

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Vice chairman Helen O'Connell, on January 20, 1989, at 9:00 a.m. Chairman Brown was delayed while she introduced a bill at another committee.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Lois Menzies,
Staff Researcher

HEARING ON HJR 5

Presentation and Opening Statement by Sponsor: Rep.

Francis Bardanouve, House District 16, said he had no vendetta against the insurance industry, but that there are areas that bother him such as the cost and availability of insurance. Insurance companies have continuously raised their rates and the question as to whether they are going to provide insurance. Insurance companies have a unique role in corporate America. He believes it is the only corporation that is immune to federal regulations. Sen. McCarran of Nevada and Sen. Ferguson of Michigan introduced a unique law that said in essence that the federal government will not regulate the insurance companies that the states will, and they will not be subject to federal laws that most corporations must abide by.

Control of the insurance companies is divided among 50 states. He feels that Montana, trying to regulate the large insurance companies, is like pygmies trying to regulate giants.

List of Testifying Proponents and What Group They Represent:

Mike Sherwood, Montana Trial Lawyers' Association

C. B. Pearson, Executive Director of Common Cause

Jim Murry, Executive Secretary of the Montana State
AFL-CIO

Tanya Ask, Montana Insurance Department (neither
proponent nor opponent)

List of Testifying Opponents and What Group They Represent:

Jacqueline N. Terrell, American Insurance Association

Roger McGlenn, Independent Insurance Agents'
Association of Montana

Tom Hopgood, Health Insurance Association of America

James Tutwiler, Public Affairs Manager, Montana Chamber
of Commerce

Lorna Frank, Montana Farm Bureau Federation

Patrick Driscoll, American Council of Life Insurance

Pam Miller, National Association of Independent
Insurers

Jerome Kohn, Independent Insurance Agent

Testimony:

MIKE SHERWOOD, proponent, presented the following to the committee: written testimony (Exhibit 1); Property/Casualty Insurance Industry Written Premiums and Paid Losses Report for 1975 (Exhibit 2); complaint filed by The Montana Attorney General's Office against several insurance companies (Exhibit 3); United States General Accounting Office, profitability of the Medical Malpractice and General Liability Lines (Exhibit 4).

JIM MURRY, proponent, presented written testimony to the committee (Exhibit 5).

C. B. PEARSON, proponent, said that Common Cause is supportive of HJR 5. He distributed copies of an article, HIT AND RUN (Exhibit 13). He believes that the bill would allow for the disclosure of the profit and loss of the insurance industry, which currently is not available to the public. Mr. Pearson said that with a financial disclosure by the insurance agencies,

we might be able to find out why the cost of insurance is going up faster than the rate of inflation. Mr. Pearson said it is very clear that the insurance lobby has been very effective in getting "favored status" within the states. In 1985 and 1986 the insurance industry spent 6.4 million dollars on campaigns to help in the election of candidates that are favorable to the insurance industry. Mr. Pearson said that this is probably why we have we don't have the sort of scrutiny of the insurance industry that we have of the other industries. Records show that over the last decade the insurance industry has had income premiums of 57 cents and has had to pay out 29 cents. Mr. Pearson said this doesn't necessarily represent profit but gives you an idea of what is going on inside the industry.

TANYA ASK, neither a proponent or opponent, presented written testimony to the committee (Exhibit 6).

JACQUELINE N. TERRELL, opponent, an attorney and lobbyist, presented written testimony to the committee (Exhibit 7). She said that she is also speaking on behalf of Bonnie Tippy, who represents the Alliance of American Insurers.

BONNIE TIPPY, opponent. Jacqueline Terrell gave comment for Ms. Tippy, who was testifying in another hearing (Exhibit 7).

ROGER MCGLENN, opponent, presented to the committee written testimony (Exhibit 8) and an article from the AMERICAN LEGISLATIVE EXCHANGE COUNCIL entitled, "The State Factor" (Exhibit 9).

TOM HOPGOOD, opponent, presented to the committee written testimony (Exhibit 10).

JAMES TUTWILER, opponent, presented to the committee written testimony (Exhibit 11).

PAM MILLER, opponent, said that the National Association of Independent Insurers opposed HJR 5, and they recommend it do not pass.

PATRICK DRISCOLL, opponent, said if the purpose of the amendment is to push regulation of insurers back to the federal government, he feels that it is not a good idea. He stated that the federal government has demonstrated that it is no more competent than the states to regulate anything. He believe that their inability to regulate will be more true as the federal deficit causes more retrenchment of the federal

government. He feels that the Montana Insurance Department is a standout as far as regulation goes when compared to some states that have very primitive regulation.

LAURA FRANK, opponent, presented written testimony to the committee (Exhibit 12).

JEROME KOHN, opponent, an insurance agent, who is one of the "little people," said the McCarran-Ferguson Act does protect the insurance industry from antitrust legislation, but it does not exempt the insurance industry from all other federal regulations such as taxation, anti discrimination, fair employment practices and working conditions. He said the insurance industry should be regulated at the state level because conditions vary from state to state and local insurance regulations can be applied. He stated that the insurance industry is very competitive.

Questions From Committee Members:

REP. WESTLAKE asked Rep. Bardanouve if any other states are trying to repeal the McCarran-Ferguson Act. Rep. Bardanouve said that he does not know.

REP. MOORE asked Jacqueline Terrell to explain why, if the insurance companies are so well regulated, the rates have completely skyrocketed. Ms. Terrell said she could not give a brief explanation of why the rates have skyrocketed. First of all she said she wouldn't characterize the rates as skyrocketing and that it is a complex issue she was not prepared to address that morning. REP. MOORE said that the obstetrics and gynecologist rates have certainly skyrocketed. Ms. Terrell said that she couldn't relate that problem directly to the McCarran-Ferguson Act; if the resolution goes to Congress, we would be taking away from Montana the ability to address the obstetrics and gynecologist rate problem. The state would not be gaining any quick solution to that crisis as it would be a long and time-consuming process before the other 49 states acted on the resolution.

REP. COCCHIARELLA asked Mike Sherwood to respond to why obstetrics and gynecologist rates are so high. Mr. Sherwood said that the medical malpractice crisis problem has been blamed on huge jury awards. The state bar did a survey. The findings were that 51 million dollars were paid in medical malpractice premiums between 1975 to 1984 and only 14 million dollars were paid out. During that period, the total jury awards in

medical malpractice in state courts was around 600 thousand dollars. In Montana, there has only been two obstetrics cases in the last ten years: one in which a baby died, where the victim was awarded \$50,000; the other case, a 14-year-old girl in Butte who was raped and had an abortion performed. During the course of the abortion, she was sterilized. The award was \$7,500. These are the only two verdicts in 10 years in Montana. Mr. Sherwood said that if this is not the problem, then what is the problem. He said they don't know because they cannot get information from insurance companies because they do not have accountability. Whenever states try to get some accountability, the insurance companies threaten to leave the state.

Closing by Sponsor: Rep. Bardanouve said he remembered in 1959 when the insurance code, which has been mentioned here this morning as being so heavy and so long, came before the House. It was a massive recodification of insurance law. He said he remembered a young lawyer who had read the entire bill and had worked it over page by page and section by section. He made a session-long attempt to make a few simple amendments to that insurance code. But "it was handed down to the Legislature from the high mountain of Moses or somebody." Rep. Bardanouve said it was the most sacred document the Legislature ever received, and they could not amend it. The bill passed as it was given to us. The resolution does not in any way regulate insurance companies or set their policies and programs; it merely allows Congress and the federal government to enact laws and regulations, which they may feel may be necessary in years to come.

He said that the Montana Farm Bureau should be more concerned that rates have tripled in the last few years than worrying about the state losing some regulation.

He said that agents are at the mercy of the big companies and must pass on the rates that are set by the powers to be way beyond Montana.

Rep. Bardanouve said that if all the actuaries in America, hired by insurance companies, were brought to Helena, there would not be enough committee rooms in the capitol or any of the state buildings to house them all. But in Montana, the Commissioner of Insurance in the 1987 session was denied an appropriation to hire an actuary and the Commissioner of Insurance still does not have an actuary.

DISPOSITION OF HJR 5

Rep. Whalen moved to defer action until Tuesday, January 24. The motion PASSED unanimously.

HEARING ON HB 128

Presentation and Opening Statement by Sponsor: Rep. John Johnson, House District 23, introduced the bill. This bill was requested by the Board of Medical Examiners. It permits the Board, after finding a physician guilty of unprofessional conduct, practicing medicine while his license was suspended, or some other matter, to be fined up to \$500 for each incident.

List of Testifying Proponents and What Group They Represent:

Jerome M. Kohn, Board of Medical Examiners

Jerome T. Loendorf, Montana Medical Association

Michael Sherwood, Montana Trial Lawyers' Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

JEROME KOHN, proponent, said the bill would give the Medical Examiners' Board additional powers. He said that there are now four remedies available to discipline doctors: (1) to revoke their license; (2) to temporarily suspend their license; (3) to put the doctors on probation for a period of time; (4) to write a letter of reprimand.

Mr. Kohn said most of the members of the board are medical people and are very reluctant to invoke the penalties of revocation of license or even temporary suspension of license as this is a very harsh penalty against a practicing doctor. Frequently the offenses do not justify that much discipline. He said they feel that they need an intermediary type of disciplinary action such as a fine that will get the doctor's attention a little better than a letter of reprimand. He said that they have suggested a \$500 fine per incident. Many of the offenses that the Medical Examiners Board receive concern doctors prescribing

drugs to people who want drugs for no medical reason. A doctor can write up to 100 prescriptions in a week and make a little extra money. He said if they were fined \$500 per incident this would cease.

JERRY LOENDORF, proponent, said that Montana Medical Association supports the bill and thinks it is appropriate that the Board has the authority to fine doctors. He realizes that fining is usually the authority of the judicial branch of government, but it is being more extensively used by executive agencies. Mr. Loendorf said that as Jerome Kohn mentioned, there are often cases where it is not appropriate to revoke or even suspend a license.

