

## MINUTES

### MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON BUSINESS & INDUSTRY

**Call to Order:** By CHAIRMAN JOHN HERTEL, on January 27, 1995, at 8:00 a.m.

#### ROLL CALL

**Members Present:**

Sen. John R. Hertel, Chairman (R)  
Sen. Steve Benedict, Vice Chairman (R)  
Sen. William S. Crismore (R)  
Sen. C.A. Casey Emerson (R)  
Sen. Ken Miller (R)  
Sen. Mike Sprague (R)  
Sen. Gary Forrester (D)  
Sen. Terry Klampe (D)  
Sen. Bill Wilson (D)

**Members Excused:** N/A

**Members Absent:** N/A

**Staff Present:** Bart Campbell, Legislative Council  
Lynette Lavin, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 177  
Executive Action: HB 54 BE CONCURRED IN AS AMENDED  
SB 164 TABLED

#### HEARING ON SB 177

**Opening Statement by Sponsor:**

**SEN. MIKE FOSTER, SD 20, Townsend,** stated that SB 177 is a pro-consumer bill that requires full disclosure. This is an issue that has arisen recently as a result of the confusion of some health insurance policy holders. The bill relates to health care insurers only. **SEN. FOSTER** explained that when a person buys a health insurance policy that policy may state that the insurance company is going to pay a certain percent of what is deemed as reasonable and customary charges. This means that whatever the health care provider charges, the insurance company will pay a certain percentage of what they deem reasonable and customary.

The reason this has become a problem is the policy holder goes to a health care provider for a specific treatment, when the bill comes the policy holder thinks the insurance company will pay the stated percentage of the total bill. However, what happens is the insurance company sends the bill back to the policy holder stating they are paying the stated percentage of what they deem the reasonable and customary charge for that service. The end result is a policy holder who is upset because they don't understand why the insurance will not pay the stated percentage of the total bill. The policy holder wonders if their health care provider is charging too much. There are reports of the insurance companies saying the health care providers are charging unreasonable rates for the particular service. The result is providers arguing that their rates are not unreasonable.

**SEN. FOSTER** stated the purpose of the bill is to require insurance companies to provide full disclosure and explain to the policy holder what reasonable and customary really means. He explained there were some serious problems in the bill drafting. SB 177 must be amended considerably in order to work. He gave the committee a set of amendments, **EXHIBIT 1**. The amendments are a result of working with the Insurance Commissioners Office and the insurance industry itself to figure out language that will make the bill work and not be overly burdensome to the insurance industry. Placing too much of a burden on the insurance companies could result in an increase of the cost of premiums.

Basically the bill says insurance companies must tell people up front what reasonable and customary means. From that point, if a policy holder has a complaint and feels the insurance company didn't pay what they should then the policy holder can call the Insurance Commissioner's Office and file a complaint. The Insurance Commissioner's Office can investigate and require the insurance company to explain their process of determining reasonable and customary charges for the particular service. A health care provider also has the right to go to the Commissioner and request an explanation for the difference between what he is charging and what the insurance company views as reasonable and customary. This is a pro-consumer, full disclosure bill.

**Proponents' Testimony:**

**Frank Cote, Deputy Insurance Commissioner, State Auditor's Office**, urged support of SB 177 as amended. He stated the State Auditor's Office would like the title of the bill amended to read on line 4 "disability insurers, health service corporations and health maintenance organization" instead of "insurance producers". He declared that SB 177 truly is a consumer bill. It allows consumers an opportunity to understand the language used by insurance companies. This is an appropriate and good change.

**Gregory VanHorsen, State Farm Insurance**, explained that when the bill was originally drafted they had some concerns about it.

Those concerns were addressed in the amendments mentioned in the sponsors opening statement and the amendments proposed by **Mr. Cote**, making the bill apply exclusively to health insurance policies. **Mr. VanHorssen** proposed an amendment making the language clear that the sole focus of the bill is the disability policies.

**Tom Hopgood, Health Insurance Association of American**, explained he and **SEN. FOSTER** did research last year on this issue to determine what the problem was. They concluded there was a big problem. They do support this bill as amended, and believe SB 177 will help.

**Larry Akey, Montana Association of Life Underwriters**, stated they represent the agents on the front lines. They opposed the bill, as introduced, because of the language in the bill. As the sponsor has proposed amending the bill, they support it. He thanked **SEN. FOSTER** for making the bill a workable piece of legislation so it will not be a hardship on the insurance companies.

