

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on March 9, 1995, at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

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

Committee Business Summary:

Hearing: SB 253, SB 317. SB 264
Executive Action: SB 253, SB 317, SB 374 (suspended), SB 224

HEARING ON SB 253Opening Statement by Sponsor:

SEN. RIC HOLDEN, HD 1, Dawson County, said this bill was an act creating an Insurance Fraud Protection Act.

Proponents' Testimony:

Jacqueline Lenmark, American Insurance Association, said there is a very important problem with the insurance industry which is insurance fraud. She then explained the changes in the bill.

Lloyd Taylor, Society of Collision Repair Specialists, said insurance fraud costs everyone a great deal of money. Funding would enable investigators to actively pursue fraud cases. Montana is the 27th state out of 50 that is trying to institute fraud investigative units. Three years ago, in the insurance community, 230 insurance companies had special investigative units and now 1200 of the insurance companies have these units. He then supplied written testimony regarding the ten top catastrophes, insurance fraud, auto theft and the insured motorists' rights in Montana. **EXHIBIT 1**

Larry Akey, Montana Association of Life Underwriters; National Association of Independent Insurers; Health Insurance Association of America, said other proponents have indicated why this bill is important. There is not a clear and concise definition of insurance fraud. Not only is there fraud in automobile, property and casualty insurance but there is fraud in health insurance.

Greg VanHorssen, State Farm Insurance, said they supported this bill.

Denny Moreen, American Council of Life Insurers, said they supported this bill.

Frank Coty, Deputy Insurance Commissioner, said they supported this bill. An article he had recently received listed the top ten fraud stories in the state. It is estimated fraud in the nation cost \$68 billion in 1994 which is about \$800 per family. Fraud is 10% of all claims which would be about \$40 million in Montana alone.

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana, said they supported this bill. They are concerned about the definition section.

John Bandy said he was an independent adjuster in Montana. There is fraud in many cases in the insurance business.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. VICKI COCCHIARELLA said in Workers' Compensation fraud there are two things of concern. The term "knowingly" has caused a problem because it was not defined clearly enough. **Mr. Coty** said there is much case law regarding this matter.

REP. COCCHIARELLA said investigators in Workers' Compensation do not have a lot of authority necessary to pursue a case to the point of bringing charges. She asked if this investigator could be given more authority. **Mr. Coty** said the insurance department is a criminal justice agency, so they do have access to all police records.

REP. BOB PAVLOVICH asked how many investigators are going to be required. **Mr. Coty** said currently there are two investigators and they propose to hire one more person for the fraud cases.

REP. NORM MILLS questioned the cost of the FTE. **Mr. Coty** said they do not have the ability to say there are a certain amount of dollars covered for consumers. The cost of the FTE and the expenses for the program minus any fines generated for the general fund is the figure estimated. There will be a lot of people paying less premiums because the insurance companies are going to be paying out less fraud cases.

REP. ROD MARSHALL asked if there was a way to measure the effectiveness. **Mr. Coty** said each case will be monitored but they would not be able to determine if this savings would be passed on to the consumer.

REP. JON ELLINGSON asked where in this bill protection against those kinds of activities would be given to consumers. **SEN. HOLDEN** said the only way of recouping losses is through the court system.

REP. ELLINGSON said that would not do much good when the insurance companies declare bankruptcy or to wait five or more years to get money back. **SEN. HOLDEN** said a bill would need to be brought in to address that problem because it is not in this bill.

REP. ELLINGSON said if the committee was dealing with an approach to insurance fraud, shouldn't the insurance companies and their actions be involved. **SEN. HOLDEN** said insurance carriers should be considered, but this is not that type of legislation.

REP. LARSON said if the consumers were taking a \$40 million a year hit, why is the industry pursuing this fraud investigation bill. **Mr. McGlenn** said the industry insurance agents and

companies pay fees for licensing which is \$1.7 million a year. Those fees were legislatively intended to fund and staff the insurance departments. In the neighborhood of 70 cents, of those fees fund the insurance departments and 30 cents of fees go to the general fund.

REP. ALVIN ELLIS asked if this legislation was patterned after other states. **Mr. Akey** said it was patterned after other model acts. The National Association of Commissioners model act was used.

Closing by Sponsor:

The sponsor closed.

HEARING ON SB 317

Opening Statement by Sponsor:

SEN. STEVE BENEDICT, SD 30, Ravalli County, said this bill was an act clarifying the exclusion of lawyers and accountants from the definition of investment advisor.

Proponents' Testimony:

Tom Harrison, Montana Society of Public Accountants, said the bill was beneficial to all parties involved. If an accountant is handling client funds, specific recommendations are made, that person is an investment advisor. It is in the public interest, the certified accountants will have a better feeling and knowledge of registration.

Melissa Brock, Attorney, State Auditor's Office, said they supported this bill because it provides needed clarification to the law and will make clear to professionals when they need to register as investment advisors. It maintains the consumer protection.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. ELLINGSON asked what the implication to an attorney or accountant is if that person is included in the definition of investment advisor. **Mr. Harrison** said it is a licensing process and fee.

REP. ELLINGSON asked if the wording on page 3 is to change the categories to disjunctive rather than conjunctive. **Mr. Harrison** said it would be satisfactory to be in the disjunctive meaning if any one of the instances would be included.

CHAIRMAN SIMON said it appears that clarification is involved in this bill which should be incidental in the practice of an accountant. Should the language be clarification of what is incidental. **SEN. BENEDICT** said he agreed and it should also be in conformance with the securities commissioners.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON SB 253

Motion: **REP. PAVLOVICH** MOVED SB 253 BE CONCURRED IN.