MICHAEL SHERWOOD, proponent, said that in the interim between Legislative sessions, there has been a governor's council on the obstetrics-gynecology crisis. In addition, the General Accounting Office put out a report that examined medical malpractice. Both the governor's council and the General Accounting Office reports recommended that steps be taken against medical malpractice. He said that he can understand since he is in the legal profession, that the Board would be reluctant to tamper with the actual license of someone. Mr. Sherwood said that he didn't think that the fine of \$500 would be excessive as it appears to be about a half-day's salary from bills he has recently received.

Questions From Committee Members:

REP. PHILLIPS asked Rep. Johnson where the \$500 fine money would go. Rep. Johnson said he couldn't answer. Carolyn Doering, Administrator of the Management Services Division of the Department of Commerce, said her assumption would be that the fines would go to the Board.

REP. NELSON also wanted to know whose nest was being feathered with the \$500 and thought that the committee should hold onto the bill until there was a disposition of the fine specified in the bill. Ms. Doering said that the money would probably go to the Board, which is controlled and highly regulated by the state. The Board cannot spend money without budgetary authority. Mr. Kohn said that every time they would fine a doctor that there would have to be a hearing, and that there are expenses associated with the hearing because board members have to come to Helena to hear the testimony. He said that the fine money would defray the expenses of those hearings.

REP. SQUIRES questioned how the monitoring of the doctors occurred. Mr. Kohn said that anyone can make a complaint before the Board of Medical Examiners. Physicians are required by law to make a complaint if they see some evidence of malpractice, and they often do.

Closing by Sponsor: Rep. Johnson said that there are 17 descriptions of unprofessional conduct listed in the Montana Codes. Of the 17, number 11 refers to testifying in court on a contingency basis. He said he can see a violation of this provision as a possibility for a \$500 fine. Imposing a fine would not be out of line with for a violation of number 1, which is resorting to fraud or misrepresentation when applying for or taking a license or taking an examination. It is one of the lesser violations of professional conduct, which would be fined by the Medical Examiners. He said that this bill gives the Board another option short of revoking or suspending the doctor's license.

DISPOSITION OF HB 128

Chairman Brown delayed action on the bill pending clarification on precisely where the fine money goes. Chairman Brown requested Carolyn Doering to supply the committee with an amendment before Tuesday.

HEARING ON HB 139

Presentation and Opening Statement by Sponsor: Rep. Bruce Simon, House District 91, introduced the bill. This is an agency bill requested by the Department of Commerce. It provides that elected state officials, members of boards and state employees who travel to Japan or Taiwan must be reimbursed for the cost of meals, lodging and miscellaneous expenses within the rates established by the Department of Administration. In setting these rates, the Department must use the United States Department of State maximum travel per diem allowances for foreign areas. Rep. Simon said he is sure that the Committee recognizes that the amount now allowed is simply not adequate when traveling overseas. Rep. Simon said that he would like to offer an amendment, by his own suggestion and not from the Department, to substitute travel to Foreign Countries for travel to Japan and Taiwan (Exhibit 15). He said that he thinks the bill is too limiting when we talk about just those two areas as hopefully we will be

working in developing trade in a number of areas outside of the United States.

Rep. Simon said that there was another issue he would like the committee to consider and is a problem that the bill did not originally address. He referred to page 3, subsection (5), which states: "when other than commercial, nonreceiptable lodging facilities are utilized . . .," state employees are allowed \$7 for lodging. He explained that during a special session he had made arrangements to go back to the apartment he used during normal sessions. The landlord said he would charge him \$12 a day. He thought that would be good as he could save the state \$12 a day as he could have stayed in a motel for \$24. He received a receipt from the landlord and was told "sorry, your receipt is from a noncommercial establishment so you're only allowed \$7 a day." He had to pay \$5 a day for the privilege of saving the state money. He said this was totally unfair and would like to suggest that the Committee might look at the \$7 amount and bring it into the realm of realism.

List of Testifying Proponents and What Group They Represent:

Carolyn Doering, Administrator, Management Service
Division, Department of Commerce.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

CAROLYN DOERING, proponent, said that the primary impact on the Department of Commerce is travel to Japan and Taiwan. She said that state employees are paying considerable money out of pocket when they are required to travel to foreign countries. Ms. Doering said the Department is proposing to use the rate set by the State Department for lodging and meals. When the State Department sets its rates, it uses the average cost for a single room plus three meals, which includes taxes, service charges and tips. Then this rate is increased 10 percent to cover expenditures for laundry and dry cleaning.

Questions From Committee Members:

REP. O'CONNELL asked Rep. Simon why the Department had just asked that this bill cover travel to Taiwan and Japan. Rep. Simon said the focus of the Department of Commerce has been in those two areas because the state has trade commissions there.

Closing by Sponsor: Rep. Simon said it is surprising how history begins to catch up with you. He said he believed that the recommendation to change the method of computing foreign travel was made in 1982 by the Governor's Council on Management. He urged passage of the bill.

DISPOSITION OF HB 139

Chairman Brown said that the bill needs an amendment and the Committee needs to find out from Lois Menzies if an increase of \$7 can be added to the bill.

HEARING ON HB 167

Presentation and Opening Statement by Sponsor: Rep. Jessica Stickney, House District 26, introduced the bill. Currently, the Department of Health and Environmental Sciences sets all fees for tests and services performed by the Department's laboratory, except for public water supply tests, which are set by the Board of Health and Environmental Sciences. This bill, requested by the Department, would permit the Department to set water analysis fees rather than the Board.

List of Testifying Proponents and What Group They Represent:

Doug Abbott, Chief, Department of Health and Environmental Sciences

List of Testifying Opponents and What Group They Represent:

None

Testimony:

DOUG ABBOTT, proponent, said the bill will simplify and standardize the Department lab fee setting procedures. He said that presently the Department has two lab fee setting procedures with the majority of the laboratory fees set by rule by the Department. The fees for water, and specifically drinking water, are set by the Board of Health. Because of the two procedures, they must have duplicate accounts and duplicate budgeting

for essentially the same tests.

Questions From Committee Members:

REP. PHILLIPS asked Mr. Abbott what are the fees are now. Mr. Abbott said the fees charged on drinking water tests performed by the Public Health Laboratory are \$6.50 for standard bacteriological examination and \$10 for a fecal chloroform examination. He said that there are other laboratories in other departments that perform tests on water and they have a variety of fees ranging from about \$4 up to about \$700 for a full spectrum.

Closing by Sponsor: Rep. Stickney urged support of the bill as she feels it makes a lot of sense.

DISPOSITION OF HB 167

Motion: Rep. Nelson moved HB 167 DO PASS.

Discussion: REP. DEBRUYCKER asked for an explanation of what extension of rulemaking authority meant. Lois said that an extension of authority is often found in bills. When a board or agency has broad, general rule-making authority and the Legislature is amending a section of law that would require the board or agency to either repeal or amend an existing rule, the bill must provide an extension of rulemaking authority to permit the board or agency to revise their rule. This is different from a statement of intent. If the Legislature is granting an agency specific rulemaking authority to do something that it has never done before, then the bill must have a statement of intent. The statement of intent provides the agency with some direction as to the types of rules the Legislature intends the agency to adopt to implement the bill.

CHAIRMAN BROWN asked the Committee if anyone objected to the statement "effective on passage and approval." No one objected.

Amendments and Votes: None

Recommendation and Vote: The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 10:45 a.m.



REP. JAN BROWN, Chairman

JB/jb

1714.min

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 1-20-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore	✓		
Rep. Angela Russell	✓		
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Mayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

Jan B

STANDING COMMITTEE REPORT

January 20, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report
that HOUSE BILL 167 (first reading copy -- white) do pass .

Signed: _____

Jan Brown
Jan Brown, Chairman

Please Print

COMMENTS: _____

The Montana Attorney General has filed a law suit alleging conspiracy to boycott by standardizing

Rev. 1985

40R-5
 Property/Casualty Insurance Industry Written Premiums and Paid Losses

EXHIBIT 2

1975

DATE 1-20-89

000's Omitted

HB HJR 5

General Liability		Medical Malpractice		ALL LINES	
Written Premium	Losses Paid	Written Premium	Losses Paid	Written Premium	Losses Paid
\$ 31,194	\$ 8,527	\$ 5,638	\$ 866	\$ 591,984	\$ 356,881
12,184	5,551	545	35	143,583	72,177
33,861	21,705	10,752	2,031	488,885	283,031
19,540	8,038	3,785	148	398,157	259,462
391,175	215,114	118,931	52,155	5,751,132	3,179,830
29,578	12,896	8,773	800	513,539	272,648
63,686	16,716	11,132	2,635	820,747	455,567
7,734	2,754	1,732	294	125,014	69,212
21,845	8,082	8,525	1,001	203,183	110,187
118,072	59,178	34,319	12,419	2,102,435	1,310,367
46,452	22,736	11,615	779	975,389	609,028
19,247	5,261	4,843	463	209,306	100,219
11,226	5,174	2,588	273	185,234	94,277
234,963	98,911	67,204	12,290	2,833,862	1,665,115
65,735	22,597	20,226	3,083	1,090,764	623,153
46,956	19,026	9,241	1,296	661,773	347,570
26,170	10,166	6,123	1,233	539,546	306,020
33,419	9,905	9,362	1,046	674,838	369,544
62,076	33,697	6,854	858	924,306	559,672
9,985	3,555	2,930	193	222,516	112,618
42,319	17,341	15,197	901	830,409	486,360
77,298	28,491	3,491	1,627	1,548,008	980,703
5,256	69,451	56,122	7,812	2,151,598	1,254,038
2,715	60,820	16,090	558	1,005,905	565,512
23,328	8,331	2,876	51	402,408	246,139
65,429	23,751	17,637	2,175	1,010,658	613,063
10,554	2,809	2,642	336	170,646	89,882
22,018	5,270	5,367	423	372,068	235,116
8,678	3,953	1,190	135	200,837	141,167
9,098	4,477	828	156	184,238	109,822
120,878	58,032	37,596	9,948	1,920,831	1,196,741
12,749	4,758	3,106	423	225,017	118,924
332,685	130,604	44,398	31,033	4,417,463	2,820,957
34,411	8,386	5,500	465	897,144	507,901
8,338	2,432	1,436	85	139,362	74,540
131,272	44,143	52,277	7,071	2,141,244	1,286,831
29,470	10,439	4,538	912	549,226	372,741
41,670	12,923	11,051	2,593	564,846	315,733
178,660	65,790	43,293	12,478	2,373,533	1,333,924
10,511	3,308	1,063	553	204,286	124,763
19,064	6,610	1,087	67	468,982	289,926
7,875	3,114	1,796	54	139,848	70,691
45,770	12,776	9,239	1,394	805,979	486,389
212,117	64,286	41,291	6,520	2,985,167	1,632,214
12,643	3,660	5,372	785	190,763	103,155
6,760	2,681	2,675	464	111,391	55,031
43,275	14,664	15,006	237	920,495	549,055
49,369	21,917	13,739	5,130	673,338	388,244
14,839	7,867	4,185	316	245,697	141,572
2,438	28,061	13,988	947	919,968	508,428
5,460	2,116	962	234	77,983	40,584

