rates. We cannot operate without liability insurance to protect both our volunteer directors and our Revolving Loan Funds.

The question is how long will non-profits that survive primarily on donations be able to operate when faced with this tremendous escalation in insurance rates. I would urge you to deal with this problem.

Very truly yours,


Nancy M. Stephenson
Executive Director

NMS:jrm

WITNESS STATEMENT

NAME Robert E. Stoeckig BILL NO. HB 17
ADDRESS 701 E. Main Street Lewistown, MT 59457 DATE 3/27/86
WHOM DO YOU REPRESENT? Pen American Industries, Inc
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Our company moved from California to Montana 2 years ago. Upon closure of our last California office and its relocation to this state our \$2,000,000 liability policy was cancelled. In attempting to find another carrier, I find that only 2 firms in the USA are willing to even quote us. The low bid for \$1,000,000 was \$30,000! Using a California contact I found 14 companies willing to quote us. We could get our \$2,000,000 for an amount around \$20,000.

I ask: Can we as a company continue (afford) to stay in Montana. What about other businesses considering locating in this state?

This is at best a complicated issue. We need this bill's passage with no amendments to give you the legislature the power to begin to do something during the 1987 session.

WITNESS STATEMENT

NAME ROGER W YOUNG BILL NO. HB 17
ADDRESS 537 32 Ave NE, Great Falls, DATE 3-27-86
WHOM DO YOU REPRESENT? Chamber of Commerce of Great Falls
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Great Falls Area Chamber of Commerce strongly endorses the adoption of HB 17. More than 85% of our 1500 members in a recent poll, favored action by this Special Session which will provide some remedy to liability problems in the public and private sectors. We believe a Constitutional Amendment will restore to the people - thru the Legislature - a means to accomplish meaningful tort reform. Please resist an amendment to HB 17 which would separate the public or private issues, or any amendment which would require a 2/3 majority of each house in order to accomplish any tort reform. Such a majority would make the Constitutional Amendment meaningless!

support HB 17 as written!

WITNESS STATEMENT

NAME Ben G. Havdahl BILL NO. 17
ADDRESS Box 1714 Helena MT 59624 DATE 3/27/86
WHOM DO YOU REPRESENT? Montana Motor Carriers Assn.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

(Prepared statement attached)

Exhibit

The Montana Motor Carriers Association as a member of the Montana Liability Coalition fully supports and urges this Legislature to adopt Senate Bill 12 and House Bill 17, a referendum amending Article #2, Section 16 of the Constitution granting legislative authority to grant government immunity and limit private sector liability in civil proceedings.

The adoption of this referendum is vital in the longer range solution to the liability insurance crisis that has had a dramatic negative affect on business especially the motor carrier industry not only in Montana but throughout this whole country.

The Montana Motor Carriers Association represents some 365 motor carrier members including all the larger carriers and 125 supplier members in Montana. There are approximately a total of 1,000 trucking operations, many are one or two truck operators, based in Montana that operate in several states in addition to Montana. 95% of the MMCA carrier members operate in interstate commerce. Some 9,000 carriers based outside of Montana operate in and/or through the state. It has been estimated that some 200,000 over the road commercial trucks operate within and/or through the state on an annual basis.

Nationally some 5 million truckers log more than 138 billion miles throughout the country operated by 260,000 firms hauling 77% of the dollar value of all freight in the U. S.

Federal law, unlike many other industries you've heard from, requires that each over the road truck described must carry a minimum of \$750,000 of public liability insurance regardless of commodities hauled. A minimum of a million dollars of liability is required by a carrier hauling hazardous waste, hazardous materials along with other commodities and \$5,000,000 is required if the carrier is a bulk transporter of gasoline, LPG, or other hazardous substances. Buses with 16 or more passengers must carry \$5 million and \$1.5 million if they haul under 16 passengers.

The proper functioning of a vital truck and bus transportation system is essential, and currently the single most difficult problem facing the motor carrier industry in Montana and nationally, is the availability of adequate insurance at a reasonable and relatively stable price. In addition to the public liability, truckers maintain property damage insurance, workers compensation insurance, cargo loss and damage insurance and umbrella or excess coverage. The motor carrier's problem, above others, is that operating with no insurance coverage or coverage below the limits violates federal law.

By now you are familiar with the background of the problem. From the mid 1970's to early last year, high interest rates and easily obtainable insurance fuelled the so called "soft market" cycle in the insurance industry. In what is termed "cash flow under writing" premium dollars from writing of often times indiscriminate policy coverage by primary underwriters yielded returns from 18-20% from interest bearing investments for several years. Sound underwriting practices and effective risk management were generally ignored. It was a buyers market. A trucking company simply called an insurance broker and got the cheapest rate.

As you know, things changed in the last year. Interest rates dropped, reinsurance rates became expensive, indiscriminate claims for risks written during the "soft market" came home to roost after lengthy adjudication in the form of large court awards for pollution damage, several global catastrophies and numerous aviation disasters. In short, cash flow underwriting no longer worked for the insurance industry. A capacity crunch occurred, resulting in a \$60 plus billion short fall in reserves. All insurance needs could not be met and insurance companies raised premiums as a quick fix.