Discussion:

REP. ELLINGSON said insurance fraud is a problem which should be dealt with. But it should not be dealt with without dealing with insurance fraud perpetrated by the insurance industry. The insurance industry makes it as difficult as possible to collect on claims. To get the benefit wanted when the premium was paid and is filled with high pressure, agents will do everything they can to sell a policy to some businesses that are high risk industries. He opposed the bill because it does not deal with the whole problem.

REP. ELLIS said he supported the bill. In most instances where there were claims he had filed they not only promptly paid but courteously handled the claim. People who sell insurance are about as honest as people who do anything else. If a bill is required to restrict bankruptcy he would sign on that bill.

CHAIRMAN SIMON said the commissioner's office truly provides the protection with regard to company function. That is part of the duties of the Insurance Commissioners Office to examine companies to make sure they are not on the verge of bankruptcy.

Mr. Coty said that was true. Currently, the insurance department has the authority to go after fraudulent agents and insurance companies. Unfortunately, that does not get publicized much. If an insurance company is licensed and not a surplus lines carrier, there is protection under the guarantee association. They do also have the regulatory ability and oversight to financially examine these companies to make sure they do not get to the point of evoking the license.

REP. ELLINGSON said in a recent case he had handled in his law practice, there is a two and one-half year history of correspondence to the Insurance Commissioner's Office. They did attempt to do the job to try to get money back for his client which was stonewalled by the insurance company. It finally took filing a claim against that insurance company to reclaim the money lost.

Motion/Vote: Motion carried 17-1 with REP. ELLINGSON voting no.

HEARING ON SB 264

Opening Statement by Sponsor:

REP. DELWYN GAGE, SD 43, Glacier County, said this bill was an act establishing the Montana Professional Employer Organizations Licensing Act; requiring licensing of and standards for professional employer organizations and groups; requiring professional employer organizations and groups to provide Workers' Compensation and unemployment insurance coverage; providing for disclosure of information and providing exemptions and penalties.

Proponents' Testimony:

Howard Recht, Attorney, said this bill is intended to provide a licensing registration and a definition package to add to the Montana Code for the purpose of addressing this particular industry. As it stands now, there is essentially no legislation in Montana which addresses this industry. There are many state agencies that need to deal with this industry but they have no regulations in place because there are no statutes. He said there were amendments proposed which he opposed.

TAPE 1, SIDE B

Byron G. McCurdy, National Association of Professional Employees, said this is model legislation which has been altered to fit Montana law. Appropriate agencies have been approached and changes have been made to make this acceptable. It is needed to define the interaction between PEOs and various state agencies and it will effectively do that. It is also needed to keep bad players out of this state. These are players who may come in with no Workers' Compensation insurance coverage or would be misclassified or that may not pay taxes or health benefits on employees. This legislation will protect the employees and employers of the state where no protection exists today.

Jim Tutweiler, Montana Chamber of Commerce, said this bill typifies opportunities and responsibilities for organizations like theirs.

Terry Keating, President, United Staffing of Montana, Inc., said over 80% of the employers in Montana employ fewer than ten people. Their company relieves small employers of the administrative burdens and provide full-blown human resources support.

Dennis Zieler, Department of Labor and Industry, said they supported this bill. They have been meeting with industry representatives for some time to bring some clarity and

definition to this emerging industry. They realized the need for basic regulation to mutually protect workers, employers and the leasing industry. This bill sets in place the basic mechanics for regulation of this industry and represents a compromise between the leasing industry, government and insurance industry.

Jacqueline Lenmark, American Insurance Association, said they supported this bill and indicated technical amendments would be required.

Lawrence Hubbard, State Compensation Insurance Fund, said the State Fund does concur with the legislation and rises in support of the bill. It is time that it moved forward and with the amendments which were heard in the third reading in the Senate and the additional amendment, they still support the bill.

Opponents' Testimony:

Russell Hill, Montana Trial Lawyers Association, said they opposed this bill. They are not rising to oppose the change in the marketplace. They indicate when change occurs some things fall by the wayside. Workers' Compensation has a functional concept and is one of the victims of the change. This bill does two different things. It directly and fundamentally changes the exclusive remedy protection in Montana for employers. There is also a blanket immunity for the entities.

Keith DeWitt, said he was an insurance agent from Missoula and opposed the bill as written. They opposed the dual exclusive remedy. He also provided testimony from United Staffing.

EXHIBIT 2

Roger McGlenn, Executive Director, Independent Insurance Agents' Association of Montana, provided written testimony. **EXHIBIT 3**

Larry Akey, Montana Association of Life Underwriters, stated their opposition to this bill.

TAPE 2, SIDE A

Technical Testimony:

Frank Coty, Deputy Insurance Commissioner, presented amendments from the State Auditor's Office. **EXHIBIT 4**

Questions From Committee Members and Responses:

REP. EWER asked for comments on the profound implication on a host of the issues regarding employers and employees. **Mr. Zieler** said they did not know how much regulation was enough for this new emerging industry.

REP. ELLIS asked if her department had seen the amendments. **Ms. Lenmark** said she had just seen them.

REP. MCKEE asked for his response to **Mr. McGlenn's** concerns. **Mr. Recht** said there has been a question raised as to whether or not a particular company in this industry may have been misleading in what they were doing. There is a section in this legislation which makes deceptive practices prohibitive. This bill gives some regulation to the state to prevent someone from misleading potential clients as to what is really done in the industry.