10/10

7

8

Property/Casualty Insurance Industry Written Premiums and Losses

1976

NOTE: 000's Omitted

20/10/81

General Liability		Medical Malpractice		ALL LINES	
Written Premium	Losses Paid	Written Premium	Losses Paid	Written Premium	Losses Paid

AL	\$ 47,075	\$ 11,558	\$ 8,293	\$ 678	\$ 741,839	\$ 371,100
AK	18,354	6,240	651	2	210,011	100,000
AZ	42,404	16,541	13,316	3,006	592,525	271,000
AR	27,711	6,822	4,034	488	479,052	221,000
CA	591,239	219,536	251,475	35,830	7,352,458	3,447,000
CO	44,396	11,460	16,536	1,974	628,074	221,000
CT	90,311	18,897	21,034	3,856	975,369	444,000
DE	11,223	1,829	4,153	877	154,458	64,000
DC	25,878	12,318	17,553	1,722	228,544	127,000
FL	157,263	67,946	17,571	10,310	2,560,945	1,344,000
GA	68,078	16,728	17,874	825	1,174,467	601,000
HI	23,155	5,941	4,340	605	230,379	106,000
ID	18,171	5,082	3,816	877	232,241	118,000
IL	371,982	118,806	79,778	18,275	3,589,623	1,771,000
IN	97,969	27,471	21,952	2,279	1,308,343	657,000
IA	69,655	19,121	12,904	553	799,404	401,000
KS	34,954	7,766	5,725	1,026	637,443	304,000
KY	45,799	8,934	16,158	1,164	852,671	410,000
LA	98,866	42,418	16,524	796	1,175,521	581,000
ME	13,820	4,349	3,526	223	256,951	133,000
MD	60,315	15,198	20,026	1,748	1,024,243	506,000
MA	112,722	30,010	5,367	1,602	1,820,965	993,000
MI	255,976	73,003	54,590	9,958	2,518,984	1,362,000
MN	92,440	23,424	22,385	753	1,229,706	579,000
MS	31,631	8,747	5,673	284	478,553	262,000
MO	92,893	26,818	25,035	2,639	1,207,714	600,000
MT	12,133	3,375	4,868	402	210,740	103,000
NE	35,208	7,105	9,103	384	446,288	208,000
NV	11,933	5,004	1,980	747	265,187	160,000
NH	13,174	5,201	1,568	1,260	225,922	140,000
NJ	187,117	62,921	34,491	9,799	2,296,394	1,316,000
NM	17,061	4,591	4,183	946	278,396	144,000
NY	474,296	143,508	127,678	30,017	5,401,467	3,035,000
NC	43,849	17,708	10,375	1,040	1,010,891	522,000
ND	11,060	2,563	2,961	313	167,520	84,000
OH	187,695	48,212	62,774	6,719	2,652,603	1,352,000
OK	46,760	14,807	7,702	986	668,738	360,000
OR	63,336	19,127	18,049	908	730,878	322,000
PA	258,313	71,813	64,843	11,697	2,883,236	1,518,000
RI	14,560	3,744	698	248	249,238	139,000
SC	23,752	9,008	430	737	561,533	328,000
SD	9,940	3,120	3,421	45	160,829	77,000
TN	64,871	12,054	11,913	2,284	968,380	511,000
TX	290,252	74,238	42,746	6,194	3,640,653	1,827,000
UT	16,020	5,609	6,245	1,084	233,289	116,000
VT	8,044	3,285	4,125	717	126,808	61,000
VA	61,975	20,530	22,025	423	1,131,540	530,000
WA	77,769	22,660	25,461	4,781	880,955	420,000
WV	23,769	5,021	8,445	1,209	295,904	159,000
WI	99,323	29,728	12,731	2,532	1,092,256	539,000
WY	6,428	3,061	1,762	69	96,440	44,000

Source: A.M. Best's Executive Data Service, Report A2, Experience by State

Property Insurance Industry Written Premiums and Paid Losses

EXHIBIT 2
DATE 1-20-89
HB HJR 5

1977

Excluded

30110

State	Liability	Medical Malpractice		ALL LINES	
	Losses Paid	Written Premium	Losses Paid	Written Premium	Losses Paid
AL	\$13,556	\$ 4,944	\$ 2,605	\$ 900,636	\$ 430,872
AK	13,733	690	557	274,897	122,918
AR	20,718	17,673	2,740	725,285	331,371
AS	7,033	6,217	467	586,342	264,410
CA	250,728	253,597	46,642	9,219,683	3,783,070
CO	17,569	23,095	2,054	779,307	340,289
CT	28,089	25,940	3,696	1,143,472	518,008
DE	3,781	4,748	457	187,307	79,278
FL	11,915	16,828	4,091	277,588	129,612
GA	83,424	28,331	16,605	3,024,401	1,381,786
HI	16,429	21,023	1,020	1,446,758	665,486
IL	6,188	7,549	1,132	280,166	142,239
IN	6,435	4,631	350	278,768	126,016
IO	127,681	106,600	18,436	4,464,293	1,970,640
KS	32,009	30,841	3,210	1,582,920	711,318
KY	22,328	13,818	1,322	963,069	434,856
LA	12,931	6,579	2,526	775,805	370,204
ME	10,037	15,999	972	981,745	470,469
MA	53,353	18,606	1,941	1,459,871	726,688
MD	5,782	3,202	341	305,199	156,152
MI	22,134	20,591	3,964	1,194,874	560,959
MO	40,125	5,592	2,016	2,045,739	1,029,642
MS	86,554	67,278	13,953	3,235,128	1,461,002
MN	33,768	22,015	1,171	1,488,315	656,387
MT	12,298	6,332	972	576,716	286,618
NE	27,001	34,357	3,741	1,430,429	684,800
NH	4,295	5,717	500	238,779	98,676
NJ	8,682	8,695	356	512,029	233,638
NM	4,853	2,295	447	251,785	182,795
NY	6,959	1,533	337	277,119	156,460
NC	63,120	67,221	16,045	2,756,995	1,394,156
ND	4,656	1,477	1,892	339,356	161,470
OH	163,571	160,626	40,996	6,292,628	3,161,745
OK	9,988	9,779	905	1,161,943	599,357
OR	2,780	4,161	193	190,020	111,610
PA	58,737	80,264	8,468	3,209,200	1,485,278
RI	15,269	6,160	2,861	818,137	385,500
SC	18,293	22,396	994	910,343	348,669
SD	83,976	85,298	16,388	3,669,448	1,722,187
TN	5,216	710	397	294,218	152,168
TX	9,242	488	610	676,495	366,386
UT	2,418	3,922	101	187,545	81,022
VA	15,368	16,513	1,332	1,164,684	578,201
VT	98,844	46,110	8,437	4,361,870	1,922,392
WA	5,543	7,625	590	290,617	123,352
WI	5,189	3,797	474	148,997	74,164
WY	18,344	17,484	1,134	1,329,511	626,814
DC	23,558	28,236	4,699	1,088,354	441,074
PR	5,618	13,240	1,030	372,494	198,494
GU	32,693	12,575	1,756	1,336,938	605,111
VI	2,066	1,979	201	125,062	58,460

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Malty Insurance Industry Written Premiums and Paid Losses

EXHIBIT 2
DATE 1-20-89
HB HJR 5

1979

Omitted

50/10

	Liability	Medical Malpractice		ALL LINES	
	Losses	Written	Losses	Written	Losses
	<u>Paid</u>	<u>Premium</u>	<u>Paid</u>	<u>Premium</u>	<u>Paid</u>
70	\$ 23,116	\$ 15,162	\$ 1,732	\$1,134,097	\$ 882,022
71	12,758	2,398	160	264,323	126,581
72	20,266	21,421	3,386	1,015,303	459,266
73	8,867	6,789	814	718,983	389,880
74	320,406	249,299	63,582	11,452,815	5,228,240
75	21,323	30,840	4,912	1,036,658	524,200
76	27,526	31,029	7,648	1,467,646	668,833
77	4,258	4,154	953	239,451	113,240
78	10,036	12,247	4,654	326,528	152,156
79	90,558	41,384	16,571	3,651,857	1,751,745
80	23,241	25,151	3,318	1,793,202	915,339
81	14,100	5,433	1,186	369,099	180,919
82	10,334	4,329	439	337,076	161,674
83	149,500	96,219	16,923	5,285,752	2,885,275
84	38,148	22,946	4,515	1,917,589	2,885,275
85	28,102	15,574	2,683	1,215,801	616,198
86	12,297	7,128	2,688	948,569	492,894
87	14,128	13,388	2,304	1,337,198	593,624
88	67,160	17,328	2,327	1,975,974	991,660
89	7,198	2,900	1,036	406,644	193,597
90	24,724	29,593	4,263	1,509,797	751,936
91	54,189	7,932	4,063	2,403,636	1,251,328
92	138,891	63,783	30,697	4,243,208	1,973,452
93	47,422	21,950	3,437	1,950,897	1,003,823
94	11,328	5,793	1,010	734,164	509,292
95	35,940	28,206	6,965	1,774,554	925,367
96	5,947	<u>5,258</u>	<u>493</u>	291,238	130,023
97	14,664	6,136	735	632,613	312,665
98	6,847	3,297	756	314,943	162,248
99	7,870	931	2,676	395,657	201,857
100	90,192	55,904	29,315	3,597,649	1,866,918
101	4,792	1,889	1,121	454,315	221,526
102	251,403	189,001	85,184	7,522,489	3,606,998
103	16,037	11,913	2,143	1,535,819	773,781
104	4,214	3,721	408	247,888	103,809
105	97,180	76,968	11,612	3,678,096	1,800,869
106	20,677	12,926	2,125	1,101,841	561,655
107	23,103	22,896	4,911	1,162,377	508,809
108	106,682	70,696	22,209	4,852,215	2,242,038
109	11,359	1,712	363	370,163	199,077
110	11,841	1,931	392	889,001	488,272
111	4,628	3,510	294	242,034	113,566
112	21,439	19,350	3,006	1,485,804	742,776
113	126,569	48,449	12,086	5,866,544	3,055,725
114	7,433	2,855	405	373,213	171,493
115	3,120	2,879	517	193,851	88,507
116	24,014	24,087	4,277	1,712,955	796,588
117	33,161	30,979	7,752	1,398,314	692,111
118	8,231	11,895	2,940	465,247	243,187
119	46,575	10,470	3,193	1,626,027	821,114
120	3,611	1,696	399	173,428	108,445