Limited capacity focused on safe risks. Unsafe risks were dropped or faced skyrocketing premiums. Trucking companies found themselves in the company of taxis and buses, liquor handlers, municipalities, doctors, lawyers, accountants and day care centers. A trucking company's safety or claims track record had little to do with premium hikes.

A survey of MMCA carrier members made in February 1986 indicated that 76% of the respondents were facing a large premium increase in liability insurance. 89% indicated the rate increase to be 50% or higher and 57% indicated their increased premium rates to be higher than 100% with increases ranging from 100 to 800%.

On a national average, premium rates for primary coverages for public liability and property damage (PL&PD) for general commodity carriers have skyrocketed on the average from 250 to 500 percent with claims-free records of carriers having had no affect on the rates being quoted to them. Some have been unable to get coverage at any rate, especially the tank truck carriers hauling hazardous materials. Those in the latter category (with \$5 million minimums) who have been lucky enough to get coverage, have absorbed increased rates as high as 1,000 percent.

Primary coverage premium rates for cargo loss and damage liability have risen on the average 70 to 150 percent. Some trucking companies in Montana have been unable to get coverage with street rates and have had to resort to usage of assigned risk pools.

Those who have turned to assigned risk pools to obtain coverages not otherwise available have done so despite the stigma associated with such a move that presents a bad connotation to prospective shipper customers. Some of our carriers have told us that the coverages they were able to obtain through assigned risk pools do not meet federally-imposed minimums and premiums are 200% to 300% higher in cost.

Davis Transport in Missoula, a medium sized motor carrier, is a classic example. In December 1985, their insurance coverage was cancelled because their carrier went out of business. They were unable to obtain coverage and had to turn to the assigned risk pool. They were required to pay a deposit of \$130,000 just to secure the coverage. Three weeks ago, they were able to get their coverage placed in the voluntary market. They were required to pay an additional \$150,000 deposit. Today, after spending \$280,000, they have the bare minimum of coverage and don't know whether they can afford the premium.

While we do not know the percentage to which carriers are increasing their deductibles for self-insurance purposes, we do know that most are being doubled or tripled. Premium rates for the excess coverages beyond the primary coverages are also increasing dramatically, with the level of coverage provided substantially decreased. Most of the insurance companies who will write primary coverage will not write excess. So, many trucking companies cannot get the required levels of insurance.

Our national affiliate, American Trucking Associations, has been receiving an average 1,000 calls per month on the insurance hot line instituted on August 6, 1985 to assist carriers in pursuing shopping leads. In August 1985, the Interstate Commerce Commission published a list of 700 underwriters which its file indicated were writing truck insurance. As of this month, we're told that only about 5%, or 35, are continuing writing insurance on a for-hire carrier and out of that group 50% are in dire financial straits. As a result, rather than 700, only about 18 insurance companies, as far as can be determined, are financially sound and writing for-hire truck insurance.

We do not know the number of trucking companies that have gone out of business as a result of their inability to pay for insurance. However, the trade press is full of specific instances from which we know there are many.

One of our out of state members, E. L. Murphy Trucking Company, Minnesota, recently cancelled 200 owner operators from MMCA's group health insurance plan, when they informed us they had closed their doors and terminated leases as their liability insurance premium went from under \$2,000 to \$7,500 per truck per year.

Literally hundreds of trucking companies from all over the country have filed independent tariffs with the ICC this year seeking approval of surcharges to their existing tariffs that will allow a pass through to the shippers of the increased insurance costs. The ICC is granting them routinely. The percentages sought range from 1.5% to a 5% increase in tariff rates.

But in the trucking industry, capacity far exceeds the demand with the addition of some 13,000 new carriers since deregulation in 1980 and a decrease in the volume of freight available, it doesn't take a genius or a big computer model to figure out that rates can't in fact be raised to cover the costs.

The Montana PSC has reduced the time from 45 to 20 days for a carrier's application for a rate increase to be processed due to increases in insurance costs. An MMCA bus company member, Rimrock Stages, recently petitioned the PSC for a rate increase for passengers and package bus service because of increased insurance costs. The cost of \$5 million liability insurance for Rimrock Stages rose from \$3,000 last year to \$10,000 per bus this year.

Tank truck operators have been the most severely hit. Their problems hauling petroleum, LP Gas, and other bulk hazardous materials are exacerbated by the federal government debates over environmental restoration, Superfund, and definitions of gradual pollution over sudden and accidental pollution. Several courts have interpreted the fine print on insurance policies regarding gradual/sudden and accidental pollution to mean complete environmental restoration. Insurance companies have begun not writing the risk into policies and tank carriers are experiencing rate increases with exclusions for environmental restoration close to 1,000% if coverage can be obtained at all.

