

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By **CHAIRMAN STEVE BENEDICT**, on December 10, 1993,
at 3:15 p.m.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chairman (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: Reps. Sonny Hanson (R), Ray Brandewie (R), and
Alvin Ellis, Jr. (R)

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Claudia Johnson, Committee Secretary

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

Committee Business Summary:

Hearing: HB 86
Executive Action: HB 86

HEARING ON HB 86

Opening Statement by Sponsor: REP. BILL BOHARSKI, House District
4, said HB 86 resulted from a flaw in SB 285 from the regular
session. He said the second half of SB 285 included the entire
Small Employer Health Insurance Availability Act. SB 285
informed small employer carriers in the state who sold policies
to groups between 10 and 25 people that if they wanted to

transact business in the state of Montana, they had to stop selecting people who are healthy and not writing policies for those that aren't. He said this is called a guaranteed issue, i.e., an insurance company that wants to write health care to small groups in Montana will have to write a policy for everyone. **REP. BOHARSKI** said HB 86 came from two sources: 1) the National Association of Insurance Commissioners and 2) a part of the former Governor Stephens' Health Care for Montana task force. He said when an insurance company issues an insurance policy on guaranteed issue basis, the cost of the policies will go up. He said a decision was made as a matter of social policy that this would be the way for business to be conducted in the state of Montana. If small group employer plans were to be written, they would be made for a whole group basis. In situations where the premiums become extremely expensive and cause all the premiums in a company to go up, the bill contains what is called a reinsurance pool, i.e., an insurance company takes a high risk group and pays 150% of the premiums through this insurance company who is acting as the carrier and then the reinsurance pool would fund the medical bills for that group. He said there are limits as to the amount of premiums that can be charged. He informed the committee that his main issue is addressing the reinsurance pool. The reinsurance pool is funded by whatever the Legislature defines to be accessible carriers. **REP. BOHARSKI** mentioned that he and several other legislators had a meeting in the old Supreme Court chambers with several insurance companies and discussed how to fund the reinsurance pool. It was his understanding when the bill came out of the Human Services Committee in the regular session and passed on second reading, that guaranteed issue was in fact a social benefit and the cost should be spread as widely as possible so the impact would keep each group having to pay as little as possible. He said in the process of the legislature a number of groups that were to participate had been taken out so it was narrowed down to accessible carriers which reduced the number of people that would have to fund the reinsurance. This drives the cost of insurance to the people that are still included under the definition of accessible carrier higher and there will be more people uninsured as a result of raising the premiums for the groups that are now under the accessible carriers. The goal is to cover as many people as possible with insurance at the lowest possible cost. He said if this cost is dumped on the small group that is now in the accessible carrier definition, it will drive the premiums for the rates so high that they will lose more than the 2.1% of the people that should be picked up with guaranteed issue. Ten to twelve percent will lose coverage because of the high cost of premiums. **REP. BOHARSKI** felt there will be more people uninsured because of increased premiums than would be picked up by adopting a policy of guaranteed issue in addition to guaranteed availability from this bill. **REP. BOHARSKI** asked the person who originally drafted this bill to delay the implementation of the Small Employer Health Care Act in section 2, and all of that language and the language in section 4 relating to reducing Commissioner O'Keefe's funding be stricken from the bill as they

were included only to be within the call of the special session. He requested that the commissioner's office report back to the next legislature on what they believe to be the effect of the base and standard health plan guaranteed issue renewability and the effects of this on the Montana insurance market. He suggested striking section 1 in its entirety if the report cannot be done.

Proponents' Testimony:

Ron Ashabraner, State Farm Insurance Companies, said State Farm supports HB 86. He informed the committee that he attended all of the small group insurance meetings and they should be applauded for their efforts. State Farm supports the concept of small group reform and supports the provisions of guaranteed issue. He said State Farm is concerned as an accessible carrier that is defined in the Small Employer Health Insurance Act and is defined by statutes. He said there is no cap on what State Farm insurers can be assessed, and said consideration should be given in this area.

Ed Grogan, Administrator of the Montana Medical Benefit Plan (MMBP), said MMBP is an in-state health insurer and serves as a non-profit health service corporation and supports HB 86. Until a couple of weeks ago, MMBP was against the guaranteed issue, but with the changes increasing the pool to include everyone, which was the original language when it was introduced into the house during the regular session, they have reevaluated that stand. One of the problems with guaranteed issue is the way it was written into Montana law. The pool was too small and it was placing too big of a burden on the small business man, e.g., employing 3 to 25 people.