REP. CHARLES DEVANEY said somewhere in the bill it excludes any other insurance purchases or arrangements such as insurance on assets, or liability insurance on the new clients. He asked if that was a correct assumption. **Mr. Lenmark** said the bill treats Workers' Compensation insurance in one manner and in another part of the bill it talks about the sorts of coverage that a professional employer organization might want to purchase.

REP. PAVLOVICH asked if he had looked at the amendments. **Mr. Hill** said the amendments the Senate addressed is the language that he was concerned about. The amendments do not address the language either.

REP. COCCHIARELLA suggested this bill be put in a sub-committee because this is the same bill which was endorsed in the interim committee regarding exclusive remedy. **Mr. Hubbard** said the State Fund, in their comments to the Senate raised some concern. Some regulation of this industry, minimum requirements for compliance with the needs of insurance underwriter for Workers' Compensation purposes, have been included in this legislation. That does not mean this legislation is perfect. There are concerns as insurance carriers of last resort who will likely be the agency to receive all the ill benefits of this legislation.

CHAIRMAN SIMON said **REP. COCCHIARELLA** should supply the reports to the committee.

REP. ELLINGSON asked what the economic forces are that are driving the creation of this new kind of relationship. Why can't employers get their employees through the PEO. **Mr. Recht** said it was not economics that yhe caused industry to come into being and expand. It is originally that small businesses were so burdened trying to provide all of the things that state and federal governments imposed upon them.

CHAIRMAN SIMON said in **Mr. DeWitt's** testimony and the information which was provided to the committee, does an employer sell insurance if he encourages an employee to work for his company because they have insurance. **Mr. DeWitt** said no, because in the bill they are listed as sole employers for Workers' Compensation purposes. The client employer is individually identified.

CHAIRMAN SIMON said she was trying to get information on the sales relationship. **Mr. DeWitt** said the employee does not pay for the benefits, the employer pays. This is done to attract

employees. These employees are going to a Montana employer and suggesting the employee come with them because there is a savings. It is the Montana employer who is still paying that premium. His business is generating that premium to pay for the insurance. There is gross mis-representation in the proposal. That company is going out and soliciting to the employer who is paying the premium.

Closing by Sponsor:

The sponsor closed.

TAPE 2, SIDE B

EXECUTIVE ACTION ON SB 317

Motion: REP. MILLS MOVED SB 317 BE CONCURRED IN.

Discussion:

REP. JACK HERRON asked if there should be a definition.

CHAIRMAN SIMON said his concern was alleviated when engineer and teacher was struck out.

Vote: Motion carried 18-0.

EXECUTIVE ACTION ON SB 374

Motion/Vote: REP. DEVANEY MOVED SB 374 BE CONCURRED IN. REP. MCKEE MOVED THE #1 MCKEE AMENDMENTS. Motion carried to adopt the McKee amendments 18-0.

Motion: REP. MCKEE MOVED THE #2 MCKEE AMENDMENT.

Discussion:

REP. EWER said he opposed the amendment. It would strike the responsibility to provide services for the public sector. The State Fund is not on a level playing field with the private sector. The private sector can choose to offer whatever services it wants. They are "creaming off" the best and most cost-effective customers. The State Fund does have some advantage. They don't pay taxes.

CHAIRMAN SIMON said he was speaking in favor of the amendment and against what REP. EWER is speaking to. The State Fund is behind the curve in trying to get caught up. This particular additional ability is something that will not be pursued. They should get their claims management in order.

REP. MILLS said he resisted the items REP. EWER had spoken of. He said they did not believe the State Fund should be competing with private industry. The Department of Commerce has been out offering to do audits for small towns and communities.

REP. COCCHIARELLA said she also went against REP. EWER'S position. There are too many claims per adjuster that the private sector does not do. Those claims adjusters do not want to make mistakes. They have huge caseloads which are coming down.

REP. ELLIS said private industry already skims the best business off by allowing people to insure almost all of the employers. They pay higher salaries than people salaried under State Fund. There is much less propensity for people to attack the fund.

Vote: A roll call vote was taken to adopt the #2 McKee amendment 13-5 with REPS. BARNETT, ELLIS, EWER, HERRON and KEENAN voting no.

Motion/Vote: REP. DEVANEY MOVED THE DEVANEY AMENDMENT. Motion carried to adopt the Devaney amendment 18-0.

Motion/Vote: REP. MCKEE MOVED SB 374 BE CONCURRED IN AS AMENDED. Motion carried 16-2 with REPS. PAVLOVICH and LARSON voting no.

EXECUTIVE ACTION ON SB 224

Motion: REP. DEVANEY MOVED SB 224 BE CONCURRED IN. REP. MILLS MOVED THE MILLS AMENDMENTS.

Discussion:

REP. MILLS EXPLAINED THE AMENDMENTS.

REP. ELLIS asked if the insurance people had agreed on the amendments.

REP. ELLINGSON said he favored the amendment.

REP. EWER asked if this amendment put back some responsibility of people in the real estate business that they cannot pass on statements.

Vote: Motion carried to adopt the Mills amendment 18-0.

Motion: REP. ELLINGSON MOVED THE ELLINGSON AMENDMENT.

Discussion:

REP. DEVANEY asked if the amendment stated that all agencies involved in the transaction are required to get personal knowledge.

REP. ELLINGSON said a certain amount of responsibility was imposed on them but it is not expressed.