**Jerry Loendorf, Montana Medical Association**, stated that the bill will provide language so that a person who buys a policy can know what they are getting. This would help to prevent a person from buying a policy believing they are getting one thing and realizing when the bill arrives that they didn't get what they thought. The Montana Medical Association generally supports the concept of SB 177.

**Jacqueline Lenmark, American Insurance Association**, expressed support for the bill as amended.

**Tanya Ask, Blue Cross/Blue Shield of Montana**, stated support for the bill as amended.

**Denny Moreen, American Council of Life Insurance**, expressed support for the bill as amended.

**Arlette Randash, Eagle Forum, representing families across Montana**, stated that they applaud **SEN FOSTER'S** efforts to clarify language and make it easier for laymen to understand insurance. She said that the most aggravating situation for families is not being able to understand policies.

**Mike Craig, Montana Health Care Authority**, stated support for SB 177.

Opponents' Testimony: None.

Informational Testimony: none.

Questions From Committee Members and Responses:

SEN. KEN MILLER asked SEN. FOSTER if the amendment provided for everything from page 1, line 10 through page 4, line 11 to be stricken. SEN. FOSTER explained that they had experienced severe bill drafting problems. He is not an expert in insurance and the problems, to a degree, his fault due to ignorance in the area of insurance technicalities. The insurance industry and the Insurance Commissioner's Office came to his aid and suggested amendments to accomplish his goals in a workable way.

SEN. STEVE BENEDICT asked SEN. FOSTER to work with Mr. VanHorsen and Mr. Cote to get a full set of amendments and a gray bill for the committee for executive action to save Mr. Campbell some time. SEN. FOSTER apologized for the confusion and stated that it was unintentional.

SEN. GARY FORRESTER asked SEN. FOSTER why the insurance industry objected to writing language that consumers could understand on all policies instead of just the area of disability and health insurance. Why did the bill only apply to just one area? SEN. FOSTER stated he could not answer that and referred the question to Mr. Cote. Mr. Cote replied that in a previous session life and health insurers were required to write their policies in plain English. In the 1993 session a bill was passed requiring property and casualty insurers, as of April 1, 1996, to write their policies in plain English. He also explained that Mr. Moreen and he discussed excluding insurers besides disability insurers because the language of the bill does not apply to the other insurers. For example, life insurers, there is no definition for usual and customary death.

Closing by Sponsor:

SEN. FOSTER asked the committee for patience in working on this bill. His goal is to help the consumers of Montana. He thanked all the people who made the bill workable and stated it would be a shame to lose the bill just because it didn't make any sense.

Discussion:

SEN. BENEDICT referred to the committee bills in drafting and stated that Bart Campbell had completed the drafting of one of the committee bills. He noted the only problem with the bill now that it was drafted was the fact it needed to be heard in the Judiciary Committee. SEN. BENEDICT explained that if the committee did not object, Mr. Campbell would send a letter to the Chairman of the Judiciary Committee stating that the bill is ready. The Judiciary Chairman would then ask that it be assigned a bill number and sent through the process. When it comes up on first reading on the Senate floor, the members of the committee would then ask to have it transferred to the Judiciary Committee.

EXECUTIVE ACTION ON HB 54

**Discussion:** SEN. FORRESTER offered amendments to HB 54, EXHIBIT 2. He stated that the intention of the amendments was to prevent counties from purchasing surplus lines insurance that could be shady. The amendment states the counties must use the pooled fund insurers because the pooled fund has legal expertise and financial expertise among the fund that would allow for oversight. Those entities that are not a part of the pooled fund would be required to use an insurer that carries an A rating or better by A.M. BEST or is a Lloyds of London Underwriter, EXHIBIT 2A.

**Motion:** SEN. FORRESTER MOVED THE AMENDMENT TO HB 54 BE ADOPTED.

**Discussion:** SEN. KEN MILLER asked if the "A" rating is a secure rating. SEN. FORRESTER stated that he had been assured that the "A" rating is near the top. The entities that are not in the pooled fund and want to use the surplus lines insurers have to go with an "A" rating or better company. It doesn't necessarily allow them to get the cheapest anymore, but allows some sense of security for the county.