Opponents' Testimony:

Mark O'Keefe, State Auditor and Insurance Commissioner, said he opposes the bill because of the request from REP. BOHARSKI in asking for a delay in the effective date and cutting the budget by one-half. He said delaying this will place Montana behind the other 35 states that are involved in the same process. He said section 3 will be impossible to follow. He said for the record that the Auditor's office will bring to the next legislature everything they have, but in the best case scenario of the program they will only have three to five months of actual experience in dealing with these policies with the public. He said it will be useless to spend \$35,000 to \$50,000 on an actuarial evaluation of how the program works or doesn't work. He suggested to the committee to drop section 3 and trust him. The actuarial work done by the Health Care Authority, who budgeted several \$100,000 to do this, will be evaluating the same questions pertaining to affordability, guaranteed issue, and universal access. **Mr. O'Keefe** said he is a no-ponent on what is called the meat of the bill, the controversy between the private insurers who currently will be assessed, and a broader base which

includes self-insurers and public employees. He felt that passing the assessment onto local governments and other public agencies was not what the legislature wanted to do. The legislature wanted to isolate it among the private carriers.

Larry Akey, Montana Association of Life Underwriters, said the Underwriters strongly supported the small group reform provision contained in SB 285 during the last regular session. The provisions addressed a number of abuses of the small employer market place and demanded immediate attention. He supported the request of **REP. BOHARSKI** to delete sections 2 & 4. The underwriters supported the broader base during the last session, but didn't receive a pool on as broad a base as they hoped, but the National Association of Life Underwriters uses Montana as a model for a broad base reinsurance pool. He informed the committee that SB 285 already requires a report from the health benefit plan committee and from the reinsurance board on the impact of the small employer access model for the 1995 legislature. He said that, without sections 2 & 4, HB 86 already does what is existing legislation with a few minor problems and felt the committee shouldn't have to deal with this during this special session. For this reason they are opponents and asked the committee to table HB 86.

Tanya Ask, Blue Cross/Blue Shield (BC/BS), distributed written testimony and said that BC/BS opposes HB 86. She concurred with the statements from Mark O'Keefe and Larry Akey. The short time frame will not fix the reinsurance funding mechanism. She said BC/BS does support the deletion of sections 2 & 4. On page 2, lines 5 through 11, the definition of an assessable carrier will not expand the reinsurance funding mechanism. She said currently both individual and group contract insurers are subject to the reinsurance funding mechanism. The intent was to expand this to government entities and larger self-funded groups in the state of Montana, but the definition will not allow this to happen. She informed the committee that, if they pass this legislation, they will need to leave the language as it currently exists and strike the word "excluding" on line 7. **EXHIBIT 1**

Joyce Brown, Employee Benefits Bureau, Department of Administration, said they opposed assessing government groups when this bill was before the conference committee. She re-emphasized the comments of Tanya Ask and Larry Akey. She asked that the committee leave this piece of legislation to be worked on for the next regular session. She felt the provisions in this bill already provide for some segment of the population, and all this bill does is ask to help fund provisions of guaranteed access for another portion of the population of the small employees. **Ms. Brown** asked the committee to table HB 86.

Steve Henry, President of the Billings Education Association, said the Billings Schools initiated a partially self-funded insurance plan in 1983. He said the schools oppose the assessment for the reinsurance, because the cost of insurance has

already been shifted onto the employees. He said if the assessment is shifted back through the self-funded plans it will do two things: it will be passed through local government; or it will be passed through to the members who are covered by the plan. He said currently the Billings school district will lose approximately \$2.5 million if there is a \$26 million cut in educational funding. It is unlikely that the school district will be able to pay this assessment, and felt it is unfair to let this tax write out on the individual employees through direct assessment.

SEN. EVE FRANKLIN, Senate District 17, said the health benefits committee is working well and felt there is common effort to develop an approach that will be acceptable to everyone, and this legislation is not needed.

John Shontz, Mental Health Association of Montana, said this part of SB 285 was responsible for bringing together in-patient providers, out-patient providers, health providers, consumers, and the insurance industry to look at how folks receive mental health services and how to pay for those insurance programs. He said it has been a long process and hoped the package that has been put together by small insurance folks will do two things: provide better coverage for a number of people, i.e., mental illness and will do so at a smaller cost than what is in place today. He said the association is enthused that the bill has brought together a number of people to accomplish a couple of good issues and said that minor tinkering makes them nervous. He asked that the bill be placed on the table so it can be thought out and worked on during the next regular session.

Questions From Committee Members and Responses:

REP. SIMON asked **Mark O'Keefe** about the language on page 2 and if it only address governmental agencies, and not self-funded or self-insured groups. **Mr. O'Keefe** said on page 2, line 9, it states any self-funded disability insurance plan. He said in **Tanya Ask's** testimony, she stated that for **REP. BOHARSKI'S** intent to be clarified, one would reinsert that language and the word "excluding" on line 7 would be the only line stricken, so self-funded plans will also be assessed under the sponsor's intent. **Mr. O'Keefe** said he didn't know what the federal laws are.

