

**Statement for the Record**

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**Submitted to the  
Subcommittee on Housing and Community Opportunity  
United States House of Representatives**

**By**

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Madam Chairwoman and Members of the Committee:

Thank you for the opportunity to participate in your “Perspectives on Natural Disaster Insurance”. I am the president and Chief Executive Officer of United Educators Insurance. Created in 1987, United Educators is a risk retention group that, I believe, may be a model to consider as a part of the solution to providing adequate insurance coverage and capacity for natural disasters.

I would like, first, to provide a brief description of our company and its history. I will review what I understand to have been the Congressional purposes behind the 1986 Liability Risk Retention Act Amendments, and then I will explain why an expansion of the Risk Retention Act to include property and auto insurance will be a part of the solution to the challenges faced in meeting the needs of America’s businesses and nonprofits in finding stable property insurance coverage.

**A. About United Educators**

United Educators Insurance, a Reciprocal Risk Retention Group, serves schools, colleges, universities, and related educational associations and groups. We cover all levels of education from pre-K, including Head Start programs, to post graduate, providing liability insurance to public, private, nonprofit, and for-profit education-related entities. Our main policies are Educators Legal Liability, which cover employment practices liability such as directors & officers and failure to educate, and general liability--both “first-dollar” primary general liability and excess general liability--at high limits. Our members include Rockefeller University, Marquette University, Abilene Christian University, Stonehill College, Marymount Manhattan College, Weill Cornell Medical College, Sacred Heart University, Stevens Institute of Technology, Washington University, and Wellesley College.

Our company owes its existence to the federal Risk Retention Act Amendments of 1986. Those amendments opened new options for entities that were struggling with then-skyrocketing insurance rates. A group of educational institutions, collaborating through a task force of the National Association of College and University Business Officers, decided to form their own insurance carrier.

Throughout this history our mission has been to:

- Meet the specific liability insurance needs of educational institutions on a long-term basis.
- Price coverage predictably and rationally based on education's own losses, avoiding the high-risk exposures of commercial insurance.
- Identify emerging liability issues and assist administrators in formulating sound policies and practices to manage risk and reduce loss.
- Handle claims fairly, quickly and proactively to support the cost-effective resolution of disputes.
- Partner with institutions and brokers to manage risk and catastrophic losses.

Today we are strong in terms of member loyalty, financial position, and, most importantly, expertise in the risks facing educational institutions.

## **B. The Goals of the Risk Retention Act Amendments of 1986**

Congress passed the 1986 Amendments to the Risk Retention Act to address the challenges that municipalities, universities, small businesses, and other entities were then facing in obtaining liability insurance. The House Committee on Energy and Commerce vividly described the bleak national landscape for insurance:

“During the 99<sup>th</sup> Congress, the country has been shaken by a crisis in the availability and affordability of commercial liability insurance. Congress has been besieged with complaints regarding huge rate increases, mass cancellations of coverage, and entire lines of insurance virtually unavailable at any price. Crucial activities and services have been hard hit. Such activities include, among others, those of municipalities, universities, child daycare centers, health care providers, corporate directors and officers, hazardous waste disposal firms, small businesses generally, and many others.”

House Report 99-8655, page 7.

The 1986 Amendments built upon the 1981 legislation that permitted risk retention groups, which are groups of similarly situated entities in a common line of endeavor, to offer product liability insurance. The 1986 amendments were designed to allow such groups to offer all lines of liability insurance other than workers' compensation. It expanded the opportunity for groups of schools, businesses, professionals, and others to shape their own destinies in the insurance marketplace.

Supporters of the 1986 Amendments expressed the belief that allowing risk retention groups to provide all types of liability insurance would foster rational underwriting and insurance pricing. They anticipated a positive, overall increase in the nation's insurance capacity and some moderation of the painful cycles in the availability of insurance from commercial carriers.

The House Committee report explained the expected benefits of the proposed amendments:

“Since a risk retention group is simply a group of businesses or others who join together to set up their own insurance company only to issue insurance policies to themselves, it was believed that by encouraging such groups, the subjective element in underwriting could be reduced. The risk retention group would know its own loss experience and could adhere closely to it in setting rates. It was also believed that the 1981 Act, by providing alternatives to traditional insurance, would promote greater competition among insurers to “encourage private insurers to set rates to reflect experience as accurately as possible.”

House Report 97-190, page 4.

“...the Committee believes that creation of self-insurance groups can provide much-needed new capacity. Additionally, according to the Department of Commerce, “[t]he knowledge that substantial insurance buyers can create their own alternative insurance mechanisms will be an incentive to commercial insurers to avoid sharp peaks and valleys in their costs.”

July 17, 1986, Congressional Record, pages S9229-S9230, letter of Douglas A. Riggs, General Counsel, Department of Commerce, dated June 25, 1986.