SEN. TERRY KLAMPE asked if the surplus lines company could be rated by any other rating company besides A.M. Best. SEN. FORRESTER stated that if the company is not rated by A.M. Best then they can't buy insurance from them. SEN. KLAMPE asked SEN. FORRESTER why he was discriminating against Standard and Poris. SEN. FORRESTER stated that it was not his intent to discriminate but rather they had made an effort to keep the amendment simple. He noted there are very few dollars involved here as compared to the pool investment. SEN. KLAMPE suggested that the committee didn't know enough about how many different rating agencies are available to make the amendment.

SEN. BENEDICT suggested that the amendment be changed to read "A.M. Best, Standard and Poris, or a Lloyd's underwriter". SEN. FORRESTER stated that he would support that. SEN. KLAMPE asked if there were other rating agencies that were not included in the amendment. Roger McGlenn replied that the Lloyd's companies are rated, and asked Bart Campbell if private companies can be included in statute. Mr. Campbell stated that certainly there are private rating types in other areas that are used for standards. Mr. McGlenn suggested that the committee strike, after the word "better", "by A.M. Best" to include under industry standards all the rating companies.

SEN. BENEDICT stated that he could understand Mr. McGlenn's intentions but noted that in order to preserve a comfort level that some of the committee would prefer striking "by A.M. Best" and inserting "or better by a nationally recognized rating company".

Motion: SEN. BENEDICT MOVED TO AMEND THE AMENDMENT TO STRIKE "BY A.M. BEST" AND INSERT "BY A NATIONALLY RECOGNIZED RATING COMPANY".

Discussion: SEN. SPRAGUE asked SEN. BENEDICT to clarify if "or is a Lloyds of London underwriter" would be left in the amendment. SEN. BENEDICT replied it would.

Vote: The motion to AMEND THE AMENDMENT CARRIED UNANIMOUSLY.

Vote: The motion to ADOPT THE AMENDMENT, AS AMENDED, TO HB 54 CARRIED UNANIMOUSLY.

Motion/Vote: SEN. BENEDICT MOVED HB 54 BE CONCURRED IN AS AMENDED. The motion that HB 54 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY. SEN. FORRESTER agreed to carry HB 54 on the Senate floor.

#### EXECUTIVE ACTION ON SB 164

Motion: SEN. KLAMPE MADE THE MOTION TO TABLE SB 164 AND THEN WITHDREW HIS MOTION TO ALLOW FOR DISCUSSION OF SB 164.

Motion: SEN. BENEDICT MADE THE MOTION TO ADOPT THE AMENDMENT, EXHIBIT 3.

Vote: The motion to ADOPT THE AMENDMENT CARRIED UNANIMOUSLY.

Motion: SEN. BENEDICT stated that for the purpose of being able to discuss the bill, he would MOVE THAT SB 164 DO PASS.

Discussion: SEN. KLAMPE referred to Mr. Shontz's testimony regarding the fee not being a tax and noted the groups that are currently left out pay fees and are regulated by the state.

SEN. MILLER stated that he supports the bill because it is a local option for licensing to cover local paperwork and miscellaneous. Secondly he stated this does not address all the professions that are licensed statewide. As a contractor he could have a state class license and still have to buy a city license for every city he works in so that the city would know who is in business.

SEN. BENEDICT expressed opposition to the bill. He believes it is nothing more than an additional tax on business. A business license is an extortion attempt by the city. The license does no good, has no benefit to the business or the community other than a disguise for a tax.

SEN. CASEY EMERSON insisted that the fee was generally for the processing of the paperwork and suggested that an amendment could be placed on the bill limiting specifically what could be charged for the license preventing towns from making a tax out of the

fee.

**SEN. MIKE SPRAGUE** stated that he shared **SEN. MILLER'S** concerns and added that there are people who have multiple business ventures and obtain a state license, county license, city license while the mobile vendors don't. This bill doesn't address them so in his opinion it is practically moot. Consumers assume that if there is an ad in the paper or a mobile vendor, they are properly licensed and trustworthy. The bill doesn't address this. He stated he was not sure that the bill was nothing more than micro-managing of certain professions. It tends to pick on a select few professions and micro-manage them. He would like to see a bill that requires everyone who works in a certain area be licensed, allowing the consumer to be sure that the business has jumped through the hoops and are a credible organization.

