

HOUSE BILL 566

Introduced by T. Nelson

2/01	Introduced
2/01	Referred to Business & Economic Development
2/02	First Reading
2/02	Fiscal Note Requested
2/08	Fiscal Note Received
2/08	Fiscal Note Printed
3/07	Hearing
	Died in Committee

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House BILL NO. *566*
INTRODUCED BY *Sam Nelson Rye*

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING THE COMMISSIONER OF INSURANCE THE AUTHORITY TO ESTABLISH FEES NECESSARY TO OPERATE THE INSURANCE DEPARTMENT; AND AMENDING SECTIONS 33-2-115, 33-2-117, 33-2-305, 33-2-701, 33-2-708, 33-3-202, 33-3-203, 33-4-505, 33-17-211, 33-17-212, 33-17-214, 33-17-216, 33-17-221, 33-17-231, AND 33-17-301, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because it directs the commissioner of insurance to adopt administrative rules establishing fees for filing documents, issuing and renewing licenses, reviewing education courses, and miscellaneous charges. In establishing fees, the commissioner shall base each fee on the cost of the service being performed and the revenue necessary to operate the insurance department.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

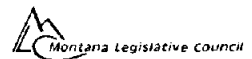
Section 1. Section 33-2-115, MCA, is amended to read:

"33-2-115. Application for certificate of authority. To apply for an original certificate of authority, an insurer

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shall file with the commissioner its application therefor accompanied by the applicable fees ~~as specified~~ in adopted pursuant to 33-2-708, showing its name, location of its home office or principal office in the United States, if an alien insurer, kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and such additional information as the commissioner may reasonably require, together with the following documents, as applicable:

- (1) if a foreign insurer, a copy of its corporate charter or articles of incorporation, with all amendments thereto, certified by the public officer with whom the originals are on file in the state or country of domicile;
- (2) if a mutual insurer, a copy of its bylaws as amended, certified by its secretary or other officer having custody thereof;
- (3) if a reciprocal insurer, copies of the power of attorney of its attorney-in-fact and of its subscribers' agreement, if any, certified by its attorney-in-fact;
- (4) a copy of its financial statement as of December 31 next preceding, sworn to by at least two executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state of domicile or of entry into the United States;
- (5) a copy of report of last examination, if any, made



1 of the insurer, certified by the insurance supervisory
2 official of its state of domicile or of entry into the
3 United States;

4 (6) appointment of the commissioner pursuant to
5 33-1-601, as its attorney to receive service of legal
6 process;

7 (7) if a foreign or alien insurer, a certificate of the
8 public official having supervision of insurance in its state
9 or country of domicile or state of entry into the United
10 States, showing that it is authorized to transact the kinds
11 of insurance proposed to be transacted in this state;

12 (8) if an alien insurer, a copy of the appointment and
13 authority of its United States manager, certified by its
14 officer having custody of its records;

15 (9) if a foreign insurer, certificate as to deposit if
16 to be tendered pursuant to 33-2-111;

17 (10) specimen copies of policies proposed to be offered
18 in this state, together with premiums or premium rates
19 applicable, or a declaration that such rates as applicable
20 will be those promulgated by designated rating organizations
21 authorized to file such rates in this state on behalf of the
22 insurer."

23 **Section 2.** Section 33-2-117, MCA, is amended to read:

24 "33-2-117. Continuance, expiration, reinstatement, and
25 amendment of certificate of authority. (1) Certificates of

1 authority issued or renewed under this code shall continue
2 in force as long as the insurer is entitled thereto under
3 this code and until suspended or revoked or otherwise
4 terminated; subject, however, to continuance of the
5 certificate by the insurer each year by payment prior to May
6 15 of the continuation fee provided-in adopted pursuant to
7 33-2-708.

8 (2) If not so continued by the insurer, its certificate
9 of authority shall expire at midnight on May 31 next
10 following such failure of the insurer so to continue it in
11 force. The commissioner shall promptly notify the insurer of
12 the occurrence of any such failure resulting in impending
13 expiration of its certificate of authority.

14 (3) The commissioner may, in his discretion, reinstate
15 a certificate of authority which the insurer has
16 inadvertently permitted to expire, after the insurer has
17 fully cured all its failures which resulted in such
18 expiration and upon payment by the insurer of the fee for
19 reinstatement in addition to the current continuation fee-
20 as-provided-in adopted pursuant to 33-2-708. Otherwise, the
21 insurer shall be granted another certificate of authority
22 only after filing application therefor and meeting all other
23 requirements as for an original certificate of authority in
24 this state.

25 (4) The commissioner may amend a certificate of

1 authority at any time to accord with changes in the
2 insurer's charter of insuring powers."

3 **Section 3.** Section 33-2-305, MCA, is amended to read:

4 "33-2-305. Licensing of surplus lines insurance
5 producer -- fee and bond. (1) A person may not procure a
6 contract of surplus lines insurance with an unauthorized
7 insurer unless he is licensed as a resident property,
8 casualty, and surety insurance producer and possesses a
9 current surplus lines insurance license issued by the
10 commissioner.