Property/Casualty Insurance Industry Written Premiums and Paid

EXHIBIT 2

1978

DATE 1-20-89

HB HJR

NOTE: 000's Omitted

	General Liability		Medical Malpractice		ALL LINES	
	Written Premium	Losses Paid	Written Premium	Losses Paid	Written Premium	Losses Paid
AL	\$ 89,485	\$ 16,350	\$ 5,231	\$ 1,402	\$1,030,162	\$ 474
AK	29,061	8,808	1,856	385	288,304	137
AZ	72,706	16,975	17,919	4,289	862,257	247
AR	42,689	9,322	6,082	419	665,624	237
CA	1,057,074	272,257	249,375	48,470	10,345,902	4,418
CO	76,794	18,970	30,013	2,771	901,313	434
CT	155,162	23,564	29,663	6,816	1,310,632	281
DE	19,724	5,028	4,338	340	213,788	94
DC	31,336	10,514	15,848	3,555	330,862	123
FL	232,583	89,895	38,691	15,867	3,410,415	1,441
GA	117,618	21,448	23,038	2,688	1,638,581	743
HI	37,057	7,522	6,983	1,350	328,557	152
ID	31,254	8,506	4,313	450	318,779	337
IL	609,737	132,123	111,626	19,384	4,838,767	2,224
IN	177,414	38,564	26,204	5,039	1,174,958	889
IA	116,730	24,431	15,648	1,645	1,085,003	551
KS	60,500	11,811	7,293	7,007	867,316	249
KY	79,510	10,741	14,335	2,311	1,177,101	501
LA	167,610	59,690	16,759	1,270	1,774,295	817
ME	23,789	8,480	2,992	555	356,308	168
MD	105,192	20,670	25,879	4,049	1,331,468	628
MA	178,246	44,273	8,175	3,406	2,173,543	2,076
MI	465,854	96,257	62,565	16,101	3,834,183	1,614
MN	170,649	41,464	18,341	1,659	1,772,315	794
MS	50,464	11,366	5,648	984	658,934	324
MO	153,956	32,948	28,858	4,367	1,610,042	770
MT	20,166	4,604	5,564	220	271,639	251
NE	53,072	8,733	6,665	1,066	571,124	301
NV	23,330	21,663	2,664	428	262,485	120
NH	26,590	4,979	1,467	1,037	342,241	161
NJ	298,920	78,709	64,466	15,967	3,216,086	1,617
NM	30,896	5,940	3,478	1,760	399,263	179
NY	732,136	190,147	166,063	58,520	6,880,186	3,236
NC	77,118	10,606	11,468	701	1,342,076	692
ND	17,342	3,380	3,180	271	219,067	99
OH	295,542	67,107	81,845	9,798	3,501,086	1,706
OK	82,722	18,023	10,608	2,754	972,926	452
OR	93,977	22,560	24,397	2,583	1,047,586	406
PA	424,988	88,841	76,112	19,173	4,320,658	1,963
RI	25,840	4,621	1,703	584	342,244	165
SC	43,015	10,164	1,084	466	780,297	417
SD	15,783	3,174	3,500	176	215,993	108
TN	110,127	19,115	18,440	2,511	1,366,158	628
TX	477,783	122,698	52,981	9,813	5,182,723	2,318
UT	31,752	6,442	5,513	1,290	338,154	148
VT	12,750	5,564	3,454	760	172,557	79
VA	111,765	21,912	22,516	1,490	1,504,180	698
WA	142,207	32,092	28,514	7,245	1,248,981	521
WV	31,585	7,537	11,837	1,121	420,556	225
WI	185,644	39,896	10,719	3,160	1,517,074	670
WY	13,944	5,596	2,096	259	149,624	105

Source: A.M. Best's Executive Data Service, Report A2, Experience by State

Property/Casualty Insurance Industry Written Premiums and Paid

EXHIBIT 2

1980

DATE 1-20-89

NOTE: 000's Omitted

6 of 10

HB HJR 5

	General Liability		Medical Malpractice		ALL LINES	
	Written Premium	Losses Paid	Written Premium	Losses Paid	Written Premium	Losses Paid
AL	\$ 83,727	\$ 25,060	\$ 16,978	\$ 1,911	\$1,194,701	\$ 74,000
AK	20,803	6,838	2,173	905	252,651	144,000
AZ	71,278	19,873	25,666	5,270	1,122,678	524,000
AR	42,284	11,163	7,379	959	788,335	444,000
CA	949,691	381,336	236,838	78,569	12,216,177	6,152,000
CO	83,449	23,042	32,149	7,320	1,142,232	594,000
CT	161,936	48,925	43,241	12,879	1,663,670	804,000
DE	18,338	5,183	6,104	1,711	260,316	122,000
DC	36,500	10,313	9,123	5,592	362,819	181,000
FL	291,462	108,044	37,879	22,923	3,912,699	2,113,000
GA	111,626	27,231	25,975	4,939	1,934,088	1,027,000
HI	39,474	12,918	4,939	1,029	412,184	234,000
ID	27,258	9,650	5,125	867	367,532	173,000
IL	582,506	182,954	105,713	26,552	5,675,187	3,078,000
IN	146,805	39,301	24,569	4,242	1,957,692	1,054,000
IA	124,637	31,995	16,362	4,222	1,274,058	768,000
KS	66,280	18,469	8,499	2,310	1,044,438	568,000
KY	72,224	15,817	14,709	5,791	1,318,172	663,000
LA	208,774	86,591	19,844	2,594	2,219,548	1,214,000
ME	26,625	6,217	3,436	783	441,663	212,000
MD	116,964	28,124	35,269	8,232	1,675,892	872,000
MA	195,587	67,136	7,175	4,457	2,693,418	1,436,000
MI	409,133	190,007	74,622	44,271	4,279,256	2,238,000
MN	168,314	58,750	25,760	3,244	2,054,413	1,200,000
MS	49,880	17,035	6,953	3,721	787,241	482,000
MO	148,407	46,787	30,083	9,082	1,850,967	1,026,000
MT	17,860	8,331	5,019	2,555	310,308	161,000
NE	49,068	14,610	6,300	1,531	450,751	222,000
NV	23,651	5,392	4,155	687	365,089	210,000
NH	33,152	7,836	1,343	5,139	450,751	222,000
NJ	326,985	102,898	45,476	30,500	3,996,236	2,223,000
NM	32,390	8,398	1,606	814	492,836	229,000
NY	878,775	275,231	212,169	107,385	7,981,486	4,035,000
NC	84,674	17,795	16,612	3,580	1,687,918	900,000
ND	18,768	3,952	4,273	95	258,958	161,000
OH	303,273	95,650	75,265	15,331	3,811,857	2,116,000
OK	95,591	26,706	14,479	2,636	1,234,563	688,000
OR	88,230	27,142	22,739	6,657	1,210,083	601,000
PA	434,733	152,991	74,226	34,007	5,247,240	2,658,000
RI	29,604	9,742	1,176	1,308	418,295	225,000
SC	48,787	13,868	2,213	518	989,901	523,000
SD	17,448	4,304	4,372	897	249,155	149,000
TN	102,928	34,804	22,304	2,516	1,533,560	843,000
TX	566,173	172,285	53,981	11,344	6,501,386	3,540,000
UT	33,054	6,900	6,105	1,924	410,588	197,000
VT	14,408	3,195	3,663	378	210,061	97,000
VA	114,096	32,009	28,075	4,066	1,825,045	948,000
WA	136,939	43,479	32,458	12,659	1,517,368	825,000
WV	37,132	9,788	13,636	6,670	505,146	286,000
WI	151,183	50,272	11,196	3,663	1,719,558	903,000
WY	19,918	5,180	1,753	578	197,865	92,000