Vote: Motion carried to adopt the Ellingson amendment 18-0.

Motion/Vote: REP. PAVLOVICH MOVED THE PAVLOVICH AMENDMENT.
Motion carried to adopt the Pavlovich amendment 18-0.


Motion/Vote: REP. COCCHIARELLA MOVED THE COCCHIARELLA AMENDMENT.

Discussion:

CHAIRMAN SIMON said he did understand the concern for the amendment and perhaps the researcher might check with the Council to see if a conflict of interest was developing. He then stated that action will be suspended to have the opportunity to review this issue.

ADJOURNMENT

Adjournment: 11:25 A.M.


BRUCE T. SIMON, Chairman


ALBERTA STRACHAN, Secretary

BTS/ajs

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL

DATE 3-9-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority	X		
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		



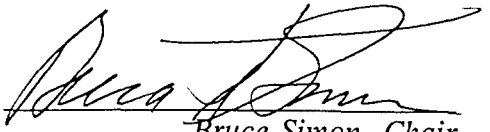
HOUSE STANDING COMMITTEE REPORT

March 9, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 253** (third reading copy -- blue) be concurred in.

Signed:


Bruce Simon, Chair

Carried by: Rep. Nelson

Committee Vote:
Yes 17, No 1.

551404SC.Hbk




HOUSE STANDING COMMITTEE REPORT

March 9, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 317** (third reading copy -- blue) be concurred in.

Signed:


Bruce Simon, Chair

Carried by: Rep. Mills

Committee Vote:
Yes 18, No 0.

551405SC.Hbk



HOUSE STANDING COMMITTEE REPORT

March 9, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Business and Labor report that Senate Bill 374 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Bruce Simon
Bruce Simon, Chair

Carried by: Rep. Simon

And, that such amendments read:

1. Title, lines 8 and 9.

Following: "~~CHARGE~~,"

Strike: remainder of line 8 through "CHARGE" on line 9

Insert: "PROVIDING THE STATE FUND BOARD OF DIRECTORS WITH
DISCRETION TO ASSESS A POLICY CHARGE, A MINIMUM PREMIUM, OR
BOTH, IN LIEU OF A MINIMUM YEARLY PREMIUM"

2. Title, lines 10 and 11.

Following: "COVERAGE;"

Strike: remainder of line 10 through "COST;" on line 11

3. Page 2, line 5.

Strike: "it"

Following: "~~must~~"

Insert: "the state fund"

4. Page 2, line 6.

Following: "39-71-2341"

Insert: "and the board of directors may, in its discretion,
assess a policy charge, a minimum premium, or both"

Committee Vote:

Yes 16, No 2.

551405SC.Hbk

5. Page 2, line 22

Following: "board."

Strike: "The state fund may"

6. Page 2, lines 25 through 27.

Strike: ", " on line 25 through "COSTS." on line 27

7. Page 3, lines 1 through 5.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

8. Page 3, lines 17 and 18.

Following: "organization" on line 17

Strike: remainder of line 17 through "PART 4," on line 18

Insert: ", as provided in Title 33, chapter 16, part 10,"

-END-

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL VOTE

DATE 3-9-95 BILL NO. SB 374 NUMBER _____

MOTION: #2 McKee amend

NAME	AYE	NO
Rep. Bruce Simon, Chairman	✓	
Rep. Norm Mills, Vice Chair, Maj.	✓	
Rep. Bob Pavlovich, Vice Chair, Min.	✓	
Rep. Joe Barnett		✓
Rep. Vicki Cocchiarella	✓	
Rep. Charles Devaney	✓	
Rep. Jon Ellingson	✓	
Rep. Alvin Ellis, Jr.		✓
Rep. David Ewer		✓
Rep. Rose Forbes	✓	
Rep. Jack Herron		✓
Rep. Bob Keenan		✓
Rep. Don Larson	✓	
Rep. Rod Marshall	✓	
Rep. Jeanette McKee	✓	
Rep. Karl Ohs	✓	
Rep. Paul Sliter	✓	
Rep. Carley Tuss	✓	

costs us all. The attached sheet I have passed out will show how out of hand insurance fraud has become.

We have concerns on the legislation before you, Creating An Insurance Fraud Protection Act. The concerns are;

- (1) That you provide funding for investigators and actively go after fraud.
- (2) SCRS members are collision repair professionals. Don't paint all repairers with the same brush.
- (3) We urge you to appoint an advisory panel to the fraud unit with representatives from the insurance industry with physical damage experience and with a representative from the collision repairer industry. I am volunteering to serve on that board at no cost to the state.

Our working relationships with insurance companies is a positive one. We work together to provide collision repair service for the insured motoring public.

If you have any question of me, I will try to answer them.



How does Insurance Fraud and Auto Theft compare to natural catastrophes?

Top Ten Catastrophes

All insurance facts, 1994 Edition, lists the nation's ten most costly insurance catastrophes:

- \$15.5 Billion - Hurricane Andrew - 8/92
- \$4.5 Billion - Northridge Earthquake - 1/94
- \$4.2 Billion - Hurricane Hugo - 9/89
- \$1.7 Billion - Oakland, CA Fires - 1/94
- \$1.62 Billion - 24-state Winter Storm - 3/93
- \$1.6 Billion - Hurricane Iniki - 9/92
- \$960 Million - Loma Prieta Earthquake - 10/89
- \$950 Million - California Brush Fires - 10-11/93
- \$880 Million - 41-State Winter Storm - 12/93
- \$775 Million - Los Angeles Riots - 4-5/92



Insurance Fraud

- \$20 Billion a year



Auto Theft

- \$8 Billion a year

The cost of fraud and auto theft is nearly double that of the most costly natural catastrophe in United States History.