Numerous other unusual exclusions are finding their way into the fine print of insurance policies submitted to trucking companies. Targetted, for example, are owner-operator usages, leased equipment, driveaway operations (motorized cargo that rolls on its own wheels under a bill of lading), and hazardous materials, as examples. The problems are particularly acute in the household goods moving industry which employs nationally the services of over 21,000 interstate owner-operators, over 20% of the nation's entire owner-operator population. These and other small, independent owner-operators, including many in Montana, attempting to negotiate for adequate, reasonably priced insurance, face a dilemma.

If carriers cannot find insurance, they have two options: cease operations until they can find insurance or operate illegally. Unfortunately, some appear to be utilizing the second option.

The U. S. Department of Transportation reports that 25% of all carriers -- regulated and unregulated -- do not have adequate insurance coverage.

Cost increases in insurance and other areas are affecting truckers of all sizes and shapes, making it more expensive to operate, reducing profits, and causing operating ratios to rise. Declining profit margins, or no profits at all, are bound to have substantial negative impact upon fleet maintenance and therefore upon the safety of our highways.

MMCA supports the adoption of legislation to alleviate the problem including the referendum in Senate Bill 12 and House Bill 17 amending the constitution thereby enabling this legislature to deal with the problems through legislation.

Since the crisis is an insurance industry problem that is national and even international in scope and the motor carrier industry is just a part of those affected, we realize easy short term solutions are simply not available.

We do think, however, adoption of Senate Bill 12 and House Bill 17 by Montana is a necessary first step.

WITNESS STATEMENT

NAME Roland D Pratt BILL NO. UB 17
ADDRESS Box 908 Niles DATE 3/28/86
WHOM DO YOU REPRESENT? MT Restaurant Assoc
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*Support the bill in its present form
with no amendments.*

WITNESS STATEMENT

NAME

Phil Stroppe

BILL NO.

HB 17

ADDRESS

Box 874

DATE

WHOM DO YOU REPRESENT?

Mont Innkeepers and Tavern Assoc

SUPPORT

☒

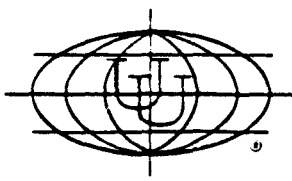
OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*Indorse prepared remarks
of Rep Meier and
George Bennett.*



UNIVERSAL UNDERWRITERS INSURANCE COMPANY

REGIONAL OFFICE-16300 CHRISTENSEN ROAD, SUITE 329, SEATTLE, WASHINGTON 98188
TELEPHONE (206) 241-1077

March 18, 1986

Automotive & Industrial
Distributors of Billings, Inc.
2112 4th Avenue North
Billings, Montana 59101

Attn: Don Stanaway

Dear Mr. Stanaway:

Please accept this letter as formal notice that the
"Notice of Cancellation or Nonrenewal" form to be
effective March 23, 1986 is extended an additional fifteen
days.

Coverage as outlined in binder numbers 61071, 61072, 61074,
61075, 61076, 64305 and 60919 will terminate at 12:01 a.m.
on April 7, 1986.

As discussed, there is no coverage for the two pumper trucks
on bulk oil delivery.

Very truly yours,

William D. Henry
Regional Underwriting Manager

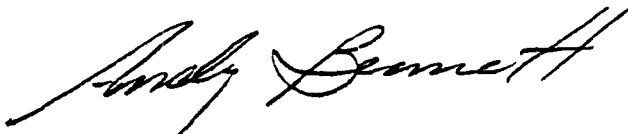
/th

My office has been actively working on the insurance issue since I took office in January 1985. I adopted emergency rules which restricted mid-term cancellation and non-renewal of policies and prohibited mid-term premium increases. Through the National Association of Insurance Commissioners' Clearinghouse, my office is also participating in a national effort to provide availability information where it is needed.

I believe that Montanans, working together, can resolve the complex insurance issues which face us. Legislative consideration of the Montana Insurance Assistance Plan would be a step in that direction.

With best personal regards, I am

Very truly yours,

A handwritten signature in cursive script, reading "Andy Bennett". The signature is written in dark ink and is positioned above the typed name.

ANDREA "Andy" BENNETT
State Auditor and
Commissioner of Insurance

AAB/dd/INS2/L1,2

STATE AUDITOR
STATE OF MONTANA

1-800-332-6148

Andrea "Andy" Bennett
STATE AUDITOR



COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

March 17, 1986

Representative John Montayne
1903 Galway Drive
Billings, MT 59101

Dear John:

In my capacity as Commissioner of Insurance, I requested that the Governor include, in his call for the March 1986 special session, consideration of legislation which would create the Montana Insurance Assistance Plan. The Governor indicated that he would leave the decision of whether or not to consider legislation for the formation and authority of the Montana Insurance Assistance Plan up to the legislative caucuses. I am personally requesting that the caucuses support the inclusion of the Montana Insurance Assistance Plan in the special session. Creating such a program in Montana would help alleviate the current insurance coverage problems encountered by the government and private sectors.