11 (2) The commissioner shall issue a surplus lines
12 insurance license to any qualified holder of a current
13 property, casualty, and surety insurance producer license
14 only if the insurance producer has:

15 (a) remitted to the commissioner the annual fee
16 prescribed-by adopted pursuant to 33-2-708;

17 (b) submitted to the commissioner a completed license
18 application on a form supplied by the commissioner;

19 (c) been licensed as a property, casualty, and surety
20 insurance producer continuously for 5 years or more; and

21 (d) filed with the commissioner and thereafter for as
22 long as the license remains in effect kept in force a bond
23 in favor of the state of Montana in the amount of \$10,000,
24 with authorized corporate sureties approved by the
25 commissioner. The bond must be conditioned that the

1 insurance producer will conduct business under the license
2 in accordance with the provisions of The Surplus Lines
3 Insurance Law and that he will promptly remit the taxes
4 provided in 33-2-311. The bond may not be terminated unless
5 the surety gives the surplus lines insurance producer, the
6 producing insurance producer, and the commissioner at least
7 30 days' prior written notice thereof.

8 (3) The license expires on April 1 after its date of
9 issue. A surplus lines insurance producer shall renew the
10 license on or before March 1 of each year upon payment of
11 the annual renewal fee prescribed--in adopted pursuant to
12 33-2-708. A surplus lines insurance producer who fails to
13 apply for a renewal of the license on or before March 1
14 shall pay a fine of \$100 before the commissioner renews the
15 license.

16 (4) A corporation is eligible to be licensed as a
17 surplus lines insurance producer if:

18 (a) the corporate license lists the individuals within
19 the corporation who have satisfied the requirements of this
20 part to become surplus lines insurance producers; and

21 (b) only those individuals listed on the corporate
22 license transact surplus lines insurance."

23 **Section 4.** Section 33-2-701, MCA, is amended to read:

24 "33-2-701. Annual statement -- revocation or fine for
25 failure to file -- penalty for perjury. (1) Each authorized

1 insurer shall annually on or before March 1 file with the
 2 commissioner a full and true statement of its financial
 3 condition, transactions, and affairs as of the December 31
 4 preceding. The statement shall be in such general form and
 5 context as is required or not disapproved by the
 6 commissioner, as is in current use for similar reports to
 7 states in general with respect to the type of insurer and
 8 kinds of insurance to be reported upon, and as supplemented
 9 for additional information required by the commissioner. The
 10 statement shall be verified by the oath of the insurer's
 11 president or vice-president and secretary or, if a
 12 reciprocal insurer, by the oath of the attorney-in-fact or
 13 its like officers if a corporation. The commissioner may, in
 14 his discretion, waive any such verification under oath.

15 (2) The statement of an alien insurer shall relate only
 16 to its transactions and affairs in the United States unless
 17 the commissioner requires otherwise. If the commissioner
 18 requires a statement as to an alien insurer's affairs
 19 throughout the world, the insurer shall file such statement
 20 with the commissioner as soon as reasonably possible. The
 21 statement shall be verified by the insurer's United States
 22 manager or other officer duly authorized.

23 (3) The commissioner may refuse to accept the fee for
 24 continuance of the insurer's certificate of authority, as
 25 provided in 33-2-117, or may in his discretion suspend or

1 revoke the certificate of authority of any insurer failing
 2 to file its annual statement when due.

3 (4) Any director, officer or insurance producer, or
 4 employee of any company who subscribes to, makes, or concurs
 5 in making or publishing any annual statement or any other
 6 statement required by law knowing the same to contain any
 7 material statement which is false shall be punished by a
 8 fine of not more than \$1,000.

9 (5) At time of filing, the insurer shall pay to the
 10 commissioner the fee for filing its statement ~~as--prescribed~~
 11 in adopted pursuant to 33-2-708.

12 (6) The commissioner may impose a fine not to exceed
 13 \$100 a day for each day after March 1 that an insurer fails
 14 to file the annual statement referred to in subsection (1).
 15 Such fine may not exceed a maximum of \$1,000."

16 **Section 5.** Section 33-2-708, MCA, is amended to read:

17 "33-2-708. Fees and licenses. (1) Except as provided in
 18 33-17-212(2), the commissioner shall adopt administrative
 19 rules establishing and shall collect in advance and the
 20 ~~persons-served-shall-pay-to-the-commissioner--the--following~~
 21 fees for:

22 (a) ~~certificates-of-authority;~~
 23 (i) ~~for filing applications-for-original-certificates~~
 24 ~~of-authority--articles--of--incorporation--(except--original~~
 25 ~~articles--of--incorporation-of-domestic-insurers-as-provided~~