STATE AUDITOR
STATE OF MONTANA

EXHIBIT 1
DATE 3-9-95
5B253

Mark O'Keefe
STATE AUDITOR



COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

August 15, 1994

John Loftus
Executive Director
SCRS
P.O. Box 3765
Tustin, CA 92680

Dear Mr. Loftus:

Your letter to Mrs. Ann Bartos has been referred to our Department for handling.

The "Insured Motorists' Rights In Montana" brochure, as submitted to Ann Bartos and Mark O'Keefe on July 27, 1994, is acceptable for use in our state.

Sincerely,

Dave Drynan

Dave Drynan
Administrator
Compliance Division

DD/nh

cc: Pat Trammelle, Legal Counsel
Montana Department of Commerce

Insured Motorists' Rights in Montana



280

Information to assist you when handling a claim with your insurance company

1. Do I have the right to select the shop that will repair my car?

Yes. In order to expedite your claim, select the repair shop; leave your automobile there; and notify your insurance agent or company.

2. Do I need to get three estimates?

Not necessarily. Notify your agent or insurance company. Your insurance adjuster may need to inspect the damage. If your insurance company has a drive-in claims service and your car is safe to drive, you should call them for an appointment, take your car there, make sure you get a copy of the insurance adjuster's estimate, and take it and your automobile to the shop of your choice. Some insurance agents may tell you to get two or three estimates. Talk to your insurance adjuster first. Generally, claims are handled by the insurance company's claims department, not agents.

3. Must I notify my insurance company before repairs?

Yes. Insurance policies require that you notify the company or your agent, make a report, and tell them where the damaged vehicle may be inspected.

4. Who pays the repair bills?

You must arrange for payment. Your insurance policy states that they will pay you less any deductibles or depreciation.

5. Who is responsible for the repairs?

The shop. *That's why it is important that you select a repair facility that is properly trained and equipped to restore your automobile to its pre-accident condition.*

6. If there is a problem with the repair job, who should you contact?

First, the manager of the shop. If your problem is still not resolved, contact your insurance company claims manager. You may also want to contact the local office of the Better Business Bureau or the Office of Consumer Affairs.

7. If my insurance company fails to process my claim or pay the amount agreed upon, what can I do?

First contact your insurance agent, then talk to the Branch or Regional Claims Manager of the insurance company. If that fails, then contact the Montana Insurance Department as listed on the back of this brochure.

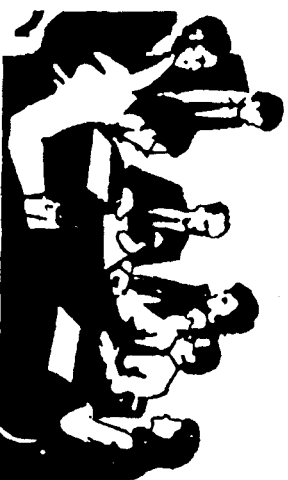
You Can Help

Having your automobile damaged in an accident is an inconvenience, but you can help minimize the problem. Since the amount of your claim cannot be properly established not your vehicle reported while it is in a towing yard or is being driven by you, make sure you select a repair shop and drive or have your automobile towed there as soon as possible.

If You Write

When writing to the Montana Department of Insurance, state your name, address, city and phone number; the name of your insurance company; your insurance policy or claim number; and a brief description of your problem. Attach copies of estimates, invoices or other material that will explain your situation.

Appraisal Clause



When the shop of your choice and the insurance company do not agree on how your car should be repaired or what it should cost, here is what you can do:

Most insurance policies provide appraisal. When the insurance company and the customer fail to agree, either party may demand an appraisal of loss within 60 days after the claim has been filed.

Each party may then select a competent appraiser to represent them, and the two appraisers will select a competent and disinterested umpire. If the two appraisers do not agree, they submit their findings to the umpire. A decision of any two sets the amount of loss.

No matter how minor your accident may seem, it is wise to report it to the police. This ensures an accurate report is on file in case problems arise later.

NOTES

Write down the names and phone numbers of those you talk to about your claim:

Date of Accident

Date Reported to Insurance Agent

Date Reported to Insurance Company

Claim Number

Adjuster's Phone Number

Appraiser's Phone Number

Phone Contacts



1. Name Date Phone

2. Name Date Phone

3. Name Date Phone

4. Name Date Phone

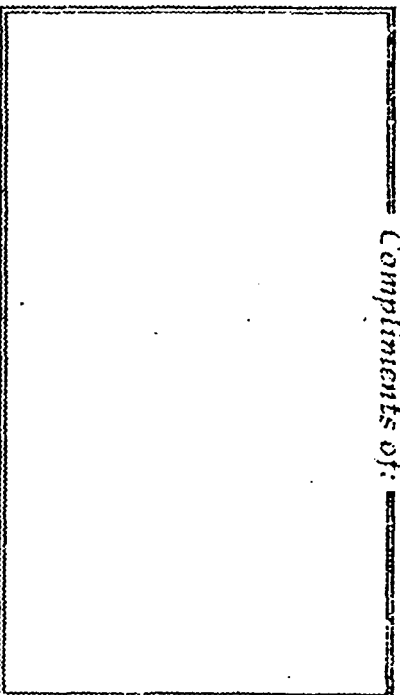
For Insurance-Related Problems:

Montana Insurance Department
Mark O'Keefe
Insurance Commissioner
P. O. Box 4009
Helena, Montana 59604 - 4009
(406) 444-2040

For Auto Repair-Related Problems:

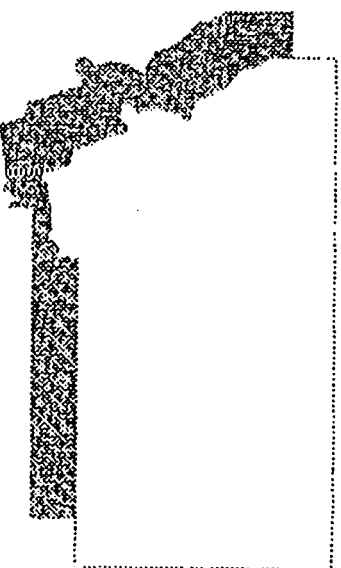
Office of Consumer Affairs
1424 Ninth Avenue
Helena, Montana 59601
(406) 444-4312

Compliments of:



**INSURED
MOTORISTS'
RIGHTS IN**

MONTANA



Information to assist you in
handling an automobile claim

with your insurance
company.



CORPORATE CENTER

131 N. Tustin Ave. Suite 210
P. O. Box 3765, Tustin, CA 92580
(714) 835-3110 Fax: (714) 835-3118



EXHIBIT 2
DATE 3-9-95
HB SB264

DATE: January 19, 1995

TO:

FROM: Ken Ulland

RE: Quote

<u>Current</u>		<u>US Proposed</u>	
Payroll	100.00	Payroll	100.00
FICA	7.65	FICA	7.65
FUI	.80	FUI	.80
SUI	6.50	SUI	6.50
 <u>WC:</u>		 <u>W/C:</u>	
2702	45.83	2702	32.37
2727	25.00	2727	17.75
7219	24.44	7219	15.00
8810	.55	8810	.42
Non-Prod.	2.00	Fee	3.00
 Total Current		 2702 2727 7219 8810	
162.78		139.39	
Total Proposed		132.95	
150.32		118.37	
Net Difference		6.44	
12.46		(.87)	

Summary Based on 9/1/94-9/30/94-Monthly Payroll Report

NCCI Code	2702	2727	7219	8810
Gross Pay Monthly	\$ 8,627.00	\$4,879.18	\$ 330.00	\$ 3,000
Times 12 months	x 12	x 12	x 12	x 12
	\$103,524.00	\$58,550.16	\$ 3,960.00	\$36,000
Times Net Difference	x 12.46%	x 6.25%	x 6.44%	x .87%
	\$12,899.09	\$3,659.39	\$ 255.02	(\$313.20)

Total Savings \$16,500.30

HEALTH PLAN

	<u>Blue Shield</u>	<u>US Plan A</u>
Premium	\$783.20	\$655.00
Deductible	\$500.00	\$200.00
Dental -Single	\$ 23.15	\$ 18.00
Ind. & Spouse	\$ 33.15	\$ 32.00
Family	\$ 43.29	\$ 47.00
Life	-0-	\$10,000.00
Script Card	Yes	Yes

WORKERS COMPENSATION RATE COMPARISON

<u>CODE</u>	<u>CLASS</u>	<u>NCCI RATE</u>	<u>FIREMANS FUND RATE</u>
2702	LOGGING	91.77	32.37
2727	LOG HAULING	43.98	17.17
7219	TRUCKING	43.44	15.00
8810	CLERICAL	.92	.42

ORD. CERTIFICATE OF INSURANCE

DATE (MM/DD/YY)
1/25/95

DuBarrow Group, Ltd.
636 Exchange Place Suite 300
Lilburn, GA 30245
(404) 931-7652

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

- COMPANY
A Fireman's Fund Insurance Company
- COMPANY
B
- COMPANY
C
- COMPANY
D

United Staffing Of America
1100 N. W. Compton Drive #308

Beaverton, OR 97006
(503) 531-3300

OVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
GENERAL LIABILITY	XXXXXXXXXXXXXXXXXX	/ /	/ /	GENERAL AGGREGATE \$XXXXXXXXXXXX
COMMERCIAL GENERAL LIABILITY	XXXXXXXXXXXXXXXXXX	/ /	/ /	PRODUCTS - COMP/OP AGG \$XXXXXXXXXXXX
CLAIMS MADE				PERSONAL & ADV INJURY \$XXXXXXXXXXXX
OWNERS & CONTRACTORS PROT	XXXXXXXXXXXXXXXXXX			EACH OCCURRENCE \$XXXXXXXXXXXX
				FIRE DAMAGE (Any one fire) \$XXXXXXXXXXXX
				MED EXP (Any one person) \$XXXXXXXXXXXX
AUTOMOBILE LIABILITY	XXXXXXXXXXXXXXXXXX	/ /	/ /	COMBINED SINGLE LIMIT \$XXXXXXXXXXXX
ANY AUTO				BODILY INJURY (Per person) \$XXXXXXXXXXXX
ALL OWNED AUTOS				BODILY INJURY (Per accident) \$XXXXXXXXXXXX
SCHEDULED AUTOS				PROPERTY DAMAGE \$XXXXXXXXXXXX
HIRE AUTOS				
NON-OWNED AUTOS				
BARAGE LIABILITY	XXXXXXXXXXXXXXXXXX	/ /	/ /	AUTO ONLY - EA ACCIDENT \$XXXXXXXXXXXX
ANY AUTO				OTHER THAN AUTO ONLY: \$XXXXXXXXXXXX
				EACH ACCIDENT \$XXXXXXXXXXXX
				AGGREGATE \$XXXXXXXXXXXX
EXCESS LIABILITY	XXXXXXXXXXXXXXXXXX	/ /	/ /	EACH OCCURRENCE \$XXXXXXXXXXXX
UMBRELLA FORM				AGGREGATE \$XXXXXXXXXXXX
OTHER THAN UMBRELLA FORM				XXXXXXXXXXXXXXXX \$XXXXXXXXXXXX
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WP80653070	09/30/94	03/01/95	X STATUTORY LIMITS \$XXXXXXXXXXXX
THE PROPRIETARY PARTNER/EXECUTIVE OFFICERS ARE:				EACH ACCIDENT \$1,000,000
				DISEASE - POLICY LIMIT \$1,000,000
				DISEASE - EACH EMPLOYEE \$1,000,000
OTHER	XXXXXXXXXXXXXXXXXX	/ /	/ /	XXXXXXXXXXXXXXXX \$XXXXXXXXXXXX
				XXXXXXXXXXXXXXXX \$XXXXXXXXXXXX
				XXXXXXXXXXXXXXXX \$XXXXXXXXXXXX