The Montana Insurance Assistance Plan would be a voluntary program assisting Montana insurance consumers in obtaining coverage not available in the regular insurance market. While this program is voluntary, many licensed Montana insurance carriers have indicated a willingness to participate.

In addition, the proposed legislation would provide me the authority to form Joint Underwriting Associations (JUA'S) in emergency situations. A JUA could be created only if, after a public hearing, it were determined that a particular type of coverage is absolutely not available in Montana. The JUA would be a mandatory program providing coverage from Montana licensed insurance carriers. Montana currently has a law which permits the establishment of a JUA in the medical malpractice area if coverages become unavailable.

My preference is to utilize the voluntary approach of the Montana Insurance Assistance Plan whenever possible. The authority to create a JUA, after proper public hearing, however, would help to assure Montana consumers of insurance availability.

My office is currently working on draft legislation to authorize the establishment of this program. I believe this proposal will help provide steps to reasonable, workable solutions to our current problems. It should be recognized, however, that no single legislative bill or proposal will meet all the insurance availability and cost problems in Montana.

NOTICE OF CANCELLATION OR NONRENEWAL
(Montana)

WYCE
CO. IY
Universal Underwriters Ins. Co.

NAME AND
ADDRESS
OF INSURED

Automotive & Industrial
Distributors of Billings, Inc.
P.O. Box 1999
Billings, MT 59103

KIND OF POLICY:	Unicover III
POLICY NO.:	055924
CANCELLATION OR TERMINATION WILL TAKE EFFECT AT:	
3-23-86 (DATE)	12:01 a.m. (HOUR-STANDARD TIME)
DATE OF MAILING: 2-21-86	
ISSUED THROUGH AGENCY OR OFFICE AT:	
Seattle, Washington	

CANCEL-
LATION

(Applicable item marked ☒)

☒ You are hereby notified in accordance with the terms and conditions of the above mentioned policy that your insurance will cease at and from the hour and date mentioned above.
If the premium has been paid, premium adjustment will be made as soon as practicable after cancellation becomes effective.
If the premium has not been paid, a bill for the premium earned to the time of cancellation will be forwarded in due course.

☐ You are hereby notified in accordance with the terms and conditions of the above mentioned policy that your insurance will cease at and from the hour and date mentioned above due to nonpayment of premium.
A bill for the premium earned to the time of cancellation will be forwarded in due course.

☐ You are hereby notified in accordance with the terms and conditions of the above mentioned policy, and in accordance with law, that your insurance will cease at and from the hour and date mentioned above.
If the premium has been paid, premium adjustment will be made as soon as practicable after cancellation becomes effective.
If the premium has not been paid, a bill for the premium earned to the time of cancellation will be forwarded in due course.

☐ Reason for cancellation: Nonpayment of premium.

Reason(s) for cancellation (other than for nonpayment of premium):

See the "Important Notices" section below for Additional Information Regarding the Reason(s) for Cancellation, if the Insurance being cancelled primarily for personal, family or household needs, rather than business or professional needs.

NON-
RENEWAL

☐ You are hereby notified in accordance with the terms and conditions of the above mentioned policy that the above mentioned policy will expire effective at and from the hour and date mentioned above and the policy will NOT be renewed.

☐ You are hereby notified in accordance with the terms and conditions of the above mentioned policy, and in accordance with law, that the above mentioned policy will expire effective at and from the hour and date mentioned above and the policy will NOT be renewed.

Reason(s) for nonrenewal:

See the "Important Notices" section below for Additional Information Regarding the Reason(s) for Nonrenewal, if the insurance not being renewed primarily for personal, family or household needs, rather than business or professional needs.

IMPORTANT
NOTICES

Automobile Insurance Plan Information: You have been notified herewith that this Company does not desire to carry your automobile insurance any longer. You are possibly eligible for automobile insurance through another insurer or under the Montana Automobile Insurance Plan.

☐ Appeal to Automobile Insurance Plan Governing Committee: You are hereby advised, regarding the above notification of cancellation, that you have the right to appeal to the Governing Committee of the Montana Automobile Insurance Plan, P.O. Box 7917, San Francisco, California 94120.

Additional Information Regarding the Reason(s) for Cancellation/Nonrenewal: You have the right to know the specific items of information that support the reasons given for this decision and the identity of the source of that information. You also have the right to see and obtain copies of documents relating to this decision.

If you ask us to correct, amend, or delete any information about you in our files and if we refuse to do so, you have the right to give us a concise statement of what you believe is the correct information. We will put your statement in our file so that anyone reviewing your file will see it.

If you would like additional information concerning this action, state law requires that you submit a written request within ninety (90) business days of the date this notice was mailed to you. Please send your request to:

(Name and address of the person or department to contact for additional information)

☐ Consumer Report: In compliance with the Fair Credit Reporting Act (Public Law 91-508), you are hereby informed that the action taken above is being taken wholly or partly because of information contained in a consumer report from the following consumer reporting agency.