1 in-subsection-(1)(b)}-and-other-charter--documents,--bylaws,
 2 financial--statement,--examination-report,--power-of attorney
 3 to-the-commissioner,--and-all-other documents, and--filings
 4 required-in-connection-with-the-application-and-for-issuance
 5 of-an-original-certificate-of-authority,--if-issued:
 6 (A)--domestic-insurers-----\$-600:00
 7 (B)--foreign-insurers-----600:00
 8 (ii)-annual--continuation--of--certificate-of-authority-
 9 -----600:00
 10 (iii)-reinstatement---of---certificate---of---autho.ity-
 11 -----25:00
 12 (iv)-amendment-of-certificate-of-authority-----50:00
 13 issuing licenses, conducting examinations, reviewing
 14 applications for approval of prelicensing education courses,
 15 and miscellaneous services.
 16 (b)--articles-of-incorporation:
 17 (i)--filing-original--articles--of--incorporation--of--a
 18 domestic--insurer,--exclusive-of-fees-required-to-be-paid-by
 19 the-corporation-to-the-secretary-of-state-----20:00
 20 (ii)-filing--amendment--of--articles--of--incorporation,
 21 domestic-and-foreign-insurers,--exclusive-of-fees-required-to
 22 be-paid-to-the-secretary-of-state-by-a-domestic-corporation-
 23 -----25:00
 24 (c)--filing--bylaws--or--amendments---to---bylaws---where
 25 required-----10:00

1 (d)--filing--annual--statement-of-insurer,--other-than-as
 2 part-of-application-for-original-certificate--of--authority-
 3 -----25:00
 4 (e)--insurance-producer's-license:
 5 (i)--application---for---original---license,---including
 6 issuance-of-license,--if-issued-----15:00
 7 (ii)-appointment--of--insurance--producer,--each-insurer-
 8 -----10:00
 9 (iii)-temporary-license-----15:00
 10 (iv)-amendment--of--license--(excluding---additions---to
 11 license)-or-reissuance-of-master-license-----15:00
 12 (f)--nonresident-insurance-producer's-license:
 13 (i)--application---for---original---license,---including
 14 issuance-of-license,--if-issued-----100:00
 15 (ii)-appointment--of--insurance--producer,--each-insurer-
 16 -----10:00
 17 (iii)-annual--renewal--of--license-----10:00
 18 (iv)-amendment--of--license--(excluding---additions---to
 19 license)-or-reissuance-of-master-license-----10:00
 20 (g)--examination-for-license-as-insurance-producer,--each
 21 examination-----15:00
 22 (h)--surplus-lines-insurance-producer-license:
 23 (i)--application--for--original-license-and-for-issuance
 24 of-license,--if-issued-----50:00
 25 (ii)-annual-renewal-of-license-----50:00

1 (i) ~~adjuster's license:~~

2 (i) ~~application for original license and for issuance~~

3 ~~of license, if issued-----15.00~~

4 (ii) ~~annual renewal of license-----15.00~~

5 (j) ~~insurance vending machine license, each machine,~~

6 ~~each year-----10.00~~

7 (k) ~~commissioner's certificate under seal (except when~~

8 ~~on certificates of authority or licenses)-----10.00~~

9 (l) ~~copies of documents on file in the commissioner's~~

10 ~~office, per page-----50~~

11 (m) ~~policy forms:~~

12 (i) ~~filing each policy form-----25.00~~

13 (ii) ~~filing each application, rider, endorsement,~~

14 ~~amendment, insert page, schedule of rates, and clarification~~

15 ~~of risks-----10.00~~

16 (iii) ~~maximum charge if policy and all forms submitted~~

17 ~~at one time or resubmitted for approval within 180 days~~

18 ~~-----100.00~~

19 (n) ~~applications for approval of prelicensing education~~

20 ~~courses:~~

21 (i) ~~reviewing initial application-----150.00~~

22 (ii) ~~periodic review-----50.00~~

23 (2) The fees collected by the commissioner must be

24 commensurate with the costs of the operation of the

25 insurance department. The commissioner shall maintain

1 records to support the amount of fees and charges

2 established under subsection (1).

3 (3) The commissioner shall promptly deposit with the

4 state treasurer to the credit of the general fund of this

5 state all fines and penalties, those amounts received

6 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees

7 and examination and miscellaneous charges that are collected

8 by him pursuant to Title 33 and the rules adopted under

9 Title 33.

10 (3)(4) All fees are considered fully earned when

11 received. In the event of overpayment, only those amounts in

12 excess of \$10 will be refunded."

13 **Section 6.** Section 33-3-202, MCA, is amended to read:

14 "33-3-202. Articles of incorporation -- filing and

15 approval. (1) The incorporators of a proposed domestic

16 insurer shall deliver the quadruplicate originals of the

17 articles of incorporation to the commissioner together with

18 the filing fees ~~therefor specified in~~ adopted pursuant to

19 33-2-708. The commissioner shall examine the proposed

20 articles of incorporation. If the commissioner finds that

21 the articles comply with this chapter and are not in

22 conflict with the constitution and laws of the United States

23 or of this state, he shall endorse his approval upon each

24 set of the articles, except that if the commissioner finds

25 that the proposed insurer would not be eligible for a

1 certificate of authority under 33-2-112, he shall refuse to
 2 approve the articles of incorporation and shall return them
 3 to the proposed incorporators together with a written
 4 statement of the reasons for such refusal. If approved by
 5 him, the commissioner shall then forward the articles of
 6 incorporation, with his approval endorsed thereon, to the
 7 incorporators. The incorporators shall forthwith file one
 8 set of the articles of incorporation with the secretary of
 9 state, one set with the commissioner, bearing the
 10 certification of the secretary of state, and one set with
 11 the county clerk of the county wherein is to be located the
 12 corporation's principal place of business; and the remaining
 13 set of articles shall be made a part of the corporation's
 14 record.