Source: A.M. Best's Executive Data Service, Report A2, Experience by State

by/Casualty Insurance Industry Written Premiums and Paid Losses

1981

00's Omitted

EXHIBIT 2

DATE 1-20-89

HB HJR 5

7 of 10

General Liability		Medical Malpractice		ALL LINES	
Written Premium	Losses Paid	Written Premium	Losses Paid	Written Premium	Losses Paid
77,771	\$ 34,769	\$ 18,690	\$ 3,653	\$1,226,871	\$ 720,694
25,343	15,582	3,199	1,270	325,428	155,194
68,762	28,963	33,802	6,523	1,165,135	606,209
12,872	14,140	8,289	2,515	798,318	467,731
09,995	503,866	241,699	94,999	12,824,700	6,942,878
77,026	25,965	31,740	8,910	1,256,111	681,575
55,560	48,900	34,748	19,550	1,807,351	933,787
19,294	6,358	6,084	2,296	273,522	154,860
33,221	9,646	7,292	7,207	382,499	183,436
10,388	133,439	56,668	31,340	4,167,454	2,460,836
03,020	32,153	30,275	7,786	1,987,884	1,170,463
35,908	12,113	4,659	1,010	470,728	214,940
24,720	7,613	5,082	2,282	378,744	186,905
31,196	206,885	107,054	45,383	5,450,510	3,129,162
24,182	45,349	23,811	5,181	1,981,528	1,027,059
4,824	43,822	17,696	3,350	1,305,348	702,562
54,230	26,255	9,557	4,721	1,092,726	629,987
58,919	16,884	14,905	4,530	1,260,235	713,542
24,484	85,299	21,063	4,804	2,411,898	1,365,642
6,864	7,550	4,316	1,504	463,335	258,649
09,592	32,766	38,415	15,127	1,818,764	981,381
5,511	83,359	7,443	8,227	2,992,169	1,655,022
5,44	218,258	75,670	47,375	4,221,550	2,430,294
13,302	66,448	23,024	7,159	2,109,001	1,269,271
56,741	16,882	8,304	1,767	827,060	469,512
2,512	54,593	30,199	16,528	1,865,117	1,126,435
9,681	7,123	5,435	943	325,547	173,017
6,828	14,820	5,956	732	703,118	386,918
8,177	16,647	5,064	2,665	430,619	393,612
6,909	11,079	1,386	1,642	482,422	259,941
6,576	120,740	47,974	37,886	4,362,420	2,412,133
1,094	10,365	1,309	1,957	537,853	270,369
2,070	334,634	252,103	112,761	8,251,741	4,588,677
1,713	21,014	18,616	4,268	1,792,777	982,144
0,070	6,412	4,858	2,191	287,984	138,341
7,352	106,790	77,088	18,782	1,455,131	826,449
7,332	31,040	12,811	8,584	1,455,131	826,449
5,580	28,806	19,657	7,021	1,139,374	643,393
2,610	208,707	75,443	41,069	5,398,471	2,920,855
7,336	8,616	1,068	686	436,778	242,340
1,249	12,735	2,689	789	1,044,576	589,923
,121	5,648	4,564	1,446	258,303	137,643
2,254	23,058	23,237	7,398	1,555,445	890,915
,870	219,799	59,453	15,018	7,161,962	4,232,812
9,187	9,139	5,921	3,801	418,677	225,599
,402	4,990	3,065	991	219,282	113,818
,683	34,127	32,792	6,742	1,929,961	1,022,326
,881	37,908	37,405	16,590	1,557,937	862,924
1,084	12,174	15,662	5,660	543,162	311,147
43	52,639	10,345	5,733	1,756,972	927,440
,293	5,510	1,894	1,901	218,236	103,335

Property/Casualty Insurance Industry Written Premiums and Paid Losses

EXHIBIT 2

PROPERTY

1982

DATE 1-20-89

HB HJR 5

NOTE:

NOTE: 000's Omitted

	General Liability		Medical Malpractice		ALL LINES	
	Written Premium	Losses Paid	Written Premium	Losses Paid	Written Premium	Losses Paid
AL	\$ 75,011	\$ 35,117	\$ 20,292	\$ 4,395	\$1,264,959	\$ 782,100
AK	29,437	22,058	3,198	561	376,401	174,800
AZ	73,509	40,685	35,504	7,822	1,201,037	674,500
AR	39,875	21,145	9,276	3,514	829,842	543,900
CA	819,501	551,984	296,517	112,327	13,296,301	7,742,800
CO	92,513	54,032	29,559	10,864	1,388,573	909,400
CT	148,203	49,851	39,947	15,420	1,931,826	1,023,600
DE	18,808	4,775	5,004	1,979	264,836	176,000
DC	34,949	20,446	7,735	9,728	352,245	205,000
FL	270,795	162,490	76,843	46,528	4,478,858	2,935,500
GA	105,331	37,828	30,376	11,371	2,091,793	1,337,000
HI	33,598	16,356	4,068	2,047	514,041	282,000
ID	25,060	10,482	5,423	1,511	371,431	216,500
IL	481,416	264,360	118,173	59,750	5,361,594	3,505,000
IN	114,092	54,356	23,420	5,016	1,854,300	1,217,000
IA	106,732	49,738	20,049	5,990	1,289,165	671,500
KS	61,309	24,467	10,250	5,383	1,139,928	720,000
KY	69,644	23,022	17,090	8,649	1,268,248	821,700
LA	198,532	94,619	21,986	7,217	2,473,614	1,528,500
ME	24,133	7,460	5,250	3,188	487,789	281,000
MD	100,344	45,632	42,426	24,670	1,911,050	1,067,500
MA	193,622	93,990	8,710	4,319	3,252,257	1,841,900
MI	484,621	245,539	79,737	57,816	4,041,302	2,699,500
MN	147,161	74,592	30,012	12,500	2,116,383	1,313,700
MS	46,080	16,949	9,212	4,284	858,511	528,400
MO	127,633	60,459	31,262	20,204	1,945,925	1,352,600
MT	17,894	8,388	5,515	1,517	343,354	245,400
NE	41,833	13,844	6,294	872	729,758	398,500
NV	32,344	41,122	5,454	2,726	432,357	312,500
NH	27,332	17,621	1,564	2,935	486,013	288,500
NJ	294,320	143,125	49,042	28,986	4,666,880	2,654,500
NM	31,944	13,197	1,667	3,176	561,948	355,500
NY	843,575	403,378	207,924	109,796	8,687,768	5,072,700
NC	82,062	28,857	22,749	7,437	1,906,936	1,038,500
ND	18,784	8,926	5,403	2,407	308,533	167,500
OH	279,906	104,844	82,124	23,981	4,009,474	2,467,500
OK	117,848	41,047	12,765	5,719	1,613,498	1,011,000
OR	67,178	28,169	19,596	12,179	1,111,344	700,900
PA	359,277	218,247	83,270	47,602	5,397,895	3,266,100
RI	26,521	12,076	1,461	1,546	465,633	261,800
SC	43,782	22,790	3,044	1,020	1,121,514	672,700
SD	15,501	8,114	4,340	1,291	263,616	158,400
TN	85,253	32,340	28,008	5,865	1,592,077	985,500
TX	577,068	263,526	65,396	16,385	8,159,083	5,072,700
UT	26,502	10,809	7,689	3,295	542,568	266,900
VT	15,157	4,955	3,123	1,221	227,618	116,700
VA	106,706	42,982	35,270	8,144	2,003,621	1,106,400
WA	105,048	55,804	34,706	22,999	1,575,470	982,900
WV	35,461	18,372	14,424	6,677	577,571	360,200
WI	117,665	62,794	9,625	6,308	1,756,949	1,027,500
WY	19,655	8,576	2,042	2,804	221,085	121,000

Source: A.M. Best's Executive Data Service, Report A2, Experience by State

erty/Casualty Insurance Industry Written Premiums and Paid Losses

EXHIBIT 2
DATE 1-20-89
HB HJR 5

1983

000's Omitted

General Liability		Medical Malpractice		ALL LINES	
Written Premium	Losses Paid	Written Premium	Losses Paid	Written Premium	Losses Paid
\$ 72,164	\$ 42,648	\$ 23,458	\$ 10,780	\$1,324,532	\$ 824,116
28,632	17,569	3,851	1,121	435,923	214,625
106,817	53,975	38,360	12,558	1,345,493	769,729
40,667	26,641	8,931	3,040	863,401	616,015
863,629	602,881	309,985	137,362	14,475,059	8,997,896
95,289	55,215	14,114	13,982	1,513,509	961,471
163,050	92,277	42,232	21,633	2,025,034	1,076,892
21,105	5,543	7,490	3,903	298,545	155,161
39,590	15,015	13,412	17,648	357,916	205,034
294,395	210,049	110,144	54,379	5,077,705	3,186,642
113,436	42,591	30,868	17,598	2,276,301	1,437,272
32,013	19,246	5,644	1,411	566,501	436,360
19,832	17,701	5,536	3,610	383,632	237,990
467,144	297,924	131,424	71,610	5,368,526	3,426,838
122,155	54,737	22,089	7,446	1,979,933	1,133,353
102,102	53,018	21,886	7,848	1,286,276	697,751
62,111	36,519	11,606	9,133	1,182,740	682,648
73,113	27,932	20,601	10,925	1,251,767	787,030
164,284	127,065	24,701	7,249	2,387,380	1,673,255
23,908	9,255	5,301	2,935	523,554	305,203
120,641	54,107	44,754	23,454	2,066,822	1,113,162
200,456	118,250	10,418	5,705	3,552,304	1,903,169
71,604	283,560	98,381	71,331	4,168,463	2,885,844
36,241	89,516	32,438	11,918	2,189,422	1,487,210
50,567	27,697	10,818	3,703	896,919	566,909
148,232	142,493	33,820	26,610	2,086,458	1,404,337
18,870	13,144	5,484	3,095	369,454	225,503
43,957	16,528	6,629	2,009	744,197	380,914
31,674	29,027	7,917	4,853	442,836	290,926
25,019	10,916	2,349	2,524	531,005	282,309
290,764	177,033	95,823	71,948	5,056,451	2,812,908
32,438	14,124	1,386	1,614	597,132	350,009
859,794	445,319	293,241	188,978	9,294,680	5,262,104
84,407	29,640	25,129	9,332	2,015,675	1,107,102
19,389	8,021	6,079	2,840	313,622	187,147
278,703	130,843	88,452	41,508	4,150,842	2,452,363
98,618	50,095	18,173	5,828	1,634,348	1,026,193
64,544	40,583	22,251	17,586	1,130,696	696,756
378,830	259,750	102,533	47,629	5,515,224	3,318,311
25,530	17,255	1,655	1,304	493,862	286,830
47,439	27,019	3,745	2,040	1,203,147	695,133
15,248	7,627	5,194	1,131	279,017	145,804
79,268	45,206	32,114	8,215	1,686,141	1,005,645
554,004	354,307	72,576	28,876	8,547,007	6,217,738
27,878	14,615	8,762	5,009	483,598	279,726
15,167	5,805	2,708	1,818	242,817	129,742
106,511	37,771	38,966	15,005	2,137,914	1,122,812
105,007	81,445	41,377	20,955	1,659,564	1,036,921
34,278	19,301	15,481	11,546	593,447	352,728
1,959	71,042	11,523	8,289	1,840,976	1,079,219
12,484	11,503	2,387	1,621	211,218	120,109