(NAME)

(ADDRESS)

Mr. Ronald B. Miller
Page 2
March 17, 1986

on their behalf that such coverage may be provided at any time. There is no assurance, however, that it will be in place by March 23, 1986, and it is for this reason that A&I had requested a short extension. Mr. Stanaway was very dissappointed to hear from you last Thursday that no further extensions would be granted, after first being told that a short extension could probably be arranged.

The officers of A&I Distributors do not believe that it is feasible or prudent for them to continue operation of the business without liability insurance coverage, and the uncertainty of whether such coverage will be available next week is already causing them serious hardship. Orders are now being solicited and taken for products which would be delivered next week, but in the absence of coverage (if the present applications for replacement coverage are still pending at that time) it may not be prudent for the Company to make such deliveries. If deliveries are not made when promised, the damage to its reputation for reliability with its customers (a cornerstone of its business) would be substantial and perhaps of extended duration.

We understand that your company had approximately sixty days to review the application, and even then issued only a binder rather than a final policy, and even after issuing the binder concluded ultimately that you were unable to continue the policy. Under those circumstances, it appears to us that a thirty day period within which to find replacement coverage, given all of the difficulties in today's insurance market, is manifestly unreasonable. This is particularly true after the assurances A&I was given by representatives of your company that the new insurance was in force, that the old could be cancelled, and, when the new insurance was cancelled, that adequate time would be extended to find replacement coverage.

This letter, therefore, is to renew the request of A&I for an extension of the coverage provided by the binders for up to thirty additional days if necessary.

We are hopeful that no additional extension at all will be necessary, and that other coverage can be secured this week, and if so A&I will advise you promptly and consent to earlier termination. Because of the uncertainty as to whether it can be secured that quickly, however, we think that good faith on your part under the circumstances outlined above demands some extension of the time within which to secure the coverage.

Because of the shortness of time, we would appreciate a telephone reply to this letter at your earliest convenience.

Very truly yours,

GARELD F. KRIEG

GFK/js

CROWLEY, HAUCHEY, HANSON, TOOLE & DIETRICH

AMES M. HAUCHEY
JORMAN HANSON
JRUCK R. TOOLE
JOHN M. DIETRICH
THOMAS N. KELLEY
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LANEY, JR.
MYLES J. THOMAS
GEORGE C. GALTHORP
DAVID L. JOHNSON
JACK RAMIREZ
KEMP WILSON
ROBERT EOB LEE
STUART W. CONNER
HERBERT L. PERCE, JR.
RONALD R. LODDERS
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES A. SITES

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P. O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 232-3441
TELECOPIER (406) 236-8526

CALE CROWLEY
OF COUNSEL

L. RANDALL BISHOP
CAROLYN S. OSTBY
STEVEN J. LENHAM
T. G. SPEAR
LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER HANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. McLEAN
JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LANDIN, III
MICHAEL S. OOCKERY
WILLIAM J. HATTIE
PETER F. HASEIN
WILLIAM O. BRONSON
MALCOLM H. GOODRICH
MICHAEL S. EVANS
MARY S. VERGER
JON T. DYRE
DENNIS NETTISIMMONS
MICHAEL C. WALLER
SHARON NOVAK

March 17, 1986

Mr. Ronald B. Miller
Regional Sales Manager
Universal Underwriters Insurance Co.
1800 Pacific Highway South
Suite 612
Seattle, Washington 98108

Re: A&I Distributors of Billings
Your Cancellation of Policy No. 055924

Gentlemen:

In October, 1985, A&I Distributors of Billings applied to you for insurance coverage, including liability coverage, which ultimately culminated in a series of binders to issue the above captioned policy no. We understand that the binders were issued on or about December 27, 1985, effective January 1, 1986. Don Stanaway, President of A&I, was given no indication at the time that the binders were issued that the application was in any way still under review by your company, and specifically inquired as to whether it would now be appropriate for him to cancel the other coverage which your policy was replacing. He did cancel such coverage on January 10, 1986.

It came as a complete surprise, therefore, when your representative, Dan Robinson, verbally informed Mr. Stanaway on February 21, 1986 that the Company was going to cancel the policy, but Mr. Robinson assured him at the time that coverage would be continued until replacement coverage could be secured. Notwithstanding such assurance, Mr. Stanaway and Mr. Robinson on the same day (February 21) contacted another agent at FBS Hoiness/LaBar Insurance in Billings, and Mr. Robinson took to them the data which had been assembled in connection with your application, and a new application was prepared immediately. On February 24, A&I received the notice of cancellation of your policy effective March 23, 1986 at 12:00 o'clock a.m. As noted, A&I had already commenced the process of obtaining replacement coverage, and has been diligently pursuing that effort ever since.