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Coverage is Extended to:

Highway 2 East 59901
KALISPELL, MT

CERTIFICATE HOLDER

Highway 2 East
Kalispell, MT 59901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER MAILED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

[Signature] 039
ACORD CORPORATION 1993

DATE: January 19, 1995

TO:

FROM: Ken Ulland

RE: Quote



IGNORED EXPERIENCE
MOD. FACTOR OF .81
IGNORED PREMIUM
DISCOUNT FACTOR

Current
Payroll 100.00
FICA 7.65
FUI .80
SUI 6.50

US Proposed
Payroll 100.00
FICA 7.65
FUI .80
SUI 6.50

WC:
2702 45.83
2727 25.00
7219 24.44
8810 .55
Non-Prod. 2.00

CORRECT
RATES
↓

W/C:
2702 32.37
2727 17.75
7219 15.00
8810 .42
Fee 3.00

THIS A
1TH
Total Current 2702 162.78 2727 141.95 7219 139.39 8810 117.50
Total Proposed 150.32 135.70 132.95 118.37
Net Difference 12.46 6.25 6.44 (.87)

Summary Based on 9/1/94-9/30/94-Monthly Payroll Report

NCCI Code 2702 2727 7219 8810
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Times 12 months x 12 x 12 x 12 x 12
\$103,524.00 \$58,550.16 \$ 3,960.00 \$36,000
Times Net Difference x 12.46% x 6.25% x 6.44% x .87%
\$12,899.09 \$3,659.39 \$ 255.02 (\$313.20)

Total Savings \$16,500.30

HEALTH PLAN

	Blue Shield	US Plan A
Premium	\$783.20	\$655.00
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Dental -Single	\$ 23.15	\$ 18.00
Ind. & Spouse	\$ 33.15	\$ 32.00
Family	\$ 43.29	\$ 47.00
Life	-0-	\$10,000.00
Script Card	Yes	Yes

INFLATED BY
\$13,500

EXHIBIT 2
DATE 3-9-95
SB 264

CURRENT RATES

CODE	CLASS	PAYROLL	RATE	PREMIUM
2702	Logging	\$ 66,543	43.07	28,660
2727	Log Hauling	\$ 41,397	22.83	9,451
2719	Trucking	\$ 16,217	22.84	3,704
8810	Clerical	\$ 40,174	.54	217
TOTALS		\$164,331		41,732

EXPERIENCE MODIFICATION	.81
MODIFIED PREMIUM	33,803
PREMIUM DISCOUNT	1,008
ESTIMATED ANNUAL PREMIUM	\$32,795

UNITED STAFFING RATES

CODE	CLASS	PAYROLL	RATE	PREMIUM
2702	Logging	\$ 66,543	32.37	21,540
2727	Log Hauling	41,397	17.75	7,348
7219	Trucking	16,217	15.00	2,433
8810	Clerical	40,174	.42	169
TOTAL		\$164,331		31,490

EXPERIENCE MODIFICATION	.81
MODIFIED PREMIUM	\$25,507
PREMIUM DISCOUNT	718
ESTIMATED ANNUAL PREMIUM	\$24,789
ADD 3% PAYROLL FEE	4,930
TOTAL UNITED STAFFING COST	\$29,719

9 March 1994

TESTIMONY BEFORE THE HOUSE BUSINESS AND LABOR COMMITTEE

Presented by: Roger McGlenn, Independent Insurance Agents' Association of Montana,
Executive Director, phone (406) 442-9555

The Independent Insurance Agents' Association of Montana must stand in opposition to Senate Bill 264 for several reasons. We urge the committee to either amend SB-264 or give this bill a do-not-concur-in recommendation.

Professional Employer Organizations maintain that they are not engaged in the sale of insurance to their clients, (Montana businesses). In Section 9 (11), page 12 line 28, the bill states that "the sale of professional employer services pursuant to (sections 1 through 15) does not constitute the sale of insurance under Title 33", MCA. We disagree, we feel that the sales presentation made by these organizations to a significant degree includes the sale of insurance and the explanation of insurance coverages and rates.