9 of 10

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8

Property/Casualty Insurance Industry Written Premiums and Paid

EXHIBIT 2

1984

DATE 1-20-89

HB HJR5

NOTE: 000's Omitted

General Liability		Medical Malpractice		ALL LINES	
Written Premium	Losses Paid	Written Premium	Losses Paid	Written Premium	Losses Paid

AL	\$ 88,134	\$ 54,949	\$ 29,148	\$ 8,325	\$1,496,034	\$ 981,141
AK	31,904	25,637	4,805	2,330	466,251	272,141
AZ	126,458	91,034	42,410	24,971	1,508,650	991,541
AR	45,313	26,207	10,003	4,797	950,338	722,141
CA	1,041,322	835,280	337,514	167,464	16,602,008	10,159,141
CO	119,687	60,086	15,315	21,491	1,716,275	1,320,141
CT	181,731	105,349	51,555	17,604	2,250,617	1,244,141
DE	24,857	8,475	13,521	3,135	354,686	207,141
DC	48,825	18,908	18,136	12,944	420,823	243,141
FL	335,025	238,190	103,747	32,076	5,843,471	3,606,141
GA	139,465	60,454	50,294	21,886	2,641,452	1,855,141
HI	35,484	29,894	11,464	3,507	622,097	328,141
ID	21,143	12,502	7,150	2,732	414,430	276,141
IL	574,090	377,220	160,194	74,914	5,861,440	4,070,141
IN	135,945	65,228	22,314	7,030	2,157,158	1,367,141
IA	116,099	64,903	25,381	11,793	1,353,914	826,141
KS	79,325	42,980	17,356	8,099	1,277,933	823,141
KY	88,289	34,418	41,433	11,074	1,423,674	946,141
LA	188,529	158,544	27,404	10,748	2,499,150	1,422,141
ME	28,888	14,972	13,773	4,158	586,440	360,141
MD	139,291	87,174	47,221	27,197	2,342,271	1,422,141
MA	242,677	140,390	11,202	8,641	4,001,271	2,238,141
MI	639,365	369,780	106,235	82,141	4,649,975	3,309,141
MN	158,645	152,012	42,916	15,441	2,400,952	1,648,141
MS	52,597	31,205	12,241	5,298	1,009,566	691,141
MO	160,932	130,111	48,370	32,168	2,335,593	1,722,141
MT	21,614	21,047	6,323	3,917	399,745	291,141
NE	49,847	30,128	7,945	2,057	812,046	486,141
NV	29,195	24,677	9,429	4,283	477,686	307,141
NH	35,592	14,127	5,906	713	593,696	328,141
NJ	364,098	207,774	118,233	69,262	4,423,489	3,098,141
NM	38,909	15,905	2,599	1,592	708,981	398,141
NY	960,573	600,382	259,032	204,487	10,191,570	6,083,141
NC	103,799	42,749	34,133	15,150	2,207,577	1,448,141
ND	22,051	11,200	8,479	6,912	346,577	196,141
OH	300,634	232,560	100,755	52,809	3,971,700	2,405,141
OK	113,501	60,930	21,281	13,024	1,748,355	1,329,141
OR	73,032	42,399	26,737	16,572	1,263,546	831,141
PA	449,224	309,506	116,999	56,322	6,124,219	3,945,141
RI	33,397	17,201	2,072	2,310	539,642	324,141
SC	57,148	21,240	4,509	2,283	1,361,351	986,141
SD	17,330	15,121	6,443	1,742	302,765	198,141
TN	104,498	47,222	41,503	13,610	1,879,735	1,250,141
TX	672,036	405,822	75,142	32,107	9,442,242	6,799,141
UT	29,478	12,793	9,237	7,180	538,728	382,141
VT	17,304	6,650	3,973	1,384	268,556	145,141
VA	130,909	57,234	41,626	15,976	2,365,860	1,382,141
WA	126,678	88,579	47,544	29,399	1,856,430	1,241,141
WV	39,294	24,188	19,616	9,007	637,857	425,141
WI	132,039	91,911	14,512	9,588	1,995,102	1,310,141
WY	16,189	14,196	2,585	3,445	225,197	153,141

Source: A.M. Best's Executive Data Service, Report A2, Experience by State

ATTORNEY GENERAL--OFFICE

EXHIBIT 3
DATE 1-20-89
HB HJR 5

10/64

ORIGINAL
FILED

JUN 14 1988

WHITTAKER
DISTRICT COURT
OF CALIFORNIA

ATTORNEY GENERAL'S OFFICE
HELENA, MONTANA

JUN 15 1988

RECEIVED

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COUNSEL FOR PLAINTIFFS

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE STATE OF MONTANA on behalf of itself
and all political subdivisions and public
agencies within the State similarly
situated, and the County of Teton,

Plaintiffs,

v.

HARTFORD FIRE INSURANCE COMPANY, ALLSTATE
INSURANCE COMPANY, AETNA CASUALTY AND SURETY
COMPANY, CIGNA CORPORATION, INSURANCE
SERVICES OFFICE, INC., PETER N. MILLER,
ROBIN A. G. JACKSON, MERRETT UNDERWRITING
AGENCY MANAGEMENT LIMITED, THREE QUAYS
UNDERWRITING MANAGEMENT LIMITED, JANSON
GREENE MANAGEMENT LIMITED, EDWARDS & PAYNE
(UNDERWRITING AGENCIES) LIMITED, C. J. W.
(UNDERWRITING AGENCIES) LIMITED, MURRAY
LAWRENCE & PARTNERS, OXFORD SYNDICATE
MANAGEMENT LIMITED, D. P. MANN UNDERWRITING
AGENCY LIMITED, UNIONAMERICA INSURANCE CO.,
LTD., CNA RE (U.K.) LTD., TERRA NOVA
INSURANCE CO., LTD., EXCESS INSURANCE
COMPANY LIMITED, KEMPER RE (U.K.) LTD.,
CONTINENTAL REINSURANCE CO., (U.K.) LTD.,
THOMAS A. GREENE & CO., INC., BALLANTYNE,
McKEAN & SULLIVAN, LTD., R. K. CARVILL & CO.,
LTD., REINSURANCE ASSOCIATION OF AMERICA,
GENERAL REINSURANCE CORPORATION,
CONSTITUTION REINSURANCE CORPORATION,
MERCANTILE & GENERAL REINSURANCE COMPANY OF

C 88

COMPLAINT
88 CIV. 35 TEL

ANTITRUST;
CLASS ACTION;
JURY DEMAND

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COMPLAINT

JUL 28

INSURANCE

Profitability of the Medical Malpractice and General Liability Lines



GAO

United States
General Accounting Office
Washington, D.C. 20548

2013

General Government Division

B-220675

July 13, 1987

The Honorable Henry A. Waxman
Chairman, Subcommittee on Health
and the Environment
Committee on Energy and Commerce
House of Representatives

The Honorable James J. Florio
Chairman, Subcommittee on Commerce,
Consumer Protection, and Competitiveness
Committee on Energy and Commerce
House of Representatives

The Honorable Paul Simon
United States Senate

The Honorable Daniel K. Inouye
United States Senate

The Honorable Albert Gore, Jr.
United States Senate

The Honorable Jay D. Rockefeller
United States Senate

On May 27, 1986, you requested that we provide you with information relating to the affordability and availability of commercial liability insurance. Part of your request dealt with information on the profitability of the property/casualty insurance industry and in particular the profitability of the medical malpractice insurance line. In a subsequent discussion with your offices, we agreed to estimate the profitability of the property/casualty insurance industry, concentrating on the medical malpractice and general liability insurance lines. We also agreed that other parts of your request would be addressed in separate studies.

Profitability in the insurance industry is determined by combining both underwriting results and investment results. Despite incurring substantial underwriting losses over the 10-year period 1976 through 1985, the property/casualty insurance industry has more than offset those aggregate losses with investment gains. The underwriting losses resulted, in part, from the industry's "cash flow underwriting" pricing strategy in which companies sacrificed underwriting gains in an attempt to attract more business and thereby enhance investment gains. We estimate that

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the industry had about \$81 billion in after-tax income over this period. We estimated the industry's profitability over this period rather than concentrating our analysis on the last few years because the industry is subject to underwriting profit and loss cycles. Therefore, data covering longer periods provide better perspective on the industry's profitability.

The industry disagrees with our 10 year profitability estimate of \$81 billion—its method of calculation would show \$54 billion. Even the lower estimate by the industry shows that the industry's average rate of return on net worth has not been out of line with those of other industries. We believe that the industry's reported rates of return are conservative since they are based on reserves that have not been discounted, i.e., their reserves do not reflect the present value of claims that are estimated to be payable in the future. Furthermore, we believe that the relatively low rates of return earned in recent years are not necessarily indicators of serious longer term problems in the industry. Indeed, the industry reported substantial earnings improvement in 1986.

Profitability estimates for the medical malpractice and general liability lines depend primarily on the adequacy of the reserves for future payment of claims (losses) and whether those reserves are discounted to reflect their present values. These reserves, which are an expense of operation, are of necessity actuarial estimates of losses that are expected to be paid out in the future. Furthermore, these reserves are adjusted periodically to take account of claim and loss expense estimates that may differ from earlier estimates. Thus, measures of profitability in any given year may understate or overstate the ultimate results of an insurance operation.

Of additional importance, by industry accounting standards and as required by state regulators, reserves are frequently booked as expense at the full value of expected future loss payouts despite the fact that only the present value of the reserve invested at interest need be set aside to meet expected future claims settlements. For example, if a claim will cost \$100 in 10 years, should a \$100 reserve be immediately established for that claim or should a reserve of a lesser amount—a discounted amount—be established that, when invested over the 10-year period, will yield \$100?

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EXHIBIT 5
DATE 1-20-89
HIR 5

JAMES W. MURRY
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

Statement of Jim Murry, executive secretary of the Montana State AFL-CIO,
to the House State Administration Committee, January 20, 1989

Mr. Chairman, for the record my name is Jim Murry and I am executive secretary of the Montana State AFL-CIO. I'm here today to support the resolution to urge Congress to repeal the McCarran-Ferguson Act.