Despite such efforts, replacement coverage has not yet been obtained, although A&I is being advised by the agents pursuing this

March 14, 1986

Governor Ted Schwinden
Capitol Station
Helena, Mont. 59620

Dear Governor Schwinden:

You always think it can't happen to you! Attached is a copy of a casualty insurance cancellation from Universal Underwriters Insurance Company. As one of Montana's largest oil distributors, we employ 60 people and all of us will be out of work on March 23rd. unless we get coverage.

We would appreciate anything you could do to address the insurance crisis in both the long and short term. If you can apply any pressure to Universal Underwriters to at least extend their insurance coverage at least until we are able to get another carrier, I will greatly appreciate it.

Yours very truly,

A. & I. Distributors

Don Stanaway, President

DS:blt
Enclosure

cc: Andrea Bennett
P. O. Box 4009
Helena, Mt. 59604

Gerry Driscoll
House of Representatives
4344 Stone St.
Billings, Mt. 59101

Rodney Garcia
214 So. 38th.
Billings, Mt. 59101

William Glaser
P. O. Box 1801
Billings, Mt. 59103

Tom Hannah
2228 Beloit
Billings, Mt. 59102

Les Kitzelman
1148 Patriot
Billings, Mt. 59105

John Montayne
1303 Galway Dr.
Billings, Mt. 59101

Jack Ramirez
4042 Pinecove Rd.
Billings, Mt. 59106

Dennis Rehberg
1737 Ave. D.
Billings, Mt. 59102

Jack Sands
3115 Poly
Billings, Mt. 59102

Bruce Simon
217 Clark
Billings, Mt. 59101

Cal Winslow
1240 Crawford Dr.
Billings, Mt. 59101

Senator Bruce Crippen
2110 Overland Ave.
Suite 106
Billings, Mt. 59102

Senator Ton Hager
150 No. Norris Cts.
Billings, Mt. 59105

Senator Thomas Keating
P. O. Box 20522
Billings, Mt. 59104

Senator Pat Regan
204 Mtn. View
Billings, Mt. 59101

Senator Thomas Towe
2525 6th. Ave. No.
Billings, Mt. 59101

cc: Harold Krieg

March 13, 1986

Mr. Dick Valentine
Pennzoil Company
P. O. Box 2967
Houston, Texas 77001

Dear Dick:

Just to bring you up to date on our dilemma, attached are copies of the letters we wrote to the politicians, plus contacting our attorney. Now it appears the problem has to do with the insurance pertaining to the 1981 Federal Highway Act. The re-insurance carriers are concerned about a possible wreck in an environmentally sensitive area if the truck contains petroleum products, so there is more at stake here than just A. & I.

We would greatly appreciate it if you could pick us up on your insurance, purchase us or whatever!!!

Yours very truly,

A. & I. Distributors

Don Stanaway, President

DS:blt

C
O
P
Y

March 18, 1986

Representative Ron Marlenee
2717 First Ave. No.
Billings, Mt. 59101

Dear Ron:

You always think it can't happen to you! Attached is a copy of a casualty insurance cancellation from Universal Underwriters Insurance Company. As one of Montana's largest oil distributors, we employ 60 people and all of us will be out of work on March 23rd. unless we get coverage.

We would appreciate anything you could do to address the insurance crisis in both the long and short term. If you would please call Universal Underwriters at their Regional Office in Seattle - Ph: 206-241-1077, and ask them to at least extend our insurance coverage until we are able to get another carrier, I would greatly appreciate it.

Yours very truly,

A. & I. Distributors

Don Stanaway, President

DS:blt

P.S. I would appreciate receiving a call from you on this matter, at any hour, either here at the office or at home.

March 18, 1986

Senator Max Baucus
202 Fratt Building
2817 2nd. Ave.
Billings, Mt. 59101

Dear Max:

You always think it can't happen to you! Attached is a copy of a casualty insurance cancellation from Universal Underwriters Insurance Company. As one of Montana's largest oil distributors, we employ 60 people and all of us will be out of work on March 23rd. unless we get coverage.

We would appreciate anything you could do to address the insurance crisis in both the long and short term. If you would please call Universal Underwriters at their Regional Office in Seattle - Ph: 206-241-1077, and ask them to at least extend our insurance coverage until we are able to get another carrier, I would greatly appreciate it.

Yours very truly,

A. & I. Distributors

Don Stanaway, President

DS:blt

C
O
P
Y

March 18, 1986

Senator John Melcher
316 No. 26th.
Billings, Mt. 59101

Dear John:

You always think it can't happen to you! Attached is a copy of a casualty insurance cancellation from Universal Underwriters Insurance Company. As one of Montana's largest oil distributors, we employ 60 people and all of us will be out of work on March 23rd. unless we get coverage.

We would appreciate anything you could do to address the insurance crisis in both the long and short term. If you would please call Universal Underwriters at their Regional Office in Seattle - Ph: 206-241-1077, and ask them to at least extend our insurance coverage until we are able to get another carrier, I would greatly appreciate it.