**SEN. KLAMPE** remarked that if the fee is just a processing fee then what is it doing other than processing papers. What is the fee for?

**SEN. MILLER** stressed this is not a "more government" bill or a "tax" bill. It is only a local option bill allowing the fee to be set on a local level.

**SEN. BENEDICT** stated that if **SEN. MILLER** believes that is the case he should go along with drafting an amendment allowing anyone who purchases a license, at their local option, to be exempt from licensing at the county and state level. This would truly bring it down to local government. **SEN. BENEDICT** stated business licenses are a fraud. A business license is nothing more than a way to extort money from businesses. There is no need for processing the paperwork if there are no business licenses. He doesn't see a necessity for the business license. Processing paperwork and the cost of doing it isn't necessary if there are no business licenses. He noted that no one had explained the necessity for a business license other than to extort money.

**SEN. BILL CRISMORE** expressed opposition to the bill because it is just another rule that accomplishes nothing.

**SEN. SPRAGUE** stated for some professions one license is sufficient. For others, such as mobile professions, the state license serves no purpose. It is hard to keep track of a mobile vendor in the event of consumer recourse action.

**SEN. FORRESTER** reported in the State of Montana, \$250,000 are collected on business license taxes through the Department of Commerce. All the state does is put the money straight through to the general fund. Counties do the same. The license and fees do nothing for the consumer.

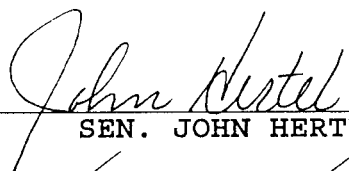
Substitute Motion: **SEN. FORRESTER MADE THE MOTION TO TABLE SB 164.**

Vote: CHAIRMAN HERTEL called for a roll call vote (#1). The motion to TABLE SB 164 CARRIED 8-1, with SEN. MILLER opposing the motion.

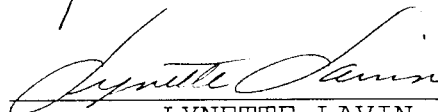


ADJOURNMENT

**Adjournment:** The meeting adjourned at 9:00 a.m.



SEN. JOHN HERTEL, Chairman



LYNETTE LAVIN, Secretary

JH/11

MONTANA SENATE  
1995 LEGISLATURE  
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE 1-27-95

[illegible]


SEN:1995  
wp.rollcall.man  
CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 27, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 54 (third reading copy -- blue), respectfully report that HB 54 be amended as follows and as so amended be concurred in.

Signed: 

Senator John R. Hertel, Chair

That such amendments read:

1. Page 1, line 16.

Strike: "SEPARATELY OR"

Following: "JOINTLY"

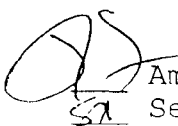
Insert: "(pooled fund)"

2. Page 1, line 20.

Following: "(4)."

Insert: "Political subdivisions that are not in a pooled fund may obtain excess coverage from a surplus lines insurer without proceeding under the provisions of 33-2-302(2) through (4) only if the insurer carries an A rating or better by a nationally recognized rating company or is a Lloyds of London underwriter."

-END-



Amd. Coord.

Sec. of Senate



Senator Carrying Bill.

231248SC.SRF

BUSINESS AND INDUSTRY COMMITTEE

DATE 1-27-94 BILL NO. SB 164 NUMBER 1

MOTION: SB 164 (Tabled)

[illegible]

SEN:1995  
wp:rlclvote.man  
CS-11

# 1  
1-27-95  
SB 177

AMENDMENT OF SENATE BILL 177

Introduced by Senator Foster 1/20/95

SB 177, INTRODUCED BILL, BE AMENDED AS FOLLOWS:

(1) Amend title

1. Title, page 1, lines 4-6.  
Following: "AN ACT REQUIRING" on line 4  
Strike: "INSURANCE PRODUCERS"  
Insert: "INSURERS, HEALTH SERVICE CORPORATIONS"
2. Title, page 1, line 6-7.  
Following: "DISCLOSE THE MEANING OF CERTAIN TERMS"  
Strike: "AND PROVIDE AN EXPLANATION OF CHARGES; AND  
AMENDING SECTION 33-31-301, MCA."