When McCarran-Ferguson was first enacted in 1945, it was believed that state regulation of the insurance industry would be enough to protect the consuming public against anti-competitive practices. Thus, Congress granted the insurance industry a broad exemption from anti-trust regulation, an exemption that has been withheld from other industries. Now, some 44 years later, it's clear that the federal anti-trust laws could be put to good use in the insurance industry.

Critics of the insurance industry say that states haven't regulated the industry tightly enough to prevent anti-competitive practices. As evidence, they cite the difficulty of obtaining liability insurance for local governments, day-care providers, nurse midwives and many others. Anti-trust regulation would jeopardize certain insurance industry practices, such as price fixing, regional monopolies and so-called "tie-in" policies that require consumers to buy one type of insurance in order to get another. As further evidence of the need for federal regulation, critics cite a recent lawsuit by 19 state attorneys general alleging that certain insurance companies conspired to withhold coverage from certain classes of potential customers.

The insurance industry appears to want the best of both worlds when it comes to regulation. They have mounted an extensive and costly lobbying campaign to keep Congress from altering or repealing the McCarran-Ferguson Act, thus keeping insurance free from federal regulation. But, on the other hand, the insurance industry is strongly lobbying FOR regulations that would keep bankers out of insurance.

We believe it's time for the federal anti-trust laws to be applied to the insurance industry just as they are applied to other industries. We believe it's time for the insurance industry to be held accountable for some of their questionable practices, and we support this resolution.

EXHIBIT 6
DATE 1-20-89
HB HSR 5

Testimony
House Joint Resolution 5
Submitted by Tanya Ask
Montana Insurance Department
January 20, 1989

The Montana Insurance Department would like to go on record with an explanation of what state insurance regulation means for Montanans. It means the state sets, by statute, the standards a company must meet before it is allowed to sell insurance to Montana residents. It means the state sets the standard of conduct companies must meet in their dealings with consumers. It means the state sets the minimum requirements for agents who contact the residents of this state. It means the state sets minimum benefit levels where it feels it is necessary. It means the state requires certain disclosures and policy provisions where it feels these are in the best interest of Montana residents. This is all established by statute.

State regulation allows greater input from the residents of this state about how they want to see the industry regulated. State regulation recognizes differences in the marketplace that exist in different parts of the country. State regulation allows a more local resolution to problems residents of Montana face.

The Montana Legislature has been sympathetic to upgrading the resources of the department, given Montana's current economic situation. Last session three additional positions were allowed, and the appropriations subcommittee this session has been generous in recognizing the need for additional improvement. This shows support for state regulation of the industry, support which is mandatory if state regulation of insurance is going to continue for Montana.

STATEMENT OF
AMERICAN INSURANCE ASSOCIATION
BY
JACQUELINE N. TERRELL
RE: HJR 5

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Madam Chairman and members of the committee:

My name is Jacqueline N. Terrell. I am a lawyer from Helena and a lobbyist for the American Insurance Association. The American Insurance Association is a national trade association that promotes the economic, legislative, and public standing of its some 180-member property-casualty insurance companies. The Association represents its participating companies before federal and state legislatures on matters of industry concern.

The American Insurance Association opposes repeal or modification of the McCarran-Ferguson Act. The Association continues to favor state regulation of the insurance business and opposes any system of dual federal and state regulation.

The McCarran-Ferguson Act is essential to a competitive insurance market and a rational regulatory structure. Any weakening of that Act's current provisions would severely impair the entire system of state insurance regulation. In the absence of McCarran many cooperative efforts by the insurance industry, designed to protect the public, would be placed at risk. The repeal or restriction of McCarran-Ferguson would improve neither the availability nor affordability of insurance but would, instead, jeopardize essential cooperative activities such as market assistance plans and state authorized cooperative ratemaking and data collection systems.

2062

The insurance industry is presently accountable for improper anticompetitive activity. The McCarran Act does not protect boycotts, coercion, or intimidation. Moreover, all historical antitrust requirements apply to the industry - the Sherman Act, the Clayton Act, the Robinson-Patman Act and the Federal Trade Commission Act - to the extent that individual state laws do not already regulate the insurance business.

Moreover, competition within the industry is intense. The U.S. Department of Justice recently concluded that "property and casualty insurance (companies) are in effective competition with each other" Nearly 3,500 companies sell property and casualty insurance. Nine hundred operate nationwide, but none of them has dominant market share. Without McCarran-Ferguson smaller companies would have far greater difficulty entering and competing in the marketplace, and concentration in the industry would undoubtedly increase.

Repeal or weakening of McCarran-Ferguson would result in severe marketplace turmoil, without gaining anything of value for antitrust enforcement. Therefore, the Association opposes any modification and supports instead continuation of state regulation of the insurance business. The Association urges you do give this resolution a do not pass recommendation.

Submitted to House State Administration Committee for hearing on HJR5, January 20, 1989, 9 a.m.

Respectfully submitted,

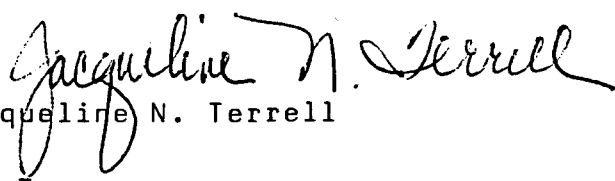

Jacqueline N. Terrell

EXHIBIT 8
DATE 1-20-89
~~HS~~ HSR 5
10/3

REGARDING HOUSE JOINT RESOLUTION #5

To: Montana House State Administration Committee

From: Roger McGlenn, Representing the Independent

Insurance Agents' Association of Montana 442-9555

The McCarran-Ferguson Act

The Independent Insurance Agents Association of America, our national association, has carefully reviewed whether the McCarran-Ferguson Act continues to serve an important public purpose. Those proposing to amend it argue that the industry currently sets its prices in unison and that amendment or repeal would increase competition and lessen affordability and availability problems.

The conclusions of our study are:

- (1) While rating organizations do publish advisory rates for typical risks in given classes, these are only a starting point for individual companies, which set their own final price to the consumer. In the real market, the actual prices charges by individual companies for any given risk vary tremendously. We invite consumers to ask any independent agent for a demonstration of the variation in prices for any

Roger McGlenn

given risk. The degree of competition is reflected by the fact that in a field which is served by about 3,800 companies, no single company or group has more than 10 percent of the property/casualty insurance market. The 10 largest organizations combined had 39 percent of the market in 1987. In addition, the presence of a large force of independent agents facilitates a competitive insurance system.

- (2) There is a substantial risk that repeal or amendment of the McCarran-Ferguson Act will lessen competition, not increase it, by squeezing smaller, regional carriers out of the market. These carriers have become an increasingly important source of insurance to independent agents and their insureds, particularly in small towns and rural areas. Amendment also could jeopardize the continued availability of common coverage forms that facilitate the ability of independent agents and the public to shop easily between companies.
- (3) Repeal Amendment of the Act would lead to increasing federal regulation of the insurance business and a reduced role for state regulation. We believe this would be a disservice to the public because the state regulators are closer to local problems and are in a position to be more responsive to individual

consumers that a federal regulator would be.

EXHIBIT 8
DATE 1-20-89
HB HJR

343

For all of these reasons, we believe the McCarran-Ferguson Act continues to serve an important public objective. We are deeply troubled that repealing or amending this law would have a severely disruptive effect on insurance markets and exacerbate affordability and availability problems for the public especially in rural areas like Montana.

Volume 14 No. 6

August 1988

INSURANCE CONSPIRACY?

A RESPONSE TO THE ATTORNEYS GENERAL'S LAWSUIT

In March 1988, the attorneys general of nine states (Alabama, Arizona, California, Massachusetts, Minnesota, New York, Texas, West Virginia and Wisconsin) filed lawsuits charging that insurance company antitrust violations were at the heart of the 1984-1986 liability insurance crisis. In June 1988, ten additional states filed similar charges. The defendants have denied any impropriety and disputed both the facts and the legal theories underpinning the litigation. However, the legal merits of the case can only be resolved by the courts. But perhaps more important are the public policy and political implications of the suit and, in particular, the implications for public debate over the tort law system. 1/

From a strictly legal perspective, the lawsuits charge the 31 defendants with colluding to narrow the coverage of the standard commercial general liability policy, and with exercising their market power to prevent competitors from offering broader coverage. The plaintiffs further allege that the conspiracy largely eliminated the availability of pollution liability coverage.

However, the real basis for this lawsuit is far removed from the legal questions involved. Indeed, this litigation has been used by the plaintiffs and their philosophical allies to validate a set of critical propositions with respect to the liability crisis. These individuals have long maintained that a conspiracy by the insurance industry, rather than rising costs and unpredictability produced by developments in the tort law system, was the primary cause of the recent liability crisis. Consequently, the plaintiffs and their allies -- including the well financed trial lawyers lobby -- have been able to use this lawsuit to argue that tort reform is unnecessary and that legislators should focus on restructuring the insurance industry's state regulatory framework by repealing the McCarran-Ferguson Act. 2/

Coincidentally or not, those attorneys general who have filed this lawsuit have been among the most vocal leaders of the McCarran repeal and anti-tort reform movements. While the lawsuits themselves carefully avoided alleging that an insurer conspiracy caused the liability crisis, the plaintiffs enthusiastically espoused the broad conspiracy theory in their public appearances, including a coordinated series of press conferences which received widespread media coverage.

EXHIBIT 10
DATE 1-20-89
~~HB~~ HSR 5
1012

HOUSE JOINT RESOLUTION 5

TESTIMONY OF THE HEALTH INSURANCE ASSOCIATION OF AMERICA

BEFORE THE HOUSE STATE ADMINISTRATION COMMITTEE

January 20, 1989

Mr. Chairman, members of the committee,

My name is Tom Hopgood. I represent the Health Insurance Association of America which is a trade association comprised of the companies who write the great majority of commercial health insurance in the country and in the State of Montana.

The Association opposes this resolution.

The Association protests the tone of this resolution which implies that the insurance industry as a whole is running amok, virtually unregulated.