Under 33-17-103,(9) MCA, the definition of insurance producer means, (i) "a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds:" (A) "policies of insurance for risks residing, located, or to be performed in this state;...". We believe that the activities of Professional Employer Organizations, (PEOs), at least in regard to workers' compensation and health insurance, PEOs, in their presentations to Montana businesses, meet this definition in several areas. For example PEOs solicit the business to the extent they will be providing insurance coverages as part of their services offered and paid for by the client; it is our understanding that PEOs negotiates these coverages; they procure the insurance coverages on behalf of their clients, in many cases they could be involved in delivering the policies, certificates of coverage, or providing proof of insurance; and this bill certainly relates to "risks residing, located, or to be performed in" Montana.

Our association believes that the PEOs are engaged in the business of insurance and should be regulated under Title 33 as any other business engaged in providing insurance coverages. Along this line, it came to our attention that one PEO operating in Montana was providing workers' compensation through a Fireman's Fund Insurance Company policy. Fireman's Fund was issuing the policy but a major portion of the coverage was being born by another company. We were informed that this company, named Waterford Limited, was owned in-whole or in-part by PEOs. I asked Mr. Terry Keating if this information was accurate. His response was that it was correct. However, he did not

March 7, 1995
Senate Bill 264
House Business & Labor Committee
Page 2:

know how much ownership was actually involved.

Insurance coverages and responsibilities are mentioned in several areas of this bill. For workers' compensation the bill extends protection of the exclusive remedy law to both the PEO and the client. In other sections, responsibility for insurance coverages fall solely on the client. Independent insurance agents are experiencing the fact of several insurance companies that are reluctant or refuse to provide other coverages, such as those mentioned in Section 9 subsection (10) on page 12 of this bill. The concerns of these insurance companies are the potential for increased exposure and judicial interpretation of exposures to a business that has entered into an arrangement with a PEO. This concern by insurance companies has had the affect of limiting insurance markets and options for Montana businesses.

This bill raises several legal and insurance coverage questions. We believe that the potential for gaps in coverages for one or both parties in a PEO arrangement exists. As an example, Section 9 subsection (10) states that a client of a PEO or group is considered the employee of the client for a number of insurance coverages. We understand that PEOs would enter into an arrangement with professional offices like doctors, dentists, lawyers, etc. Nowhere in subsection (10) is professional liability listed, so what would happen in a malpractice case? Maybe this is intended to be protected under the hold harmless portion of the bill, Section 9 subsection (8) (ii) starting on page 11 line 27. We believe this is a valid concern and question.

In closing, the Independent Insurance Agents' Association of Montana requests that the House Business and Labor Committee at the very least amend the bill as proposed or vote to do-not-concur-in Senate Bill 264.

Thank You

Respectfully submitted by: Roger McGlenn

EXHIBIT 4
DATE 3-9-95
~~HB~~ SB 264

Amendments to Senate Bill No. 264
Third Reading Copy

Requested by Senator Gage
For the House Committee on Business and Labor

Prepared by Eddye McClure
March 3, 1995

1. Page 16, line 2.

Following: "ADVISORY"

Insert: "or rating"

Following: "ORGANIZATION"

Insert: "of which the insurer is required to be a member under
Title 33, chapter 16, part 10,"

Amendments to Senate Bill No. 264
Third Reading Copy

Requested by Senator Gage
For the House Committee on Business and Labor

Prepared by Eddye McClure
March 3, 1995

1. Page 16, line 2.

Following: "ADVISORY"

Insert: "or rating"

Following: "ORGANIZATION"

Insert: "of which the insurer is required to be a member under
Title 33, chapter 16, part 10,"

EXHIBIT 4
DATE 3-9-95
SB 264

State Auditor Amendments to SB-264

1. Page 12, line 28.

Following "15)"

Insert: ", to the extent that the professional employer organization or group does not undertake to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies and does not solicit, negotiate, effect, procure, deliver, renew, continue or bind policies of insurance for risks,"

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-9-95

BILL NO. SB 264 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Jim Twitwiler	MT CHAMBER	SB264 ✓	
Roger McGlenn	IIAM		✓
Steve C. de Wit Jr.	Western States Insurance		✓
LARRY AKEN	MT ASSOC of LIFE UNDERWRITERS		✓ w/o AMT
Howard F. Recht	United Staffing Alliance	✓	
Byron G. McCurdy	National Assoc of Prof Emp Org	✓	
TERESA T. KEATING	United Staffing of MT	✓	
Russell B. Hill	MT Trial Lawyers Assn		✓
FRANK POTE	ST. AZUL OF OR		
Lawrence Hubbard	State Fund	✓	
Jaqueline Senmark	Am. Ins. Assoc	✓	

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

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business + Labor

DATE 3-9-95

BILL NO. SB 317

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Lloyd Taylor 917 CENTRAL AV GREAT FALLS MT	SOCIETY OF COLLISION REPAIR SPECIALISTS	X	
Melissa BROWN	State Auditor's office	X	
TOM HARRISON	MT. Soc of CPA's	X	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-9-95

BILL NO. SB 253

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Grey Van Horssen	State Farm Ins	✓	
Roger McGlen	IIA		✓
LARRY AKEY	MT ASSOC OF LIFE UNDERWRITERS	✓	
TOM HOPGOOD	HEALTH ASSOC INSURERS Assoc	✓	
LARRY AKEY	NATIONAL ASSOC OF INDEPENDENT INSURERS	✓	
Denny Moreen	ACLI	2	
JOHN R BAYDA	SELF	✓	
FRANK Cote	St. Auditor	✓	
Jaqueline Denmark	Am. Ins. Assoc	✓	

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