Yours very truly,

A. & I. Distributors

Don Stanaway, President

DS:blt



A & I Distributors

(Automotive & Industrial Distributors)

P.O. Box 1999 • 2112 - 4th Ave. No. • Phone (406) 245-6443 • Billings, Montana 59103-1999

March 25, 1986

Mr. Gary Marbut
Montana Chamber of Commerce
P. O. Box 1730
Helena, Mt. 59624

Dear Gary:

Pete Hoiness called and asked that I send this to you. This is a major crisis to me and our company. We are desperately trying to get insurance and praying that we will get it. Our original crisis date of March 23rd. has been extended a few days.

Anything you can do to help us would be greatly appreciated.

Yours very truly,

A. & I. Distributors

Don Stanaway, President

DS:blt

Enclosures

BOB WARD & SONS, INC.

Jewelry and Sporting Goods

BRANCH STORE NO. 1
3103 HARRISON
BUTTE, MONTANA 59701
PH. 406-243-1234

BRANCH STORE NO. 2
2320 N. 1ST
BOZEMAN, MONTANA 59717
PH. 406-243-1234

BRANCH STORE NO. 4
100 SOUTH FIRST ST.
HELENA, MONTANA 59601
PH. 406-383-6204

BRANCH STORE NO. 5
NORTHGATE MALL
MISSOULA, MONTANA 59801
PH. 406-728-2010

BRANCH STORE NO. 6
100 CEDAR ST.
SPOKANE, MONTANA 59601
PH. 406-443-2125

March 24, 1986

Gary Marbut
% Montana Chamber of Commerce
Box 1730
Helena, Montana 59624

Attention: Montana Legislators
Helena, Montana

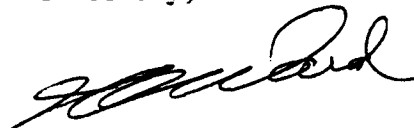
Bob Ward and Sons, Inc. have had a problem securing liability and insurance coverage this year at a reasonable price!

We were forced to shop the market as our regular carrier doubled their rates, and greatly increased the deductibles.

We did find insurance at a great increase in price over last year for less coverage.

There is a real problem in insurance for the Businesses at the present time at an affordable price.

Sincerely,



BOB WARD AND SONS, INC.
Irvine C. Ward/President

ICW/bw

MAR 25 1986

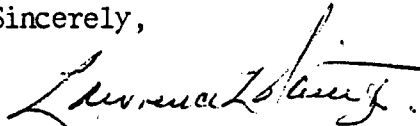
"EVERY DEPARTMENT A SPECIALTY SHOP"

March 25, 1986
Page 2

A separate but related problem St. Patrick Hospital has experienced involves workers' compensation insurance coverage. The firm we had been using for workers' compensation coverage, Great Global Assurance Company, was declared insolvent by the Arizona Insurance Commissioners Office effective March 9, 1986. As a result of this problem, St. Patrick Hospital is forming a workers' compensation self insurance fund in conjunction with Columbus Hospital in Great Falls, Montana. The insolvency of Great Global has been a significant inconvenience to this organization. Given the problems of many workers compensation insurance carriers, we feel the only way we can have sufficient control over this line of insurance is to self insure.

Again, I want to express my support for the work of the Montana Liability Coalition. The cost and availability of many lines of insurance poses a very real problem to many health care providers in Montana.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence L. White, Jr.", written in dark ink.

Lawrence L. White, Jr.
President

LLW/lhk



March 25, 1986

Montana Legislature
Helena, MT 59624

I am writing to express support for the Montana Liability Coalition. During the past year, our organization has experienced significant problems related to the availability of various insurance coverages as well as the cost of these coverages. In addition, we are seeing an unhealthy pattern of increasing claims against the hospital.

During 1985, St. Patrick Hospital's professional liability insurance coverage premiums increased 84%. Professional liability premiums have increased from \$117,486 in 1984 to annual premiums of \$214,484 in premiums anticipated for 1986. During 1985, we also saw a significant reduction in the limits of liability available from reinsurers for excess professional liability insurance coverage. In addition, we were forced to change reinsurers because fewer companies are writing excess professional liability insurance coverage.

During 1985, St. Patrick Hospital was forced to change the company we purchased directors, officers and trustee liability coverage from due to the fact that the firm we had been using went into receivership. We were able to obtain coverage through another company but at a significantly increased cost. In 1984, annual premiums for directors and officers coverage was \$700. At the present time, we are paying \$13,333 per year. This represents a premium increase of almost 20 times what we had previously been paying.

We are also seeing an unhealthy trend toward increased claims against the organization. Information available through the Montana Medical-Legal Panel indicates claims have been increasing against all Montana health care providers each year since the panel was formed. Fortunately, settlements have not increased significantly in volume or size although this is in jeopardy of changing given the current litigation climate. In general, Montana's claims experience is better than the nation's as a whole but because a significant problem does exist nationally and the market for insurance is national in scope, significant premium increases are occurring in Montana and these costs are being passed on to patients in the form of higher charges.