Specifically, the resolution states "The McCarran-Ferguson Act exempts the insurance industry from federal anti-trust laws and allows insurance companies to fix prices."

The statute referred to is 15 U.S.C. §1012(b) which says:

" . . . the Sherman Act . . . the Clayton Act . . . and the Federal Trade Commission Act . . . shall be applicable to the business of insurance to the extent that such business is not regulated by state law."

The only way the statute can be read is that the federal laws do apply if the state has not regulated the business of insurance.

What the courts have held is that if the state has statutes on its books which regulate the business of insurance, the federal statutes do not apply.

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2062

I would also point out that the Sherman Act is, by 15 U.S.C. §1013(b), specifically applicable to "Any agreement to boycott, coerce, or intimidate, or act of boycott, coercion, or intimidation."

I would respectfully submit that the business of insurance is highly regulated at least in Montana where there is an entire department within state government which regulates the business of insurance.

I would point out to the committee that the State of Montana has more statutes on its books regulating insurance than it has tax statutes.

Montana's insurance commissioner does a very thorough, commendable and generally speaking, even-handed job of regulating the insurance industry in Montana.

The Health Insurance Association of America does not feel that its members have, in the words of the resolution "Consistently abused the privileges granted to the insurance industry."

The Association asks that you give this resolution a DO NOT PASS recommendation.

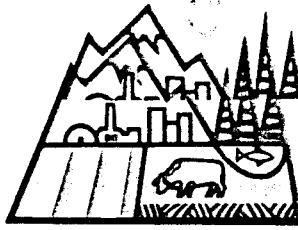


EXHIBIT 11
DATE 1-20-89
HB HSR 5

MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730

• HELENA, MONTANA 59624

• PHONE 442-2405

TESTIMONY BEFORE THE STATE ADMINISTRATION COMMITTEE ON HOUSE JOINT RESOLUTION #5.

JANUARY 20, 1989

Madam Chairman, members of the Committee, I am James Tutwiler, Public Affairs Manager of the Montana Chamber of Commerce. We appreciate this opportunity to comment upon House Resolution 5.

The Montana Chamber has long been an active proponent of business in this state. This advocacy extends to and includes the availability and affordability of insurance needed by all business to protect their interests and provide a product or service to the community.

In our efforts to improve the business climate we have, among other measures, focused on three areas that relate to House Joint Resolution #5.

We have, where appropriate, sought to ease rather than increase regulations that unnecessarily burden businesses.

We have helped lead the effort to reform and to modernize our liability laws.

And, we have consistently looked for opportunities to communicate the message that Montana is a good place to do business.

In our best judgement Madam Chairman and members of the Committee, House Joint Resolution #5 would not serve any one of the three areas of endeavors outlined. Repeal of the Act in question would certainly lead to more not less regulation. Certainly the liability climate would not be improved. And, finally, the resolution, strident as it is in tone, sends a strong message that Montana is indeed hostile to business.

For these reasons, we recommend the Committee not favorably consider this proposal.

Thank you.



MONTANA FARM BUREAU FEDERATION

502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

EXHIBIT 12
DATE 1-20-89
HB HJR 5

BILL # HJR 5; TESTIMONY BY: Lorna Frank
DATE Jan. 20, 1989; SUPPORT _____; OPPOSE Yes

Madam Chairman, members of the committee, for the record, my name is Lorna Frank, representing approximately 3600 Farm Bureau members ^{consumers} throughout the state.

Farm Bureau opposes repeal or amendments to the McCarran-Ferguson Act because it allows the regulation of the insurance industry by individual states. We believe each state and not the Federal Government should regulate the insurance companies in the states.

Therefore, Farm Bureau opposes HJR 5 and urges this committee to do not pass this resolution.

SIGNED: _____

Lorna Frank

& Run

BY SHEILA KAPLAN

*The insurance industry
is one of the biggest
industries in America. And it's
riding roughshod
over lawmakers, regulators
and the American
public.*

The Federal Trade Commission (FTC) knew it had a problem when late-night TV commercials for health insurance preempted ads for Ginsu knives and Vegamatics. Agency staffers suspected thousands of Americans would fork over their retirement funds for overpriced, inadequate coverage.

Barred by federal law from investigating the insurance industry, the FTC persuaded Congress to make an exception, allowing it to determine whether ads selling so-called Medigap insurance, featuring celebrities like Harry Morgan and Ed McMahon and targeting the elderly, were deceptive. The FTC's report, due for release this summer, is expected to be highly critical. But, says agency spokesperson Anna Davis, "even if we find out there is a huge problem in this area we'll just send a report to Congress. We can't do anything."

The agency has been similarly hamstrung on property and casualty insurance complaints of recent years, ranging from soaring premiums and canceled or reduced coverage to redlined neighborhoods and cities.

"The fact that liability insurance in so many industries is skyrocketing made us wonder, is there perhaps collusion or were costs actually rising that high?" Davis says. "Were poor investments made and were companies trying to recoup their investment losses through premiums? We would have liked to study this, but we can't even look at it . . . because maybe we'll find a problem."

Maybe they would. But the 1945 McCarran-Ferguson Act exempts the insurance industry from federal study — and from the antitrust laws that govern other industries as well. The act followed a Supreme Court ruling that insurance companies feared might deny states the right to oversee the industry and states feared might forfeit their ability to tax insurance companies. At the time, President Franklin Roosevelt and others said such worries were unfounded, but Congress adopted the measure, leaving insurance regulation and oversight to the states.

"Frankly," FTC Chairman Daniel Oliver told a meeting of state insurance commissioners, in reference to the bill, "I don't understand how anyone ever made

Sheila Kaplan is a staff writer. Editorial/research assistant Anna Mangum also contributed to this article.

12. Burden of proof

To take antitrust suit out of exception under this chapter to antitrust laws, plaintiff was required to prove restraint of monopoly through "boycott", "coercion" or "intimidation", and no such showing was made. *Nankin Hospital v. Michigan Hospital Service*, D.C.Mich.1973, 561 F.Supp. 1199.

13. Evidence

Evidence supported award of \$7,800 for loss of business and \$649.53 for expenses incurred in mitigation of loss suffered by Illinois insurance company which charged Colorado insurance company and individual with unfair competition in inducing the Illinois company's salesmen to terminate their employment and sell for the Colorado company. *Atlantic & Pacific Ins. Co. v. Combined Ins. Co. of America*, C.A.Colo.1962, 312 F.2d 513.

14. Harmless or prejudicial error

Allegedly erroneous finding by federal court, in diversity action against Colorado insurance company and individual

charged by Illinois insurance company with unfair competition, that defendants were guilty of conspiracy to commit civil contempt in a state court constituted no cause for reversing damages award for unfair competition where no damages were awarded on the conspiracy point, where court expressly stated that it could not afford a remedy on the conspiracy point, and where substantial rights of the defendants were not prejudiced. *Atlantic & Pacific Ins. Co. v. Combined Ins. Co. of America*, C.A.Colo.1962, 312 F.2d 513.

No error was committed in admitting a summary of insurance company records in its action against competing insurance company and against individual charged with unfair competition in inducing plaintiff's salesmen to go over to defendant company and to bring with them confidential information where extensive testimony was offered indicating derivation of summary and where defendants had an adequate opportunity to examine basic material from which summary was made. *Id.*

§ 1014. Applicability of National Labor Relations Act and Fair Labor Standards Act of 1938

Nothing contained in this chapter shall be construed to affect in any manner the application to the business of insurance of the Act of July 5, 1935, as amended, known as the National Labor Relations Act, or the Act of June 25, 1938, as amended, known as the Fair Labor Standards Act of 1938, or the Act of June 5, 1920, known as the Merchant Marine Act, 1920.

Mar. 9, 1945, c. 20, § 4, 59 Stat. 34.

Historical Note

References in Text. The National Labor Relations Act, referred to in text is classified to section 151 et seq. of Title 29, Labor.

The Fair Labor Standards Act, referred to in text, is classified to chapter 8 [section 201 et seq.] of Title 29, Labor.

The Act of June 5, 1920, known as the Merchant Marine Act, 1920, referred to in

text, refers to Act June 5, 1920, c. 250, 41 Stat. 988. For distribution of that Act, see note set out under section 861 of Title 46, Shipping.

Legislative History. For legislative history and purpose of Act Mar. 9, 1945, see 1945 U.S.Code Cong. Service, p. 670.

Library References

Labor Relations ◊ 49, 1193.

C.J.S. Labor Relations §§ 30, 1088.

EXHIBIT 15
DATE 1-24-89
HB 139

AMENDMENT TO HOUSE BILL 139
Introduced Bill

House Bill 139 is amended to read as follows:

Amend Title, line 7.

Delete: Japan and Taiwan
Insert: Foreign Countries

Amend page 3, line 5.

Delete: Japan and Taiwan
Insert: Foreign Countries

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. HJR 5DATE January 20, 1989SPONSOR BARDANOUE

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Roger McGlen	INDEPENDENT INSURANCE AGENTS ASSOC OF MT		X
CB PEARSON	COMMON CAUSE	X	
Jacqueline Terrell	American Ins. Assoc.		X
BONNIE TIPPY	ALLIANCE OF AMER. INSURERS		X
Tom Hopgood	Health Ins Assoc. of Am.		X
Lorna Frank	MT Farm Bureau		X
Jim Tutwiler	MT CHAMBER COMMERCE		X
Thayne Ask	MT Ins. Dept.		
Michael Sherwood	MT LA	X	
Robert Krueger	Self	X	
Johnnie Thun	Self	X	
LARRY AKEY	ASSN OF LIFE UNDERWRITERS		X
JEROME KOHN	BILLINGS		X
PATRICK DRISCOLL	AMERICAN COUNCIL OF LIFE INSURANCE		X
Jim Murry	Mont. State AFL-CIO	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER
STATE ADMINISTRATION COMMITTEE

BILL NO. HB 128

DATE January 20, 1989

SPONSOR JOHN JOHNSON

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JEROME M. KOHN	BILLINGS	X	
John T. Zentgraf	Helena	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DATE January 20, 1989

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATE ADMINISTRATION COMMITTEE

DATE January 20, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.