REP. SIMON asked **Larry Akey** to respond. **Mr. Akey** said the language not only addresses governmental agencies, but private self-funded plans are excluded by federal language that is contained in Employment Retirement Income Security Act (ERISA). He said if this legislation were to pass with this language bringing the private self-funded claims into the reinsurance pool, it could be challenged in federal court under ERISA.

Closing by Sponsor:

REP. BOHARSKI said the rates will go up. The state cannot switch

to affordability, renewability, and guaranteed issue without a rate increase. He said the question is who will pay for it, the small employer market that had been protected in the first place. This is good social policy and stated that he is willing to pay the tab. He said if HB 86 is to be created for a certain class of people, there needs to be careful thought on how it is to be funded. If the rates are raised too high for the small employers of Montana, the people the legislators represent will have to drop insurance. He felt that would be more than 2.1% of the people in Montana if this rate increase is passed onto them. He said the 2.1% figure is the number that will be picked up by going to the guaranteed issue.

EXECUTIVE ACTION ON HB 86

Motion: REP. MILLS MOVED HB 86 DO PASS.

Discussion: REP. COCCHIARELLA said there is a problem when the state is asked to fund a private situation. She said the ongoing efforts of the Health Care Authority are addressing this issue and that effort should be supported. She said the legislature and citizens need to be positive in their efforts to reform all health care. She is concerned about REP. BOHARSKI's reasons for including sections 2 & 4 in the bill as they were included only to be within the "call of the special session."

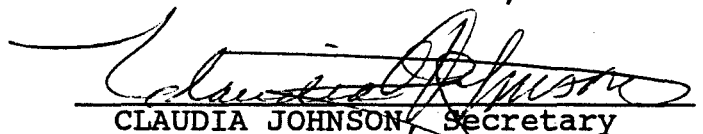
Motion/Vote: REP. COCCHIARELLA MADE A SUBSTITUTE MOTION THAT HB 86 BE TABLED. Voice vote was taken. Motion carried 15 - 3 with REPS. BARNETT, KNOX, AND MILLS voting no.

ADJOURNMENT

Adjournment: 4:10 p.m.



STEVE BENEDICT, Chairman



CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE 12-10-93

NAME	PRESENT	ABSENT	EXCUSED
REP. STEVE BENEDICT, CHAIRMAN	✓		
REP. SONNY HANSON, VICE CHAIRMAN			✓
REP. BOB BACHINI	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE			✓
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. TIM DOWELL	✓		
REP. ALVIN ELLIS			✓
REP. STELLA JEAN HANSEN			✓
REP. JACK HERRON	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. NORM MILLS	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CARLEY TUSS	✓		
REP. DOUG WAGNER	✓		

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EXHIBIT 1
DATE 12-10-93
HB 86

**TESTIMONY
HOUSE BILL 86**

House Business and Economic Development Committee
December 10, 1993

Testimony of Tanya Ask
Blue Cross and Blue Shield of Montana

Blue Cross and Blue Shield of Montana opposes House Bill 86 as written. We feel strongly that health care reform is necessary and an important first step is the small group reform law. As already demonstrated, the process of enacting and implementing small group reform takes time. The process has begun. To now delay implementation of guaranteed issue reform another year is a step backward. That is a step we cannot afford to take.

During the 1993 Legislature, Blue Cross and Blue Shield of Montana supported a broad-based reinsurance funding mechanism for the guaranteed issue of health insurance. Guaranteed issue is a societal goal toward spread of risk, and should not be funded entirely by small employers. Toward this goal, we had supported inclusion of large self-funded groups to the extent allowed by federal law. Given the short timeframe of this special session, and the political ramifications of this amendment, we do not think we can fix the reinsurance funding mechanism in one week.

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Business COMMITTEE BILL NO. HB 86
DATE 12-10-93 SPONSOR(S) Wm E. Boharski

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Steve Browning	Montana Hospital Assn	HB 86	X	
Tom Ebzury	St Vincent's Hospital	HB 86	X	
RON ASHABRANER	STATE FARM INS	HB 86		X
MIKE GREELY	MONTANA MEDICAL BENEFIT PLAN	HB 86		X
DON ALLEN	NMBP	HB 86		X
WARRY AXET	MONTANA ASSOC OF LIFE UNDERWRITERS	HB 86	✓	
Riley Johnson	NFIB	HB 86	✓	
ED GRUBAN	NMBP	HB 86		✓
Tammy Ark	Blue Cross of Montana	HB 86	✓	
J. Shontz	MHAM	"	X	

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