NAME: GEORGE T. BENNETT DATE: 3/27/

ADDRESS: 404 FULLER AVE P.O. Box 1705 HELENA, MT.

PHONE: 442-8950

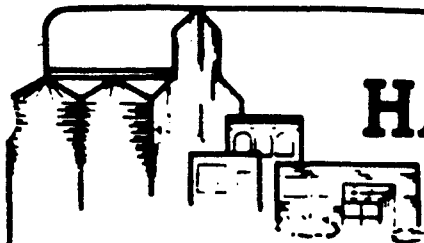
REPRESENTING WHOM? MONT. LIABILITY COALITION

APPEARING ON WHICH PROPOSAL: H.B. 17

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: See attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



HAVRE AREA CHAMBER

a great place to do business



301 Main Street • P.O. Box 308 • Havre, Montana 59501 • 406-265-4383

March 26, 1986

Sen. Stan Stephens
Capital Station
Helena, MT 59620

Good Morning:

After discussing the possibility of cities being allowed to enter into an agreement for self-insurance, the Legislative Committee of the Havre Area Chamber has decided not to oppose or favor the legislation concerning this issue. We remain concerned with the possibility of large settlements causing an extreme increase in premiums to be paid by the city and ultimately the taxpayer.

We feel the best option is still to limit liability in lawsuits. This would allow the insurance industry to once again market this insurance in Montana.

Sincerely,

D. A. Safley, O. D.
Chairman, Legislative Committee

cc: Governor Ted Schwinden
Montana Chamber of Commerce
Havre Daily News

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 17DATE March 27, 1986SPONSOR Rep. John Mercer

NAME (please print)	RESIDENCE REPRESENTING	SUPPORT	OPPOSE
Gary Henricks	myself		✓
PAT UNDERWOOD	mt. Farm Bureau	✓	
Bob CORREA	Bozeman Chamber	✓	
LaDene H. Bowen	BUTTE Chamber	✓	
Betty H. Hissard	Mont. Ass. of Realtors	✓	
Wayne Waggoner	Waggoners Trk	✓	
Don Cecil	Cardinal Drilling Co.	✓	
Bob Stoeckig	Pan American Industries	✓	
Chuck Hanger	Billings Chamber	✓	
Don Stanaway	A & I Distributors	✓	
JH Buck Bales	Mont. Chamber	✓	
Ben G Hordahl	MT Motor Carriers Assoc	✓	
Nancy Stephenson	Neighborhood Housing	✓	
Bill Linn	Eastern Seals	✓	
Lay Cain	Recreation Snow Bowl	✓	
John Stephenson	MT Assoc. Defense Council	✓	
R.L. REEFQUAM	Self & Banking Industry	✓	
Don Wilson	Self		✓
Jim Murry	Mont. State AFL-40		✓

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 17DATE March 27, 1986SPONSOR Rep. John Mercer

NAME (please print)	RESIDENCE REPRESENTING	SUPPORT	OPPOSE
GARY S. MacBurt	M.C.O. - Limits	✓	
John Milne - #	ARCHITECT	✓	
Tom Henry	Mt Chapter Natl Bldg	✓	
Joe Wolfe	Polar Elec	✓	
Bob Ryper	Mont. Credit Admin Assoc	✓	
Bill Walker	M. A. Realtors	✓	
Bill LEARY	Montana Hospital	✓	
ROGER YOUNG	Great Falls Chamber of Commerce	X	
T. M. ROLLINS	ASARCO, INC.	✓	
Chip Erdmann	Mt School Bd Assn		✓
George Elber	Mt. Retail Assn	✓	
John Kempner	Mt Sealed Air Pkgs	✓	
Dorcas Tennison	Peters County Association	✓	
Dean Mansfield	Montana Auto Dealers Assoc.	✓	
Nan Wilse	ACLU		✓
BILL ROSS BACH	MTLA		X
Tom Boland	ATTORNEY - G. F.		X
Sandra Whitney	Star Tap	✓	
Rose Skoug	Mt Health Care Assn	✓	

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NAME (please print)	RESIDENCE REPRESENTING	SUPPORT	OPPOSE
Brian L.	Valle Vista Manor	✓	
Dave Gross	Billings Chamber	✓	
H. Reigle	B.A.D.A.	✓	
Jim D. Jones	MTN. BECC	✓	
GORDON MARRIS	MT Assoc of Counties		✓
Don Chandler	The Venture Corp M.P.	✓	
Wayne K. Kott	The Venture Corp GT	✓	
Greg E. Melby	M.B.M.D.A.	✓	
Mike Scher	" U.R.C.	✓	
Ronald D. Pratt	MT Restaurant Assoc	✓	
Roger V. Viny	MT Beer & Wine Wholesalers	✓	
Don J. K.	Ind. Ins. Agents of MT	✓	
John Maynard	Dept. Admin - Tort Claims		✓
JERRY PERKINS	KARST Stage Inc.	✓	
John Kraznick	Great Falls Public Schools		✓
Bill Anderson	CPI	✓	

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