“With respect to purchasing groups, the Committee seeks to enable insurance markets to translate into lower rates and better terms the efficiencies gained from the better loss and expense experience that might arise from the collective purchase of insurance.”

House Report 99-8655, at pages 7-8.

### **C. A new crisis**

Now is the time for Congress to take the next step and help to solve a current insurance capacity problem by expanding the Risk Retention Act again to include property and fleet auto insurance.

Over the past twenty years, United Educators has grown to serve 1,200 schools, colleges and universities that educate over 16 million students. The federal Liability Risk Retention Act currently limits Risk Retention Groups (RRGs) to providing only liability insurance to its members. The ability to expand into property and automobile insurance,

using the principles of risk management, broad coverage, stable pricing and coordinated claims services would fill a significant need of educational institutions.

From the perspective of educational institutions, we describe the challenges of obtaining property, auto, and liability insurance. This case study covers the past, the present, and the future. We describe how educational institutions will benefit if risk retention groups are authorized to provide property and auto coverage.

## **1. The Past**

In the 1980s, insurance premiums skyrocketed regardless of losses. Educational institutions became a casualty of this disaster. Schools and colleges had difficulty finding liability insurance, and what was available was astronomically expensive and ill-suited to their needs. In 1986, one typical university paid \$800 for \$5 million in coverage; the next year, bids ranged from \$5,500 to \$44,000 for a \$1 million policy. Some institutions that could not purchase insurance had to promise to indemnify their trustees to keep them on the board.

For pricing purposes, insurance companies at that time lumped educational institutions in with a variety of diverse groups, though their needs and loss experience were critically different. An individual institution's loss experience played little role in determining its coverage.

Congress addressed the problems facing liability insurance at that time--reduced capacity, rising prices, and restrictive coverage--by passing the Liability Risk Retention Act of 1986. That law enabled a task force of universities and colleges to study the market and propose formation of a company they would own and operate. The next year, the group formed United Educators Insurance, a Risk Retention Group, and liability insurance became available, affordable, and responsive to education's needs. It has remained so through all market conditions.

The first coverage UE offered was Excess Liability, which offered the higher limits that were no longer available in the regular insurance market. Educational institutions could, at last, obtain liability coverage geared to their loss experience, what they do, and how they do it.

## **2. The Present**

Today, through UE, liability coverage works for educational institutions. UE emphasizes stable pricing and risk management, and coverage aimed to members' needs. A standard liability package through UE covers risks often unavailable through other insurers but are basic to educational institutions, such as sexual harassment, sexual molestation, international study and sports injuries.

UE works with institutions to minimize risks through workshops, roundtable discussions, computer-based learning tools, and other types of training. Its risk management and education address campus topics including fire safety, sexual harassment training, safe driving practices, disaster planning, athletics, discrimination training, foreign study, and substance abuse.

That type of focused attention is not currently available in auto and property insurance, both of which, in 2007, look to many educational institutions much the way liability coverage did in the 1980s. The conditions faced by the some parts of the education community in obtaining stable property insurance, resembles closely those from the liability market of the 1980s.

Commercial carriers have suffered enormous property claims in certain geographic areas in the past years, and capacity has diminished as a result, but many carriers are seeking to recoup those losses almost overnight, through stunning increases, shrinking coverages, higher deductibles, lower limits and, in some cases, simply walking away. Even if a carrier wanted to work with the educational institutions, reinsurers are imposing severe limits on their ability to write policies under realistic conditions. We offer a few actual cases from the current market:

- A private college with good loss experience received a renewal quote from their insurance company raising the property annual premium from \$637,000 to \$2,200,000 while reducing the limits of coverage from \$150 million to \$25 million.
- A school's property insurance carrier ceased writing insurance for educational institutions and the school, again with good loss experience, was forced to accept dramatically reduced limits of insurance for its buildings.

If education in the U.S. is not to become an innocent victim of these forces, it must be put in a position to provide the self-help in property and auto markets that it has provided so successfully with liability coverages appropriate to its circumstances. UE has been successful in working with reinsurers and meeting the needs of education by demonstrating in-depth knowledge of the institutions and positive claims results.

In addition to UE's ability to design and implement sound, stable, and dependable coverages, we will also be able to realize other worthwhile goals in these areas:

#### ***A. Property***

Existing property coverage for educational institutions presents unique challenges. Property insurers don't understand the needs or processes of education. Conflicts commonly arise over issues such as these:

***Budgeting:*** A property carrier may demand that certain changes be made within 90 days. If the demand, though, covers an issue such as retrofitting existing dormitories with sprinklers, the college's budget process and occupancy schedules generally cannot operate on so short a timetable.

***Coverage:*** Existing Business Interruption coverage is generally ill-suited to tuition and state-supported educational institutions.

***Property valuation:*** Many campuses have one or two historic buildings, for which property coverage at restoration value may be more appropriate than replacement cost.

***Varying deductibles by department:*** Different academic departments use different types of equipment. The biology department, for example, would need a low deductible on its expensive laboratory equipment that would have to be replaced out of its own budget. Equipment in the English Department is very different.

## B. *Auto*

Educational institutions buy auto coverage from commercial carriers, which don't understand their unique driving practices. These can include:

- Student and faculty drivers, as well as professional drivers
- Long-distance trips over short periods of time, for example when a sports team plays an away game
- Campus bus systems that may operate only on campus or in the wider community
- Large and small passenger vans for student activities
- Fleet and rental cars for administrators, recruiters, and other staff (including rentals overseas for foreign study programs)

Educational institutions engage in more diverse transportation activities than most other entities. Auto insurers are unaccustomed to the wide range of drivers and driving that most institutions have. Their understanding of, and responsiveness to, educational institutions are severely limited.

***Risk management:*** Guidance from commercial property insurers may focus on some important areas such as housekeeping practices, but it does not address research issues, student bonfires, libraries and other campus-specific property risks.

## 3. The Future

An expansion of the Risk Retention Act that enables United Educators to provide fleet auto and property insurance to educational institutions would make that coverage more affordable, available, and responsive to their needs. With an annual member renewal rate of 95%, United Educators' members clearly value the existing products and services.

Advantages of the expansion into property and auto would include:

***Coordinated training and claims management:*** Liability risks are closely linked to property and auto risks. One insurance company could provide coordinated in-depth training and coverage for all risks that encompass liability, auto, and property claims.

***Pricing:*** Educational institutions would be judged on their own experience, so costs would not reflect extraneous factors. An RRG offering property coverage will support sharing the risks across institutions throughout the country.

***Loss control:*** United Educators would provide guidance specific to institutions regarding, for example, helping colleges establish mutual aid agreements to help each reopen and serve students as quickly as possible following a natural disaster.

***Commitment:*** United Educators makes a long-term commitment to its members. It works with them to reduce their losses and doesn't drop them simply because there has been a major property loss. As a member-owned company, UE is committed to helping educational institutions and the members are committed to supporting their investment in the RRG.

***Combined knowledge:*** UE members benefit from one another's experience. The company serves as an information clearinghouse so one institution's experience can help another prevent a loss.

## **Support for the expansion of the Risk Retention Act**

A wide range of consumer groups, insurance brokers, state insurance commissioners, real estate investment trusts (REITs), and RRGs representing public housing authorities, educational institutions and businesses support the expansion of the RRA. It is also a bipartisan effort.

## **Government Accountability Office Report on Risk Retention Groups**

The Government Accountability Office (“GAO”) issued a report in August, 2005 entitled *Risk Retention Groups: Common Regulatory Standards and Greater Member Protections Are Needed*. The GAO found that while “RRGs have had a small but important effect in increasing the availability and affordability of commercial liability insurance for certain groups,” “widely varying state standards” and limited governance protections against potential conflicts of interest created the potential for problems in the industry.

Prompted by the GAO Report, the National Association of Insurance Commissioners (“NAIC”) has undertaken a two-year process that has resulted in creation of corporate governance standards and requirements for the accreditation of the RRG states of domicile. While United Educators has none of the problems reflected in the GAO’s concerns, we heartily endorse these proactive actions by the NAIC and, further, believe that any amendment to the LRRRA expanding the scope of permissible insurance could include similar provisions or an affirmation of actions that have been taken at the state level.

## **Conclusion**

The genius of Congress’ enactment of the Liability Risk Retention Act is vividly demonstrated by the successes of United Educators and other Risk Retention Groups, including the Housing Authority Risk Retention Group, ALPS and Nonprofit’s Insurance Alliance of California. They have succeeded because Congress recognized that commercial insurance purchasers know better than anyone else their own risks and needs. In requiring that Risk Retention Groups be owned and controlled by their policyholders, Congress also assured that the operation of the groups would consistently be in the best interests of their members.

Risk Retention Groups can not solve all of the problems that exist in the property insurance market in America today. It is not a solution for homeowners and will not instantaneously provide coverage for all coastal institutions. Nevertheless, expansion of the Liability Risk Retention Act to include property and fleet auto insurance will create additional capacity to deal with natural catastrophes. Appropriate underwriting, capital and risk management will need to be put in place to ensure long-term viability.

Having successfully addressed the hazards of a hard liability market, risk retention groups, if given the opportunity, can be counted on to find the best path to confronting the same conditions in much needed property markets of 2007 and beyond.

Thank you very much for the opportunity to address the committee on this important issue.