15 (2) If the commissioner finds that the proposed
 16 articles of incorporation do not comply with law, he shall
 17 refuse to approve the same and shall return all sets of the
 18 proposed articles of incorporation to the proposed
 19 incorporators together with a written statement of the
 20 reasons for his refusal to approve.

21 (3) The corporation shall have legal existence as such
 22 upon the issuance of the certificate of incorporation by the
 23 secretary of state and the completion of the filings
 24 referred to in subsection (1) above, but it shall not
 25 transact business as an insurer until it has qualified for

1 and received from the commissioner a certificate of
 2 authority as provided in this code.

3 (4) A copy of the certificate of incorporation, duly
 4 certified by the secretary of state, shall be admissible in
 5 all the courts of this state as prima facie evidence of due
 6 incorporation."

7 **Section 7.** Section 33-3-203, MCA, is amended to read:

8 "33-3-203. Amendment of articles of incorporation --
 9 grounds for disapproval. (1) A domestic stock insurer may
 10 amend its articles of incorporation for any lawful purpose
 11 by written authorization of the holders of a majority of the
 12 voting power of its outstanding capital stock or by
 13 affirmative vote of such a majority voting at a lawful
 14 meeting of stockholders of which the notice given to
 15 stockholders included due notice of the proposal to amend.

16 (2) A domestic mutual insurer heretofore or hereafter
 17 formed may amend its articles of incorporation for any
 18 lawful purpose by affirmative vote of a majority of those of
 19 its members present or represented by proxy at a lawful
 20 meeting of its members of which the notice given members
 21 included due notice of the proposal to amend.

22 (3) Upon adoption of such an amendment the insurer
 23 shall make in quadruplicate under its corporate seal a
 24 certificate (sometimes referred to as "articles of
 25 amendment") setting forth such amendment and the date and

1 manner of the adoption thereof, which certificate shall be
 2 executed by the insurer's president or vice-president and
 3 secretary or assistant secretary and acknowledged by them
 4 before an officer authorized by law to take acknowledgments
 5 of deeds. The insurer shall deliver to the commissioner the
 6 quadruplicate originals of the certificate, together with
 7 the filing fee ~~specified therefor~~ in adopted pursuant to
 8 33-2-708. If he finds that the certificate and amendments
 9 comply with law, the commissioner shall endorse his approval
 10 upon each of the quadruplicate originals and return them to
 11 the insurer. The insurer shall forthwith file one set of
 12 such endorsed articles of amendment with the secretary of
 13 state, one set with the commissioner bearing the
 14 certification of the secretary of state, one set with the
 15 county clerk of the county in which is located the insurer's
 16 principal place of business, and retain the remaining set in
 17 the corporate records. The amendment shall be effective when
 18 such filings have been completed.

19 (4) If the commissioner finds that the proposed
 20 amendment or certificate does not comply with the law, he
 21 shall not approve the same and shall return the
 22 quadruplicate certificate of amendment to the insurer
 23 together with his written statement of reasons for
 24 nonapproval. The filing fee shall not be returnable.

25 (5) If an amendment of articles of incorporation would

1 reduce the authorized capital stock of a stock insurer below
 2 the amount thereof then outstanding, the commissioner shall
 3 not approve the amendment if he has reason to believe that
 4 the interests of policyholders or creditors of the insurer
 5 would be materially prejudiced by such reduction. If any
 6 such reduction of capital stock is effectuated, the insurer
 7 may require return of the original certificates of stock
 8 held by each stockholder for exchange for new certificates
 9 for such number of shares as such stockholder is then
 10 entitled in the proportion that the reduced capital bears to
 11 the amount of capital stock outstanding as of immediately
 12 prior to the effective date of such reduction."

13 **Section 8.** Section 33-4-505, MCA, is amended to read:

14 "33-4-505. Certificate of authority required --
 15 issuance -- continuation -- fee. (1) A farm mutual insurer
 16 may not insure any risk in this state unless it then holds a
 17 subsisting certificate of authority issued to it by the
 18 commissioner.

19 (2) Upon application therefor the commissioner shall
 20 issue such a certificate of authority to every insurer
 21 qualified therefor under this chapter.

22 (3) Every such certificate of authority continues in
 23 force as long as the farm mutual insurer is entitled thereto
 24 under this chapter and until suspended, revoked, or
 25 otherwise terminated subject, however, to continuance of

1 the certificate by the farm mutual insurer each year by
 2 payment before May 15 of the continuation fee ~~of \$10 if a~~
 3 ~~county mutual insurer or \$25 if a state mutual insurer~~
 4 adopted pursuant to 33-2-708, to be deposited by the
 5 commissioner with the state treasurer to the credit of the
 6 state general fund.

7 (4) If the farm mutual insurer does not continue its
 8 certificate of authority in accordance with subsection (3),
 9 its certificate of authority expires at midnight on May 31
 10 next following its failure to continue it in force. The
 11 commissioner shall promptly notify a farm mutual insurer
 12 that has not continued its certificate of authority of the
 13 impending expiration of its certificate of authority.

14 (5) A certificate of authority is subject to suspension
 15 or revocation by the commissioner for violation of or
 16 noncompliance with any provision of this chapter or referred
 17 to herein.

18 (6) The commissioner may in his discretion reinstate a
 19 certificate of authority that a farm mutual insurer has
 20 inadvertently permitted to expire, after the farm mutual
 21 insurer has fully cured all failures that resulted in the
 22 expiration and upon payment by the farm mutual insurer of
 23 the fee for reinstatement ~~as provided in~~ adopted pursuant to
 24 33-2-708 in addition to the current continuation fee as
 25 provided in subsection (3). If a certificate is not

1 reinstated, the commissioner may grant a farm mutual insurer
 2 another certificate of authority only after the farm mutual
 3 insurer files an application for a certificate of authority
 4 and meets all other requirements for an original certificate
 5 of authority in this state.

6 (7) The commissioner may amend a certificate of
 7 authority at any time to accord with changes in the farm
 8 mutual insurer's charter of insuring powers."

9 **Section 9.** Section 33-17-211, MCA, is amended to read:

10 "33-17-211. General qualifications -- application for
 11 license. (1) An individual applying for a license shall
 12 apply on a form specified by the commissioner and declare
 13 under penalty of refusal, suspension, or revocation of the
 14 license that statements made in the application are true,
 15 correct, and complete to the best of the individual's
 16 knowledge and belief. Before approving the application, the
 17 commissioner shall verify that the individual:

- 18 (a) is 18 years of age or older;
 19 (b) has not committed an act that is a ground for
 20 refusal, suspension, or revocation set forth in 33-17-1001;
 21 (c) has paid the license fees ~~stated in~~ adopted
 22 pursuant to 33-2-708;
 23 (d) has successfully passed the examinations for each
 24 kind of insurance for which the individual has applied;
 25 (e) is a resident of this state or of another state

1 that grants similar privileges to residents of this state;

2 (f) is competent, trustworthy, and of good reputation;

3 (g) has experience or training or otherwise is
4 qualified in the kind or kinds of insurance for which he
5 applies to be licensed and is reasonably familiar with the
6 provisions of this code which govern his operations as an
7 insurance producer; and

8 (h) if applying for a license as to life or disability
9 insurance:

10 (i) is not a funeral director, undertaker, or mortician
11 operating in this or any other state;

12 (ii) is not an officer, employee, or representative of a
13 funeral director, undertaker, or mortician operating in this
14 or any other state; or

15 (iii) does not hold an interest in or benefit from a
16 business of a funeral director, undertaker, or mortician
17 operating in this or any other state.

18 (2) A person acting as an insurance producer shall
19 obtain a license. A person shall apply for a license on a
20 form specified by the commissioner. Before approving the
21 application, the commissioner shall verify that:

22 (a) the person meets the requirements listed in
23 subsection (1);

24 (b) the person has paid the licensing fees ~~stated in~~
25 adopted pursuant to 33-2-708 for each individual licensed in

1 conjunction with the person's license. A licensed person
2 shall promptly notify the commissioner of each change
3 relating to an individual listed in the license.

4 (c) the person has designated a licensed officer
5 responsible for compliance by the person with the insurance
6 laws and rules of this state;

7 (d) each member and employee of a partnership and each
8 officer, director, stockholder, or employee of a corporation
9 who is acting as an insurance producer in this state has
10 obtained a license;

11 (e) (i) if the person is a partnership or corporation,
12 the transaction of insurance business is within the purposes
13 stated in the partnership agreement or the articles of
14 incorporation; and

15 (ii) if the person is a corporation, the secretary of
16 state has issued a certificate of incorporation under
17 35-1-203 or 35-2-203.

18 (3) The commissioner may license as a resident
19 insurance producer an association of licensed Montana
20 insurance producers, whether or not incorporated, formed and
21 existing substantially for purposes other than insurance.
22 The license must be used solely for the purpose of enabling
23 the association to place, as a resident insurance producer,
24 insurance of the properties, interests, and risks of the
25 state of Montana and of other public agencies, bodies, and

1 institutions and to receive the customary commission for the
 2 placement. The president and secretary of the association
 3 shall apply for the license in the name of the association,
 4 and the commissioner shall issue the license to the
 5 association in its name alone. The fee for the license is
 6 the same as that ~~required by~~ adopted pursuant to 33-2-708
 7 for the license of an insurance producer. The commissioner
 8 may, after a hearing with notice to the association, revoke
 9 the license if he finds that continuation of the license is
 10 not in the public interest or that a ground listed in
 11 33-17-1001 exists.

12 (4) An insurance producer using an assumed business
 13 name shall register the name with the commissioner before
 14 using it."

15 **Section 10.** Section 33-17-212, MCA, is amended to read:

16 **"33-17-212. Examination required -- exceptions -- fees.**

17 (1) Except as provided in subsection (7), an individual
 18 applying for a license shall pass a written examination. The
 19 examination must test the knowledge of the individual
 20 concerning each kind of insurance listed in subsection (6)
 21 for which application is made, the duties and
 22 responsibilities of an insurance producer, and the insurance
 23 laws and rules of this state. The examination must be
 24 developed and conducted under rules adopted by the
 25 commissioner.

1 (2) The commissioner may conduct the examination or
 2 make arrangements, including contracting with an outside
 3 testing service, for administering the examination and
 4 collecting the fees ~~required--by~~ adopted pursuant to
 5 33-2-708. The commissioner may arrange for the testing
 6 service to recover the cost of the examination from the
 7 applicant.

8 (3) Each individual applying for an examination shall
 9 remit the fees ~~required-by~~ adopted pursuant to 33-2-708.

10 (4) An individual who fails to appear for the
 11 examination as scheduled or fails to pass the examination
 12 may reapply for an examination and shall remit all required
 13 fees and forms before being rescheduled for another
 14 examination.

15 (5) If the applicant is a partnership or corporation,
 16 each individual who is to be named in the license as having
 17 authority to act for the applicant in its insurance
 18 transactions under the license shall take the examination.

19 (6) Examination of an applicant for a license must
 20 cover all of the kinds of insurance for which the applicant
 21 has applied to be licensed, as constituted by any one or
 22 more of the following classifications:

- 23 (a) life insurance;
- 24 (b) disability insurance;
- 25 (c) property insurance. For the purposes of this

1 provision, property insurance includes marine insurance.

2 (d) casualty insurance;

3 (e) surety insurance;

4 (f) credit life and disability insurance;

5 (g) title insurance.

6 (7) This section does not apply to and an examination

7 is not required of:

8 (a) an individual lawfully licensed as an insurance

9 producer as to the kind or kinds of insurance to be

10 transacted as of or immediately prior to January 1, 1961,

11 and thereafter continuing to be licensed;

12 (b) an applicant for license covering the same kind or

13 kinds of insurance as to which the applicant was licensed in

14 this state, other than under a temporary license, within the

15 12 months immediately preceding the date of application

16 unless the commissioner has suspended, revoked, or refused

17 to continue the previous license, except that this

18 subsection (b) does not apply to a title insurance producer,

19 as defined in 33-25-105;

20 (c) an applicant for license as nonresident insurance

21 producer;

22 (d) an applicant for a license to sell all-risk federal

23 crop insurance if the applicant provides certification from

24 an appropriate governmental agency to the commissioner that

25 he is qualified to sell the insurance;

1 (e) transportation ticket agents of common carriers

2 applying for license to solicit and sell only:

3 (i) accident insurance ticket policies; or

4 (ii) insurance of personal effects while being carried

5 as baggage on a common carrier, as incidental to their

6 duties as transportation ticket agents;

7 (f) an association applying for license under

8 33-17-211;

9 (g) a mechanical breakdown insurance producer; 1

10 (h) an individual who, within 60 days of cancellation

11 of a license issued by the state of the individual's

12 residence, files with the commissioner a current letter of

13 clearance certifying that the individual has passed an

14 examination and held an insurance license in good standing

15 in the individual's state of licensure, except that the

16 individual shall take an examination pertaining to this

17 state's law and each kind of insurance for which the

18 individual has applied for a license and which is not

19 covered under the license held in the other state."

20 **Section 11.** Section 33-17-214, MCA, is amended to read:

21 **"33-17-214. Issuance of license -- contents -- lapse of**

22 **license -- change of address.** (1) The commissioner shall

23 promptly issue a license to a person pursuant to 33-17-211

24 and 33-17-212.

25 (2) The license must state the name and address of the

1 licensee, personal identification number, date of issuance,
2 general conditions relative to expiration or termination,
3 kind of insurance covered, and such other information as the
4 commissioner considers necessary.

5 (3) The license of a partnership, corporation, or
6 association must also state the name of each individual
7 authorized to exercise the license powers.

8 (4) Each license remains in effect, unless suspended or
9 revoked, as long as the fees required-by adopted pursuant to
10 33-2-708 are paid.

11 (5) An individual who allows his license to lapse may,
12 within 12 months from the due date of the unpaid annual fee,
13 apply for the same license without having to pass a written
14 examination if he pays a penalty in the amount of twice the
15 unpaid annual fee.

16 (6) A person shall inform the commissioner in writing
17 of a change of address within 30 days of the change."

18 **Section 12.** Section 33-17-216, MCA, is amended to read:

19 **"33-17-216. Temporary insurance producer license --**
20 **fee.** (1) The commissioner may issue a temporary license to
21 or with respect to an individual qualified for the temporary
22 license only as to age, residence, and trustworthiness and
23 without requiring the individual to take an examination, in
24 the following cases:

25 (a) to the surviving spouse or next of kin or to the

1 administrator or executor, or the employee of the
2 administrator or executor, of a licensed insurance producer
3 upon the insurance producer's death;

4 (b) to the spouse, next of kin, employee, or legal
5 guardian of a licensed insurance producer disabled by injury
6 or physical or mental illness;

7 (c) to an employee of a partnership, or officer or
8 employee of a corporation, licensed as an insurance
9 producer, upon the death or disability of an individual
10 designated in the license to exercise the powers of an
11 insurance producer;

12 (d) to the designee of a licensed insurance producer
13 entering upon active service in the armed forces of the
14 United States of America;

15 (e) in any other circumstance in which the commissioner
16 finds that the public interest will best be served by
17 issuing such a license.

18 (2) The temporary license must be issued upon
19 application filed with the commissioner in the form and
20 containing the information as the commissioner may
21 reasonably require and upon payment of the applicable fee **as**
22 **provided-in** adopted pursuant to 33-2-708.

23 (3) The temporary license must be for a period of not
24 over 90 days, subject to extension by the commissioner in
25 his discretion for an additional period of not more than 90

1 days, except that a temporary license issued pursuant to
 2 subsection (1)(a) may be continued without payment of an
 3 additional fee until the executor or administrator disposes
 4 of the insurance business, but not to exceed a period of 15
 5 months. A temporary license issued to the next of kin under
 6 subsection (1)(a) may not be extended for an additional term
 7 after the appointment and qualification of the administrator
 8 or executor.

9 (4) The fee paid for the temporary license may be
 10 applied upon the fee required for a permanent license issued
 11 to the licensee upon or prior to expiration of the temporary
 12 license and covering the same kinds of insurance."

13 **Section 13.** Section 33-17-221, MCA, is amended to read:

14 ***33-17-221. Licensing insurance vending machines.** (1) A
 15 licensed resident insurance producer may solicit
 16 applications for and issue policies of personal travel
 17 accident insurance by means of mechanical vending machines
 18 supervised by him and placed at airports, railroad stations,
 19 bus stations, and similar places where transportation
 20 tickets are sold and of convenience to the traveling public,
 21 if the commissioner finds that:

22 (a) the policy to be sold provides reasonable coverage
 23 and benefits, is reasonably suited for sale and issuance
 24 through a mechanical vending machine, and use of a
 25 mechanical vending machine to sell or issue a policy in a

1 particular proposed location would be of material
 2 convenience to the public;

3 (b) the type of mechanical vending machine proposed to
 4 be used is reasonably suitable and practical for the
 5 purpose;

6 (c) reasonable means are provided for informing the
 7 prospective purchaser of any policy of the coverage and
 8 restrictions of the policy; and

9 (d) reasonable means are provided for refund to the
 10 applicant or prospective applicant of money inserted in a
 11 defective mechanical vending machine and for which no
 12 insurance or a less amount than that paid for is actually
 13 received.

14 (2) As to each mechanical vending machine to be used to
 15 sell or issue a policy, the commissioner shall issue to the
 16 insurance producer a special mechanical vending machine
 17 license. The license must specify the name and address of
 18 the insurer and insurance producer, the name of the policy
 19 to be sold or issued through the mechanical vending machine,
 20 the serial number of the mechanical vending machine, and the
 21 place where the machine will operate. The license is subject
 22 to annual continuation, expiration, suspension, or
 23 revocation coincidentally with that of the insurance
 24 producer. The commissioner shall also revoke the license of
 25 a mechanical vending machine if he finds that the conditions

1 upon which the machine was licensed, as referred to in
 2 subsection (1), no longer exist. The license fee is as
 3 ~~provided in~~ adopted pursuant to 33-2-708 for each license
 4 year or part of the year for each respective mechanical
 5 vending machine. Proof of the existence of a subsisting
 6 license must be displayed on or about each mechanical
 7 vending machine in use in the manner that the commissioner
 8 may reasonably require."

9 **Section 14.** Section 33-17-231, MCA, is amended to read:

10 "33-17-231. Appointment of insurance producers --
 11 continuation and termination. (1) Each insurer appointing an
 12 insurance producer in this state shall file with the
 13 commissioner the appointment, specifying the kinds of
 14 insurance to be transacted by the insurance producer for the
 15 insurer, and pay the fee ~~therefor--as-stated-in~~ adopted
 16 pursuant to 33-2-708. The term of the appointment is for 1
 17 year and runs from June 1 of each year through May 31 of the
 18 succeeding year.

19 (2) Subject to annual renewal by the insurer, each such
 20 appointment shall remain in effect until the insurance
 21 producer's license is revoked or otherwise terminated unless
 22 written notice of earlier termination of the appointment is
 23 filed with the commissioner by the insurer.

24 (3) Annually, prior to May 1, each insurer shall file
 25 with the commissioner an alphabetical list in duplicate of

1 the names and addresses of all its insurance producers whose
 2 appointments in this state are to remain in effect,
 3 accompanied by payment of the annual renewal fee ~~as-provided~~
 4 in adopted pursuant to 33-2-708. At the same time the
 5 insurer shall also file with the commissioner a termination
 6 report of all insurance producers whose appointments in this
 7 state are not to remain in effect.

8 (4) Subject to the insurance producer's contract
 9 rights, an insurer may terminate an insurance producer's
 10 appointment at any time. The insurer shall promptly give
 11 written notice of such termination to the commissioner and
 12 to the insurance producer. The commissioner may require of
 13 the insurer reasonable proof that the insurer has given such
 14 notice to the insurance producer.

15 (5) As part of the notice of termination given the
 16 commissioner, the insurer shall file with the commissioner a
 17 statement of the facts relative to the termination and the
 18 cause thereof. Any information or statement contained in the
 19 notice of termination shall not be admissible as evidence in
 20 any action or proceeding against the insurer or any
 21 representative thereof by or in behalf of any person
 22 affected by such termination."

23 **Section 15.** Section 33-17-301, MCA, is amended to read:

24 "33-17-301. Adjuster license -- qualifications --
 25 catastrophe adjustments -- public adjuster. (1) A person may

1 not in this state act as or hold himself out to be an
 2 adjuster unless licensed as an adjuster under this chapter.
 3 A person shall apply for an adjuster license to the
 4 commissioner according to forms the commissioner prescribes
 5 and furnishes. The commissioner shall issue the adjuster
 6 license to individuals qualified to be licensed as an
 7 adjuster upon payment of the license fee ~~provided-in~~ adopted
 8 pursuant to 33-2-708.

9 (2) To be licensed as an adjuster, the applicant:

10 (a) must be an individual 18 years of age or more;

11 (b) must be a resident of Montana or resident of
 12 another state that will permit residents of Montana
 13 regularly to act as adjusters in the other state;

14 (c) must be a full-time salaried employee of a licensed
 15 adjuster or a graduate of a recognized law school or have
 16 had experience or special education or training as to the
 17 handling of loss claims under insurance contracts of
 18 sufficient duration and extent reasonably to make him
 19 competent to fulfill the responsibilities of an adjuster;

20 (d) must be trustworthy and of good character and
 21 reputation;

22 (e) shall have and maintain in this state an office
 23 accessible to the public and keep in the office the usual
 24 and customary records pertaining to transactions under the
 25 license. This provision does not prohibit maintenance of the

1 office in the home of the licensee.

2 (3) A partnership or corporation, whether or not
 3 organized under the laws of this state, may be licensed as
 4 an adjuster if each individual who is to exercise the
 5 adjuster license powers is separately licensed or is named
 6 in the partnership or corporation adjuster license and is
 7 qualified for an individual adjuster license. An additional
 8 full license fee must be paid for each individual in excess
 9 of one named in the partnership or corporation adjuster
 10 license to exercise its powers.

11 (4) An adjuster license or qualifications are not
 12 required for an adjuster who is sent into this state by and
 13 on behalf of an insurer or adjusting partnership or
 14 corporation for the purpose of investigating or making
 15 adjustments of a particular loss under an insurance policy
 16 or for the adjustment of a series of losses resulting from a
 17 catastrophe common to all losses.

18 (5) An adjuster license continues in force until
 19 expired, suspended, revoked, or terminated. The license is
 20 subject to annual payment to the commissioner of the renewal
 21 fee ~~required-by~~ adopted pursuant to 33-2-708, accompanied by
 22 a written request for renewal.

23 (6) The commissioner may adopt rules providing for the
 24 examination, licensure, bonding, and regulation of public
 25 adjusters."

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0566, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill would grant the Commissioner of Insurance the authority to establish fees necessary to operate the insurance program in the State Auditors Office.

ASSUMPTIONS:


1. License and fee revenues from the fees specified in 33-2-708, MCA, were approximately \$1,336,000 for FY90.
2. Total license and fee revenues under the fee schedule to be adopted by the Commissioner of Insurance will not vary from total revenues under current law.
3. Budgeted expenditures for the Insurance Program for the 1993 biennium will not be affected by changes made to the fee schedule.

FISCAL IMPACT:

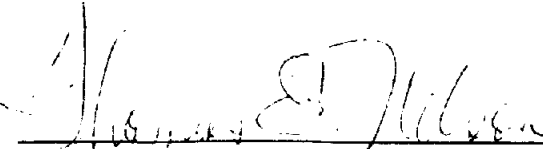
None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None.



ROD SUNDSTED, BUDGET DIRECTOR 2-7-91 DATE
Office of Budget and Program Planning



THOMAS E. NELSON, PRIMARY SPONSOR 3-3-91 DATE

Fiscal Note for HB0566, as introduced

HB 566