(2) Insert material following stricken material

1. Page 1, line 10.  
Following: "Explanation of charges (1)."  
Strike: [All of the material through page 4, line 11.]  
Insert: "a disability insurer, health service  
corporation, and health maintenance  
organization which issues policies or which  
issues policies for delivery in this state or  
which renews, extends, or modifies policies  
on or after October 1, 1995, shall include in  
the policies:"
2. Page 4, line 14.  
Following: "relative value schedule"  
Strike: "and an explanation of the charges as  
provided in [section 1]."
3. Page 4, line 15: [Delete all material through  
page 5, line 15.]

SENATE BUSINESS & INDUSTRY  
EXHIBIT NO. 2  
DATE 1-27-95  
BILL NO. HB # 54

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2

DATE 1/27/95

BILL NO. HB # 54

Amendments to House Bill No. 54  
Third Reading Copy

Requested by Senator Forester  
For the Committee on Business and Industry

Prepared by Bart Campbell  
January 27, 1995

1. Page 1, line 16.

Strike: "SEPARATELY OR"

Following: "JOINTLY"

Insert: "(pooled fund) "

2. Page 1, line 20.

Following: "(4)."

Insert: "Political subdivisions that are not in a pooled fund may  
obtain excess coverage from a surplus lines insurer without  
proceeding under the provisions of 33-2-302(2) through (4)  
only if the insurer carries an A rating or better by A.M.  
Best or is a Lloyds of London underwriter."

SENATE BUSINESS & INDUSTRY  
EXHIBIT NO. 2A  
DATE 1/27/95  
BILL NO. HB 54

Amendments to House Bill No. 54  
Third Reading Copy

Requested by Senator Forester  
For the Committee on Business and Industry

Prepared by Bart Campbell  
January 27, 1995

1. Page 1, line 16.

Strike: "SEPARATELY OR"

Following: "JOINTLY"

Insert: "(pooled fund)"

2. Page 1, line 20.

Following: "(4)."

Insert: "Political subdivisions that are not in a pooled fund may obtain excess coverage from a surplus lines insurer without proceeding under the provisions of 33-2-302(2) through (4) only if the insurer carries an A rating or better by a nationally recognized rating company or is a Lloyds of London underwriter."

SENATE BUSINESS & INDUSTRY  
EXHIBIT NO. 2  
DATE 1-27-95  
BILL NO. HB 54

Amendments to Senate Bill No. 164  
First Reading CopyRequested by Senator Gage  
For the Committee on Business and IndustryPrepared by Greg Petesch  
January 19, 1995

1. Title, line 6.  
Following: "37-30-307,"  
Strike: "AND"  
Following: "37-31-323,"  
Insert: "AND 37-65-203,"  
Following: "SECTIONS"  
Insert: "33-2-707,"
2. Title, line 7.  
Following: line 6  
Insert: "37-50-316,"
3. Page 6, line 2.  
Insert: "Section 7. Section 37-65-203, MCA, is amended to read:  
"37-65-203. Exclusive licensing jurisdiction ~~no~~  
~~additional fee.~~ The board is vested with exclusive jurisdiction  
to issue licenses for the privilege of practicing architecture.  
~~No other state agency or political subdivision of the state,~~  
~~including counties and municipalities, may levy any fee or tax~~  
~~for such privilege."~~  
Renumber: subsequent section
4. Page 6, line 3.  
Following: "Sections"  
Insert: "33-2-707,"  
Following: "37-18-313,"  
Insert: "37-50-316,"



DATE

SENATE COMMITTEE ON

BILLS BEING HEARD TODAY:

January 27, 1995

Business and Industry

SB 177

Senator Mike Foster

&lt; ■ &gt;

PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Jacqueline Denmark	Am. Ins. Assoc.	177		X
B. V. Johnson	State Farm Ins	177	X	<del>X</del>
Greg Van Horne	State Farm	177	X	
LARRY AKET	MT ASSOC OF LIFE UNDERWRITERS		AS AMENDED	
Mike Craig	MT Health Care Assn	177	✓	
Arlette Sand Ash	EAGLE Forum	"	"	
Laurie Kootnik	Christian Coalition	"	✓	
Tanya Bick	Bla Cross Blue Shield	"	✓	45 amends
Tony Hopwood	HIAA	"	✓	
Paul Costo	St. Andrew's	177	Amend	
Greg Leondark	MT Med Assn	177	✓	
Denny Mahen	ACLI	177	✓	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY