

APRIL 17, 1991

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE
REQUESTED.

APRIL 18, 1991

CONFERENCE COMMITTEE APPOINTED.

APRIL 19, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 22, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 23, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 24, 1991

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 24, 1991

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 24, 1991

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 16

2 INTRODUCED BY GAGE

3 BY REQUEST OF THE STATE AUDITOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO THE REGULATION OF INSURERS AND MOTOR CLUB
7 SERVICE COMPANIES; DIRECTING THE CODE COMMISSIONER TO CHANGE
8 ANY REFERENCE TO THE TERM "SOLICITOR" TO "INSURANCE
9 PRODUCER" WHEREVER IT APPEARS IN THE MONTANA CODE ANNOTATED;
10 AND AMENDING SECTIONS 33-1-711, 33-2-705, 33-2-708,
11 33-2-709, 33-3-401, 33-3-431, 33-7-406, 33-17-208,
12 33-17-603, 33-20-303, 33-20-305, 33-22-502, 33-22-921,
13 33-22-923, 33-22-924, 33-22-1501, 33-22-1504, 33-22-1513,
14 33-22-1704, 33-23-302, 61-12-303, 61-12-304, AND 61-12-305,
15 MCA."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 33-1-711, MCA, is amended to read:

19 "33-1-711. Appeals from the commissioner. (1) An appeal
20 from the commissioner may be taken only from an order on
21 hearing or with respect to a matter as to which the
22 commissioner has refused a hearing. Any person who was a
23 party to the hearing or whose pecuniary interests are
24 directly and immediately affected by any order or refusal
25 and who is aggrieved by an order or refusal may, within 30

1 days after the order has been mailed or delivered to the
2 persons entitled to receive the same, the commissioner's
3 order denying rehearing or reargument has been so mailed or
4 delivered, or the commissioner's refusal to grant a hearing,
5 appeal from the order on hearing or the refusal of a
6 hearing. Any request for a stay of the commissioner's order
7 must be made within 60 days, to run concurrently with the 30
8 days for appeal. The appeal must be taken to the district
9 court of Lewis and Clark County by filing written notice of
10 appeal in the court and by filing a copy of the notice with
11 the commissioner, except that in appeals from the suspension
12 or revocation of the certificate of authority of a domestic
13 insurer or of the license of an insurance producer or
14 surplus lines insurance producer, the person taking the
15 appeal may at his option, in lieu of the district court of
16 Lewis and Clark County, take the appeal to the district
17 court of the county of Montana in which the insurer has its
18 principal place of business or the licensee resides.

19 (2) Upon filing of the notice of appeal, the court has
20 full jurisdiction and shall determine whether the filing
21 operates as a stay of the order or action appealed from.

22 (3) Within 20 days after filing of the copy of the
23 notice of appeal in his office, the commissioner shall make
24 and return to the court in which the appeal is pending a
25 copy of his order appealed from and a full and complete

1 transcript, duly certified by the commissioner, of his
 2 record of the hearing upon which the order was issued,
 3 together with all exhibits and documentary evidence
 4 introduced at the hearing. If the appeal is from an action
 5 of the commissioner with respect to which a hearing was
 6 refused, the commissioner shall, within the 20-day period,
 7 make and return to the court a full and complete transcript,
 8 duly certified by him, of all documents on file in his
 9 office directly relating to the matter as to which the
 10 appeal is taken.

11 (4) Upon receipt of the transcripts and evidence, the
 12 court shall hear the matter *de-novo* as soon as reasonably
 13 possible thereafter. Upon the hearing of the appeal, the
 14 court shall consider the evidence contained in the
 15 transcript, exhibits, and documents filed by the
 16 commissioner, together with additional proper evidence as
 17 may be offered by any party to the appeal.

18 (5) After hearing the appeal, the court may affirm,
 19 modify, or reverse the order or action of the commissioner,
 20 in whole or in part, or remand the action to the
 21 commissioner for further proceedings in accordance with the
 22 court's direction.

23 (6) Costs must be awarded as in civil actions.

24 (7) Appeal may be taken to the supreme court from the
 25 judgment of the district court as in other civil cases to

1 which the state is a party. A stay of the effectiveness of
 2 any judgment may be made only by order of the supreme court
 3 upon the giving of security as that court considers proper.

4 (8) This section does not apply to appeals as to
 5 matters covered by chapter 16."

6 **Section 2.** Section 33-2-705, MCA, is amended to read:

7 **"33-2-705. Report on premiums and other consideration**
 8 **-- tax.** (1) Each authorized insurer and each formerly
 9 authorized insurer with respect to premiums so received
 10 while an authorized insurer in this state shall file with
 11 the commissioner, on or before March 1 each year, a report
 12 in form as prescribed by the commissioner showing total
 13 direct premium income, including policy, membership, and
 14 other fees, premiums paid by application of dividends,
 15 refunds, savings, savings coupons, and similar returns or
 16 credits to payment of premiums for new or additional or
 17 extended or renewed insurance, charges for payment of
 18 premium in installments, and all other consideration for
 19 insurance from all kinds and classes of insurance, whether
 20 designated as a premium or otherwise, received by it a life
 21 insurer or written by an insurer other than a life insurer
 22 during the preceding calendar year on account of policies
 23 covering property, subjects, or risks located, resident, or
 24 to be performed in Montana, with proper proportionate
 25 allocation of premium as to such property, subjects, or

1 risks in Montana insured under policies or contracts
 2 covering property, subjects, or risks located or resident in
 3 more than one state, after deducting from such total direct
 4 premium income applicable cancellations, returned premiums,
 5 the unabsorbed portion of any deposit premium, the amount of
 6 reduction in or refund of premiums allowed to industrial
 7 life policyholders for payment of premiums direct to an
 8 office of the insurer, all policy dividends, refunds,
 9 savings, savings coupons, and other similar returns paid or
 10 credited to policyholders with respect to such policies. As
 11 to title insurance, "premium" includes the total charge for
 12 such insurance. No deduction shall be made of the cash
 13 surrender values of policies. Considerations received on
 14 annuity contracts shall not be included in total direct
 15 premium income and shall not be subject to tax.

16 (2) Coincident with the filing of the tax report
 17 referred to in subsection (1) above, each such insurer shall
 18 pay to the commissioner a tax upon such net premiums
 19 computed at the rate of 2 3/4%.

20 (3) That portion of the tax paid hereunder by an
 21 insurer on account of premiums received for fire insurance
 22 shall be separately specified in the report as required by
 23 the commissioner, for apportionment as provided by law.
 24 Where insurance against fire is included with insurance of
 25 property against other perils at an undivided premium, the

1 insurer shall make such reasonable allocation from such
 2 entire premium to the fire portion of the coverage as shall
 3 be stated in such report and as may be approved or accepted
 4 by the commissioner.

5 (4) With respect to authorized insurers the premium tax
 6 provided by this section shall be payment in full and in
 7 lieu of all other demands for any and all state, county,
 8 city, district, municipal, and school taxes, licenses, fees,
 9 and excises of whatever kind or character, excepting only
 10 those prescribed by this code, taxes on real and tangible
 11 personal property located in this state, and taxes payable
 12 under 50-3-109.

13 (5) The commissioner may suspend or revoke the
 14 certificate of authority of any insurer which fails to pay
 15 its taxes as required under this section.

16 (6) In addition to the penalty provided for in
 17 subsection (5), the commissioner may impose upon an insurer
 18 who fails to pay the tax required under this section a fine
 19 of \$100 a day for each day the tax remains unpaid past the
 20 due date or 1% of the amount owed in tax, whichever is
 21 greater.

22 (7) The commissioner may by rule provide a quarterly
 23 schedule for payment of portions of the premium tax under
 24 this section during the year in which such tax liability is
 25 accrued."

1 **Section 3.** Section 33-2-708, MCA, is amended to read:
2 **"33-2-708. Fees and licenses.** (1) Except as provided in
3 33-17-212(2), the commissioner shall collect in advance and
4 the persons served shall pay to the commissioner the
5 following fees:
6 (a) certificates of authority:
7 (i) for filing applications for original certificates
8 of authority, articles of incorporation (except original
9 articles of incorporation of domestic insurers as provided
10 in subsection (1)(b)) and other charter documents, bylaws,
11 financial statement, examination report, power of attorney
12 to the commissioner, and all other documents and filings
13 required in connection with the application and for issuance
14 of an original certificate of authority, if issued:
15 (A) domestic insurers \$ 600.00
16 (B) foreign insurers 600.00
17 (ii) annual continuation of certificate of authority
18 600.00
19 (iii) reinstatement of certificate of authority
20 25.00
21 (iv) amendment of certificate of authority 50.00
22 (b) articles of incorporation:
23 (i) filing original articles of incorporation of a
24 domestic insurer, exclusive of fees required to be paid by
25 the corporation to the secretary of state 20.00

1 (ii) filing amendment of articles of incorporation,
2 domestic and foreign insurers, exclusive of fees required to
3 be paid to the secretary of state by a domestic corporation
4 25.00
5 (c) filing bylaws or amendment to bylaws where
6 required 10.00
7 (d) filing annual statement of insurer, other than as
8 part of application for original certificate of authority
9 25.00
10 (e) insurance producer's license:
11 (i) application for original license, including
12 issuance of license, if issued 15.00
13 (ii) appointment of insurance producer, each insurer
14 10.00
15 (iii) temporary license 15.00
16 (iv) amendment of license (excluding additions to
17 license) or reissuance of master license 15.00
18 (f) nonresident insurance producer's license:
19 (i) application for original license, including
20 issuance of license, if issued 100.00
21 (ii) appointment of insurance producer, each insurer
22 10.00
23 (iii) annual renewal of license 10.00
24 (iv) amendment of license (excluding additions to
25 license) or reissuance of master license 10.00

1 (g) examination, if administered by the commissioner,
2 for license as insurance producer, each examination
3 15.00
4 (h) surplus lines insurance producer license:
5 (i) application for original license and for issuance
6 of license, if issued 50.00
7 (ii) annual renewal of license 50.00
8 (i) adjuster's license:
9 (i) application for original license and for issuance
10 of license, if issued 15.00
11 (ii) annual renewal of license 15.00
12 (j) insurance vending machine license, each machine,
13 each year 10.00
14 (k) commissioner's certificate under seal (except when
15 on certificates of authority or licenses) 10.00
16 (l) copies of documents on file in the commissioner's
17 office, per page50
18 (m) policy forms:
19 (i) filing each policy form 25.00
20 (ii) filing each application, rider, endorsement,
21 amendment, insert page, schedule of rates, and clarification
22 of risks 10.00
23 (iii) maximum charge if policy and all forms submitted
24 at one time or resubmitted for approval within 180 days
25 100.00

1 (n) applications for approval of prelicensing education
2 courses:
3 (i) reviewing initial application 150.00
4 (ii) periodic review 50.00
5 (2) The commissioner shall promptly deposit with the
6 state treasurer to the credit of the general fund of this
7 state all fines and penalties, those amounts received
8 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees
9 and examination and miscellaneous charges that are collected
10 by him pursuant to Title 33 and the rules adopted under
11 Title 33.
12 (3) All fees are considered fully earned when received.
13 In the event of overpayment, only those amounts in excess of
14 \$10 will be refunded."
15 **Section 4.** Section 33-2-709, MCA, is amended to read:
16 "33-2-709. Retaliatory fees, taxes, and other
17 obligations. (1) When by or pursuant to the laws of any
18 other state or foreign country any taxes, licenses, and
19 other fees, in the aggregate, and any fines, penalties,
20 deposit requirements, or other material obligations,
21 prohibitions, or restrictions are or would be imposed upon
22 Montana insurers or upon the insurance producers or
23 representatives of such insurers which are in excess of such
24 taxes, licenses, and other fees, in the aggregate, or which
25 are in excess of the fines, penalties, deposit requirements,

1 or other obligations, prohibitions, or restrictions directly
 2 imposed upon similar insurers or upon the insurance
 3 producers or representatives of such insurers of such other
 4 state or country under the statutes of this state, so long
 5 as such laws of such other state or country continue in
 6 force or are so applied, the same taxes, licenses, and other
 7 fees, in the aggregate, or fines, penalties, or deposit
 8 requirements or other material obligations, prohibitions, or
 9 restrictions of whatever kind shall be imposed by the
 10 commissioner upon the insurers or upon the insurance
 11 producers or representatives of such insurers of such other
 12 state or country doing business or seeking to do business in
 13 Montana. Any tax, license, or other fee or other obligation
 14 imposed by any city, county, or other political subdivision
 15 or agency of such other state or country on Montana insurers
 16 or their insurance producers or representatives shall be
 17 deemed to be imposed by such state or country within the
 18 meaning of this section.

19 (2) This section shall not apply as to any fees in
 20 conjunction with the licensing of insurance producers,
 21 personal income taxes, ad valorem taxes on real or personal
 22 property, or special purpose obligations or assessments
 23 imposed by another state or by an agency of this state other
 24 than the department in connection with particular kinds of
 25 insurance other than property insurance, except that

1 deductions from premium taxes or other taxes otherwise
 2 payable allowed on account of real estate or personal
 3 property taxes paid shall be taken into consideration by the
 4 commissioner in determining the propriety and extent of
 5 retaliatory action under this section.

6 (3) (a) For the purposes of this section the domicile
 7 of an alien insurer, other than insurers formed under the
 8 laws of Canada, shall be that state designated by the
 9 insurer in writing filed with the commissioner at time of
 10 admission to this state or within 6 months after January 1,
 11 1961, whichever date is the later, and may be any one of the
 12 following states:

13 (i) that in which the insurer was first authorized to
 14 transact insurance;

15 (ii) that in which is located the insurer's principal
 16 place of business in the United States;

17 (iii) that in which is held the larger deposit of
 18 trusted assets of the insurer for the protection of its
 19 policyholders and creditors in the United States.

20 (b) If the insurer makes no such designation, its
 21 domicile shall be deemed to be that state in which is
 22 located its principal place of business in the United
 23 States."

24 **Section 5.** Section 33-3-401, MCA, is amended to read:

25 "33-3-401. Home office and records -- penalty for

1 unlawful removal of records or assets. (1) Every domestic
 2 insurer shall have and maintain its principal place of
 3 business and home office in this state and shall keep
 4 therein complete records of its assets, transactions, and
 5 affairs in accordance with such methods and systems as are
 6 customary or suitable as to the kind or kinds of insurance
 7 transacted. Records of the insurer's operations and other
 8 financial records reasonably related to its insurance
 9 operations for the preceding 5 years must be maintained and
 10 be available to the commissioner or his duly constituted
 11 examiner.

12 (2) Every domestic insurer shall have and maintain its
 13 assets in this state, except as to:

14 (a) real property and personal property appurtenant
 15 thereto lawfully owned by the insurer and located outside
 16 this state; and

17 (b) such property of the insurer as may be customary,
 18 necessary, and convenient to enable and facilitate the
 19 operation of its branch offices and regional home offices
 20 located outside this state as referred to in subsection (4)
 21 below.

22 (3) Removal of all or a material part of the records or
 23 assets of a domestic insurer from this state except pursuant
 24 to a plan of merger or consolidation approved by the
 25 commissioner under this code or for such reasonable purposes

1 and periods of time as may be approved by the commissioner
 2 in writing in advance of such removal or concealment of such
 3 records or assets or material part thereof from the
 4 commissioner is prohibited. Any person who removes or
 5 attempts to remove such records or assets or such material
 6 part thereof from the home office or other place of business
 7 or of safekeeping of the insurer in this state with the
 8 intent to remove the same from this state or who conceals or
 9 attempts to conceal the same from the commissioner, in
 10 violation of this subsection, shall upon conviction thereof
 11 be guilty of a felony punishable by a fine of not more than
 12 \$10,000 or by imprisonment in the penitentiary for not more
 13 than 5 years or by both such fine and imprisonment in the
 14 discretion of the court. Upon any removal or attempted
 15 removal of such records or assets or upon retention of such
 16 records or assets or material part thereof outside this
 17 state beyond the period therefor specified in the
 18 commissioner's consent under which the records were so
 19 removed thereat or upon concealment of or attempt to conceal
 20 records or assets in violation of this section, the
 21 commissioner may institute delinquency proceedings against
 22 the insurer pursuant to the provisions of chapter 2, part
 23 13.

24 (4) This section shall not be deemed to prohibit or
 25 prevent an insurer from:

1 (a) establishing and maintaining branch offices or
 2 regional home offices in other states where necessary or
 3 convenient to the transaction of its business and keeping
 4 therein the detailed records and assets customary and
 5 necessary for the servicing of its insurance in force and
 6 affairs in the territory served by such an office, as long
 7 as such records and assets are made readily available at
 8 such office for examination by the commissioner at his
 9 request;

10 (b) having, depositing, or transmitting funds and
 11 assets of the insurer in or to jurisdictions outside of this
 12 state as reasonably and customarily required in the regular
 13 course of its business;

14 (c) making deposits under custodial arrangements as
 15 provided by 33-2-604(3)."

16 **Section 6.** Section 33-3-431, MCA, is amended to read:

17 "33-3-431. Borrowed surplus. (1) A domestic stock or
 18 mutual insurer may borrow money to defray the expenses of
 19 its organization, provide it with surplus funds, or for any
 20 purpose of its business, upon a written agreement that such
 21 money is required to be repaid only out of the insurer's
 22 surplus in excess of that stipulated in such agreement. The
 23 agreement may provide for interest ~~not exceeding 6% per~~
 24 annum at a rate no greater than the rate established in
 25 25-9-205, which interest shall or shall not constitute a

1 liability of the insurer as to its funds other than such
 2 excess of surplus, as stipulated in the agreement. No
 3 commission or promotion expense shall be paid in connection
 4 with any such loan.

5 (2) Money so borrowed, together with the interest
 6 thereon if so stipulated in the agreement, shall not form a
 7 part of the insurer's legal liabilities except as to its
 8 surplus in excess of the amount thereof stipulated in the
 9 agreement or be the basis of any setoff; but until repaid,
 10 financial statements filed or published by the insurer shall
 11 show as a footnote thereto the amount thereof then unpaid
 12 together with any interest thereon accrued but unpaid.

13 (3) Any such loan to a mutual insurer shall be subject
 14 to the commissioner's approval. The insurer shall, in
 15 advance of the loan, file with the commissioner a statement
 16 of the purpose of the loan and a copy of the proposed loan
 17 agreement. The loan and agreement shall be deemed approved
 18 unless within 15 days after date of such filing the insurer
 19 is notified of the commissioner's disapproval and the
 20 reasons therefor. The commissioner shall disapprove any
 21 proposed loan or agreement if he finds the loan is
 22 unnecessary or excessive for the purpose intended or that
 23 the terms of the loan agreement are not fair and equitable
 24 to the parties, and to other similar lenders, if any, to the
 25 insurer, or that the information so filed by the insurer is

1 inadequate.

2 (4) Any such loan to a mutual insurer or substantial
3 portion thereof shall be repaid by the insurer when no
4 longer reasonably necessary for the purpose originally
5 intended. No repayment of such loan shall be made by a
6 mutual insurer unless in advance approved by the
7 commissioner.

8 (5) This section shall not apply to loans obtained by
9 the insurer in ordinary course of business from banks and
10 other financial institutions or to loans secured by pledge
11 or mortgage of assets."

12 **Section 7.** Section 33-7-406, MCA, is amended to read:

13 ~~"33-7-406. Annual statement -- penalty for failure to~~
14 ~~file or--to-comply. A-society-neglecting-to-file-the-annual~~
15 ~~statement-in-the-form-and-within-the-time-provided--in--this~~
16 ~~part-shall-forfeit~~ The commissioner may impose a fine upon a
17 society not to exceed \$100 for each day during-which-such
18 ~~neglect-continues,-and,-upon-notice-by-the--commissioner--to~~
19 ~~that--effect,-its--authority--to--do-business-in-this state~~
20 ~~shall- cease-while-such-default-continues after March 1 that~~
21 a society fails to file the annual statement required by
22 33-7-404. The fine may not exceed \$1,000."

23 **Section 8.** Section 33-17-208, MCA, is amended to read:

24 "33-17-208. Prelicensing education -- basic
25 requirement. (1) (a) A person applying for a license to act

1 as an insurance producer for property, casualty, and surety
2 insurance shall complete 40 hours of approved prelicensing
3 education courses in those areas of insurance within 12
4 months prior to the examination, unless he is exempted from
5 the requirement under subsection (3).

6 (b) A person applying for a license to act as an
7 insurance producer for life and disability insurance or as
8 an enrollment representative for a health service
9 corporation shall complete 40 hours of approved prelicensing
10 education courses in those areas of insurance within 12
11 months prior to the examination, unless he is exempted from
12 the requirement under subsection (3).

13 (2) A person applying for licenses to act as an
14 insurance producer for both the property, casualty, and
15 surety areas and the life and or disability areas must meet
16 the education requirements in all the areas of insurance.

17 (3) The minimum prelicensing education requirement does
18 not apply to a person who:

19 (a) has been licensed within the 12 preceding months as
20 an insurance producer in another state that requires
21 prelicensing education and has completed the education in
22 the other state;

23 (b) seeks a nonresident license, having been licensed
24 as an insurance provider in his state of residence for at
25 least 1 year;

1 (c) seeks a nonresident license and is from a state
2 having a prelicensing education requirement;

3 (d) seeks to reinstate a license lapsed for less than 2
4 years;

5 (e) seeks a temporary license under 33-17-216; or

6 (f) is exempt from examination requirements under
7 33-17-212(5)(7)."

8 **Section 9.** Section 33-17-603, MCA, is amended to read:

9 **"33-17-603. Certificate of registration.** (1) Except as
10 provided in 33-17-604, a person may not act as or hold
11 himself out to be an administrator in this state unless he
12 holds a certificate of registration as an administrator.

13 (2) An application for a certificate of registration
14 must be accompanied by a fee of \$100. The commissioner shall
15 issue the certificate unless he finds that the applicant is
16 not competent, trustworthy, financially responsible, or of
17 good personal and business reputation or that the applicant
18 has had a previous application for a license denied for
19 cause within 5 years.

20 (3) The certificate of registration is renewable
21 annually on the date of issue July 1. A request for renewal
22 must be accompanied by a renewal fee of \$100.

23 (4) The certificate of registration may be suspended or
24 revoked if, after notice and hearing, the commissioner finds
25 that the administrator has violated any of the requirements

1 of this part or that the administrator is not competent,
2 trustworthy, financially responsible, or of good personal
3 and business reputation.

4 (5) Unless the certification requirement is waived, a
5 person who acts as an administrator without a certificate of
6 registration is subject to a fine of not less than \$500 or
7 more than \$1,500."

8 **Section 10.** Section 33-20-303, MCA, is amended to read:

9 **"33-20-303. Incontestability.** If any statements other
10 than those relating to age~~7~~, sex~~7~~, and identity are required
11 as a condition to issuing an annuity or pure endowment
12 contract, other than a reversionary, survivorship, or group
13 annuity, and subject to 33-20-305, there shall be a
14 provision that the contract shall be incontestable after it
15 has been in force during the lifetime of the person or of
16 each of the persons as to whom such statements are required,
17 for a period of 2 years from its date of issue, except for
18 nonpayment of stipulated payments to the insurer; and at the
19 option of the insurer such contract may also except any
20 provisions relative to benefits in the event of disability
21 and any provisions which grant insurance specifically
22 against death by accident or accidental means."

23 **Section 11.** Section 33-20-305, MCA, is amended to read:

24 **"33-20-305. Misstatement of age or sex.** In an annuity
25 or pure endowment contract, other than a reversionary,

1 survivorship, or group annuity, there shall be a provision
 2 that if the age or sex of the person or persons upon whose
 3 life or lives the contract is made, or of any of them, has
 4 been misstated, the amount payable or benefits accruing
 5 under the contract shall be such as the stipulated payment
 6 or payments to the insurer would have purchased according to
 7 the correct age or sex and that if the insurer shall make or
 8 has made any overpayment or overpayments on account of any
 9 such misstatement, the amount thereof, with interest at the
 10 rate to be specified in the contract but not exceeding 6%
 11 per annum, may be charged against the current or next
 12 succeeding payment or payments to be made by the insurer
 13 under the contract."

14 **Section 12.** Section 33-22-502, MCA, is amended to read:

15 "33-22-502. Required provisions of group policies. Each
 16 such group disability insurance policy shall delivered or
 17 issued for delivery in this state must contain in substance
 18 the following provisions:

19 (1) a provision that, in the absence of fraud, all
 20 statements made by applicants or the policyholder or by an
 21 insured person shall be deemed representations and not
 22 warranties and that no statement made for the purpose of
 23 effecting insurance shall avoid such insurance or reduce
 24 benefits unless contained in a written instrument signed by
 25 the policyholder or the insured person, a copy of which has

1 been furnished to such policyholder or to such person or his
 2 beneficiary;

3 (2) a provision that the insurer will furnish to the
 4 policyholder for delivery to each employee or member of the
 5 insured group a statement in summary form of the essential
 6 features of the insurance coverage of such employee or
 7 member and to whom benefits thereunder are payable. If
 8 dependents are included in the coverage, only one
 9 certificate need be issued for each family unit.

10 (3) a provision that to the group originally insured
 11 may be added from time to time eligible new employees or
 12 members or dependents, as the case may be, in accordance
 13 with the terms of the policy.

14 (4) a provision that reads:

15 Conformity with state statutes. A provision of this
 16 policy that on its effective date conflicts with the
 17 statutes of the state in which the insured resides on that
 18 date is hereby amended to conform to the minimum
 19 requirements of those statutes."

20 **Section 13.** Section 33-22-921, MCA, is amended to read:

21 "33-22-921. Discontinuance or nonrenewal -- alternate
 22 policy or certificate -- same insurer. (1) If a disability
 23 insurer discontinues or does not renew a medicare supplement
 24 policy product or certificate and offers an alternate
 25 medicare supplement policy or certificate to its insureds

1 within this state, it may not deny benefits under the
 2 replacing policy or certificate to an insured who receives
 3 treatment for a condition that was a covered expense under
 4 the replaced policy or certificate and is a covered expense
 5 under the replacing policy or certificate if the insured
 6 enrolls in and pays the premium for the replacing policy or
 7 certificate within 31 days after the termination of the
 8 replaced policy or certificate.

9 (2) A disability insurer who discontinues or does not
 10 renew a medicare supplement policy product or certificate
 11 and offers an alternate medicare supplement policy or
 12 certificate shall base its premium for the alternate policy
 13 or certificate on the rates currently in place for that
 14 policy or certificate.

15 (3) If the insured has not satisfied the preexisting
 16 condition limitation under the replaced medicare supplement
 17 policy or certificate, any period of time that was covered
 18 by that policy or certificate must be credited toward the
 19 preexisting condition limitation period of the replacing
 20 policy or certificate."

21 **Section 14.** Section 33-22-923, MCA, is amended to read:

22 "33-22-923. Replacement policy or certificate --
 23 different insurer. (1) If a disability insurer replaces a
 24 medicare supplement policy or certificate, it may not deny
 25 benefits under the replacing policy or certificate to an

1 insured who receives treatment for a condition that was a
 2 covered expense under the replaced policy or certificate and
 3 is a covered expense under the replacing policy or
 4 certificate if the insured pays the premium for the
 5 replacing policy or certificate when due or within 31 days
 6 after the termination of the replaced policy or certificate.

7 (2) An insurer who replaces a medicare supplement
 8 policy or certificate shall base its premium for the
 9 replacement policy or certificate on the rates currently in
 10 place for that policy or certificate.

11 (3) If the insured has not satisfied the preexisting
 12 condition limitation under the replaced medicare supplement
 13 policy or certificate, any period of time that was covered
 14 by that policy or certificate must be credited toward the
 15 preexisting condition limitation period of the replacing
 16 policy or certificate.

17 (4) To receive the benefits of subsections (1) through
 18 (3), a person shall submit to the replacing insurer proof of
 19 prior coverage, evidence of benefits provided under the
 20 previous policy or certificate, and the effective date and
 21 the date of termination of coverage under the previous
 22 policy or certificate."

23 **Section 15.** Section 33-22-924, MCA, is amended to read:

24 "33-22-924. Renewal requirement. (1) If a person pays a
 25 renewal premium on the date it is due or within 31 days

1 after it is due, an insurer may not refuse to renew a
 2 medicare supplement policy or certificate unless the
 3 insurer:

4 (a) refuses to renew all policies or certificates in
 5 this state that are of the same form and issued to persons
 6 of the same class; and

7 (b) offers a replacement policy or certificate at
 8 actuarially justified rates.

9 (2) If an insurer refuses to renew all policies or
 10 certificates in this state that are of the same form and
 11 issued to persons of the same class, the policies or
 12 certificates will remain in force during the grace period
 13 stated in the replaced policy or certificate. An insurer's
 14 refusal to renew a policy or certificate may not affect a
 15 claim that arose under the replaced discontinued policy or
 16 certificate during the period in which an insured was
 17 confined without interruption to a medical care facility for
 18 treatment."

19 **Section 16.** Section 33-22-1501, MCA. is amended to
 20 read:

21 "33-22-1501. Definitions. As used in this part, the
 22 following definitions apply:

23 (1) "Association" means the comprehensive health
 24 association created by 33-22-1503.

25 (2) "Association plan" means a policy of insurance

1 coverage offered by the association through the lead
 2 carrier.

3 (3) "Association plan premium" means the charge
 4 determined pursuant to 33-22-1512 for membership in the
 5 association plan based on the benefits provided in
 6 33-22-1521.

7 (4) "Eligible person" means an individual who:

8 (a) is a resident of this state and applies for
 9 coverage under the association plan; and

10 (b) unless the individual's eligibility is waived by
 11 the association, within 6 months prior to the date of
 12 application, has been rejected for disability insurance or
 13 health service benefits by at least two insurers, societies,
 14 or health service corporations, or has had a restrictive
 15 rider or preexisting conditions limitation, which limitation
 16 is required by at least two insurers, societies, or health
 17 service corporations, which has the effect of substantially
 18 reducing coverage from that received by a person considered
 19 a standard risk.

20 (5) "Health service corporation" means a corporation
 21 operating pursuant to Title 33, chapter 30, and offering or
 22 selling contracts of disability insurance.

23 (6) "Insurance arrangement" means any plan, program,
 24 contract, or other arrangement to the extent not exempt from
 25 inclusion by virtue of the provisions of the federal

1 Employee Retirement Income Security Act of 1974 under which
2 one or more employers, unions, or other organizations
3 provide to their employees or members, either directly or
4 indirectly through a trust of a third-party administrator,
5 health care services or benefits other than through an
6 insurer.

7 (7) "Insurer" means a company operating pursuant to
8 Title 33, chapter 2 or 3, and offering or selling policies
9 or contracts of disability insurance, as provided in Title
10 33, chapter 22.

11 (8) "Lead carrier" means the licensed administrator or
12 insurer selected by the association to administer the
13 association plan.

14 (9) "Preexisting condition" means any condition for
15 which an applicant for coverage under the association plan
16 has received medical attention during the 5 years
17 immediately preceding the filing of an application.

18 (10) "Qualified plan" means those health benefit plans
19 certified by the commissioner as providing the minimum
20 benefits required by 33-22-1521 or the actuarial equivalent
21 of those benefits.

22 (11) "Society" means a fraternal benefit society
23 operating pursuant to Title 33, chapter 7, and offering or
24 selling certificates of disability insurance."

25 **Section 17.** Section 33-22-1504, MCA, is amended to

1 read:

2 "33-22-1504. Association board of directors --
3 organization. (1) There is a board of directors of the
4 association, consisting of eight individuals:

5 (a) one from each of the seven participating members of
6 the association with the highest annual premium volume of
7 disability insurance contracts or health service corporation
8 contracts, derived from or on behalf of residents in the
9 previous calendar year, as determined by the commissioner;
10 and

11 (b) a member at large, appointed by the commissioner to
12 represent the public interest, who shall serve in an
13 advisory capacity only.

14 (2) Each of the seven board members representing the
15 association members is entitled to a weighted average vote,
16 in person or by proxy, based on the association member's
17 annual Montana premium volume. However, a board member may
18 not have more than 50% of the vote.

19 (3) Members of the board may be reimbursed from the
20 money of the association for expenses incurred by them due
21 to their service as board members but may not otherwise be
22 compensated by the association for their services. The costs
23 of conducting the meetings of the association and its board
24 of directors must be borne by participating members of the
25 association in accordance with 33-22-1513."

1 **Section 18.** Section 33-22-1513, MCA, is amended to
2 read:

3 "33-22-1513. Operation of association plan. (1) Upon
4 acceptance by the lead carrier under 33-22-1516, an eligible
5 person may enroll in the association plan by payment of the
6 association plan premium to the lead carrier.

7 (2) Not less than 88% of the association plan premiums
8 paid to the lead carrier may be used to pay claims and not
9 more than 12% may be used for payment of the lead carrier's
10 direct and indirect expenses as specified in 33-22-1514.

11 (3) Any income in excess of the costs incurred by the
12 association in providing reinsurance or administrative
13 services must be held at interest and used by the
14 association to offset past and future losses due to claims
15 expenses of the association plan or be allocated to reduce
16 association plan premiums.

17 (4) (a) Each participating member of the association
18 shall share the losses due to claims expenses of the
19 association plan for plans issued or approved for issuance
20 by the association and shall share in the operating and
21 administrative expenses incurred or estimated to be incurred
22 by the association incident to the conduct of its affairs.
23 Claims expenses of the association plan that exceed the
24 premium payments allocated to the payment of benefits are
25 the liability of the association members. Association

1 members shall share in the claims expenses of the
2 association plan and operating and administrative expenses
3 of the association in an amount equal to the ratio of:

4 (a)(i) the association member's total disability
5 insurance premium received from or on behalf of Montana
6 residents divided by;

7 (b)(ii) the total disability premium received by all
8 association members from or on behalf of Montana residents,
9 as determined by the commissioner.

10 (b) For purposes of this subsection (4), "total
11 disability insurance premium" does not include premiums
12 received from disability income insurance, credit disability
13 insurance, disability waiver insurance, or life insurance.

14 (5) The association shall make an annual determination
15 of each association member's liability, if any, and may make
16 an annual fiscal yearend assessment if necessary. The
17 association may also, subject to the approval of the
18 commissioner, provide for interim assessments against the
19 association members as may be necessary to assure the
20 financial capability of the association in meeting the
21 incurred or estimated claims expenses of the association
22 plan and operating and administrative expenses of the
23 association until the association's next annual fiscal
24 yearend assessment. Payment of an assessment is due within
25 30 days of receipt by an association member of a written

1 notice of a fiscal yearend or interim assessment. Failure by
 2 a contributing member to tender to the association the
 3 assessment within 30 days is grounds for termination of
 4 membership. An association member that ceases to do
 5 disability insurance business within the state remains
 6 liable for assessments through the calendar year during
 7 which disability insurance business ceased. The association
 8 may decline to levy an assessment against an association
 9 member if the assessment, as determined pursuant to this
 10 section, would not exceed \$10.

11 (6) Any annual fiscal yearend or interim assessment
 12 levied against an association member may be offset, in an
 13 amount equal to the assessment paid to the association,
 14 against the premium tax payable by that association member
 15 pursuant to 33-2-705 for the year in which the annual fiscal
 16 yearend or interim assessment is levied. The insurance
 17 commissioner shall, each year the legislature meets in
 18 regular session, on or before January 15, report to the
 19 legislature the total amount of premium tax offset claimed
 20 by association members during the preceding biennium."

21 **Section 19.** Section 33-22-1704, MCA, is amended to
 22 read:

23 "33-22-1704. Preferred provider agreements authorized.

24 (1) Notwithstanding any other provision of law to the
 25 contrary, a health care insurer may:

1 (a) enter into agreements with providers relating to
 2 health care services that may be rendered to insureds or
 3 subscribers on whose behalf the health care insurer is
 4 providing health care coverage, including preferred provider
 5 agreements relating to:

6 (i) the amounts an insured may be charged for services
 7 rendered; and

8 (ii) the amount and manner of payment to the provider;
 9 and

10 (b) issue or administer policies or subscriber
 11 contracts in this state that include incentives for the
 12 insured to use the services of a provider that has entered
 13 into an agreement with the insurer pursuant to subsection
 14 (1)(a).

15 (2) A preferred provider agreement issued or delivered
 16 in this state may not unfairly deny health benefits for
 17 health care services covered.

18 (3) ~~This part does not require that an insurer~~
 19 ~~negotiate or enter into agreements with any specific~~
 20 ~~provider or class of providers.~~ Health care insurers may
 21 place reasonable limits on the number or classes of
 22 preferred providers that satisfy the standards set forth by
 23 the health care insurer. However, insurers may not
 24 discriminate against providers on the basis of religion,
 25 race, color, national origin, age, sex, or marital status

1 and shall select preferred providers primarily on but not
 2 limited to cost and availability of covered services and the
 3 quality of services performed by the providers."

4 **Section 20.** Section 33-23-302, MCA, is amended to read:

5 "33-23-302. Cancellation or alteration of policy --
 6 increase of premium rates -- sixty days' written notice
 7 required. Any insurer who insures a physician and surgeon,
 8 dentist, registered nurse, nursing home administrator,
 9 registered physical therapist, podiatrist, licensed
 10 psychologist, osteopath, chiropractor, pharmacist,
 11 optometrist, or veterinarian, duly licensed as--such under
 12 the laws of this state, or a licensed hospital or long-term
 13 care facility as the employer of any such person against
 14 liability for error, omission, professional negligence, or
 15 performance of services without consent shall ~~may~~ not cancel
 16 or alter the policy so insuring such the person or increase
 17 the premium rates thereon without first providing the
 18 insured 60 days' written notice of the insurer's intention
 19 to cancel or alter the policy or increase the premium
 20 rates."

21 **Section 21.** Section 61-12-303, MCA, is amended to read:

22 "61-12-303. Requirements for license. (1) ~~No-license~~
 23 shall-be-issued-by-the The commissioner may not issue a
 24 license to a company until the company has filed with him
 25 the following:

1 (a) a formal application in such form and detail as the
 2 commissioner may require, executed under oath by its
 3 president or other principal officer;

4 (b) a copy of the form of its contract;

5 (c) a certified copy of its charter or articles of
 6 incorporation and its bylaws, if any;

7 (d) a financial statement in such form and detail as
 8 the commissioner may require, executed on oath by its
 9 president or other principal officer;

10 (e) a certificate from the ~~state-treasurer~~ commissioner
 11 that it has complied with 61-12-304 in all cases where a
 12 deposit of cash or a bond is required by this part;

13 (f) a certificate from the corporation commissioner of
 14 the state of Montana, in the event it be a corporation, that
 15 it has complied with the corporation laws of said state.

16 (2) ~~No-license-shall-be-issued-by-the The~~ commissioner
 17 may not issue a license to a company until the company has
 18 paid to the commissioner \$100 as an annual license fee, or
 19 the pro rata portion thereof necessary to be paid to the end
 20 of the current calendar year from the date of the
 21 application for such the license.

22 (3) ~~No-license-shall-be-issued-by-the The~~ commissioner
 23 may not issue a license until the company has satisfied him
 24 by such an examination ~~as he may make~~ and such evidence ~~as~~
 25 he the commissioner may require, in his discretion, that

1 such the company has complied with the laws of the state of
2 Montana and that its management is trustworthy and
3 competent."

4 **Section 22.** Section 61-12-304, MCA, is amended to read:

5 "61-12-304. Deposits required. No--license--shall--be
6 granted The commissioner may not grant a license to a
7 company ~~as herein defined except as hereinafter stated~~ until
8 it has deposited with the ~~state treasurer~~ commissioner the
9 sum of \$25,000 in cash or in lieu thereof a bond in a form
10 prescribed by the commissioner payable to the state of
11 Montana in the sum of \$25,000, with surety approved by the
12 commissioner, conditioned upon the faithful performance of
13 its service contracts and payment of any fines or penalties
14 levied against it for failure to comply with this part;
15 ~~provided, however, that.~~ However, when any company ~~as~~
16 ~~herein defined, shall prove~~ proves to the commissioner that
17 it has been in continuous, active operation in the state for
18 a period of more than the preceding 5 years ~~immediately last~~
19 ~~past~~ and has a paid membership of more than 5,000 members
20 within the state or that there are more than 5,000 holders
21 of its service contracts within the state and that it is
22 being properly managed, is rendering to its members the
23 services promised to them, and is financially responsible,
24 ~~no--such a~~ cash deposit or bond ~~shall be~~ is not required
25 while such the company remains in such that condition. The

1 foregoing cash deposit or bond is not ~~required in any~~
2 ~~instance as a~~ penalty, but is for the protection of the
3 public only."

4 **Section 23.** Section 61-12-305, MCA, is amended to read:

5 "61-12-305. Expiration Continuance of license. Every
6 Subject to payment by January 1 of each year of the annual
7 license fee required under 61-12-303, each license issued
8 ~~hereunder shall expire annually on January 1 of each year~~
9 unless--sooner continues in force as long as the company is
10 entitled to the license under this part or until the license
11 is revoked, or suspended, as--hereinafter--provided or
12 otherwise terminated."

13 NEW SECTION. Section 24. Policy provisions --
14 conformity with state statutes. Each policy regulated by
15 this part must contain a provision as follows:

16 Conformity with state statutes. A provision of this
17 policy that on its effective date conflicts with the
18 statutes of the state in which the insured resides on that
19 date is hereby amended to conform to the minimum
20 requirements of those statutes.

21 NEW SECTION. Section 25. Casualty insurance policy --
22 conformity with state statutes. A casualty insurance policy
23 relative to a risk resident, located, or to be performed in
24 this state must contain a provision as follows:

25 Conformity with state statutes. A provision of this

1 policy that on its effective date conflicts with the
 2 statutes of the state in which the insured resides on that
 3 date is hereby amended to conform to the minimum
 4 requirements of those statutes.

5 NEW SECTION. Section 26. Property insurance policy --
 6 conformity with state statutes. A property insurance policy
 7 relative to a risk resident, located, or to be performed in
 8 this state must contain a provision as follows:

9 Conformity with state statutes. A provision of this
 10 policy that on its effective date conflicts with the
 11 statutes of the state in which the insured resides on that
 12 date is hereby amended to conform to the minimum
 13 requirements of those statutes.

14 NEW SECTION. Section 27. Name change -- short form
 15 amendment. Wherever it appears in 33-7-519, 33-17-206,
 16 33-18-210, and 33-18-501 or in insurance laws enacted by the
 17 52nd legislature, the code commissioner is directed to
 18 change the term "solicitor" to "insurance producer".

19 NEW SECTION. Section 28. Codification instruction. (1)
 20 [Section 24] is intended to be codified as an integral part
 21 of Title 33, chapter 20, parts 1 and 12, and the provisions
 22 of Title 33, chapter 20, parts 1 and 12, apply to [section
 23 24].

24 (2) [Section 25] is intended to be codified as an
 25 integral part of Title 33, chapter 23, part 1, and the

1 provisions of Title 33, chapter 23, part 1, apply to
 2 [section 25].

3 (3) [Section 26] is intended to be codified as an
 4 integral part of Title 33, chapter 24, part 1, and the
 5 provisions of Title 33, chapter 24, part 1, apply to
 6 [section 26].

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

1 SENATE BILL NO. 16

2 INTRODUCED BY GAGE

3 BY REQUEST OF THE STATE AUDITOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO THE REGULATION OF INSURERS AND MOTOR CLUB
7 SERVICE COMPANIES; DIRECTING THE CODE COMMISSIONER TO CHANGE
8 ANY REFERENCE TO THE TERM "SOLICITOR" TO "INSURANCE
9 PRODUCER" WHEREVER IT APPEARS IN THE MONTANA CODE ANNOTATED;
10 AND AMENDING SECTIONS 33-1-704, 33-1-711, 33-2-705,
11 33-2-708, 33-2-709, 33-3-401, 33-3-431, 33-7-406, 33-17-102,
12 33-17-208, 33-17-603, 33-20-303, 33-20-305, 33-22-502,
13 33-22-921, 33-22-923, 33-22-924, 33-22-1501, 33-22-1504,
14 33-22-1511, 33-22-1512, 33-22-1513, 33-22-1514, 33-22-1515,
15 33-22-1516, 33-22-1521, ~~33-22-1704~~, 33-23-302, 61-12-303,
16 61-12-304, AND 61-12-305, MCA; AND REPEALING SECTION
17 33-22-1522, MCA."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 33-1-711, MCA, is amended to read:

21 **"33-1-711. Appeals from the commissioner.** (1) An appeal
22 from the commissioner may be taken only from an order on
23 hearing or with respect to a matter as to which the
24 commissioner has refused a hearing. Any person who was a
25 party to the hearing or whose pecuniary interests are

1 directly and immediately affected by any order or refusal
2 and who is aggrieved by an order or refusal may, within 30
3 days after the order has been mailed or delivered to the
4 persons entitled to receive the same, the commissioner's
5 order denying rehearing or reargument has been so mailed or
6 delivered, or the commissioner's refusal to grant a hearing,
7 appeal from the order on hearing or the refusal of a
8 hearing. Any request for a stay of the commissioner's order
9 must be made within 60 days, to run concurrently with the 30
10 days for appeal. The appeal must be taken to the district
11 court of Lewis and Clark County by filing written notice of
12 appeal in the court and by filing a copy of the notice with
13 the commissioner, except that in appeals from the suspension
14 or revocation of the certificate of authority of a domestic
15 insurer or of the license of an insurance producer or
16 surplus lines insurance producer, the person taking the
17 appeal may at his option, in lieu of the district court of
18 Lewis and Clark County, take the appeal to the district
19 court of the county of Montana in which the insurer has its
20 principal place of business or the licensee resides.

21 (2) Upon filing of the notice of appeal, the court has
22 full jurisdiction and shall determine whether the filing
23 operates as a stay of the order or action appealed from.

24 (3) Within 20 days after filing of the copy of the
25 notice of appeal in his office, the commissioner shall make

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1 and return to the court in which the appeal is pending a
 2 copy of his order appealed from and a full and complete
 3 transcript, duly certified by the commissioner, of his
 4 record of the hearing upon which the order was issued,
 5 together with all exhibits and documentary evidence
 6 introduced at the hearing. If the appeal is from an action
 7 of the commissioner with respect to which a hearing was
 8 refused, the commissioner shall, within the 20-day period,
 9 make and return to the court a full and complete transcript,
 10 duly certified by him, of all documents on file in his
 11 office directly relating to the matter as to which the
 12 appeal is taken.

13 (4) Upon receipt of the transcripts and evidence, the
 14 court shall hear the matter *de-novo* as soon as reasonably
 15 possible thereafter. Upon the hearing of the appeal, the
 16 court shall consider the evidence contained in the
 17 transcript, exhibits, and documents filed by the
 18 commissioner, together with additional proper evidence as
 19 may be offered by any party to the appeal.

20 (5) After hearing the appeal, the court may affirm,
 21 modify, or reverse the order or action of the commissioner,
 22 in whole or in part, or remand the action to the
 23 commissioner for further proceedings in accordance with the
 24 court's direction.

25 (6) Costs must be awarded as in civil actions.

1 (7) Appeal may be taken to the supreme court from the
 2 judgment of the district court as in other civil cases to
 3 which the state is a party. A stay of the effectiveness of
 4 any judgment may be made only by order of the supreme court
 5 upon the giving of security as that court considers proper.

6 (8) This section does not apply to appeals as to
 7 matters covered by chapter 16."

8 **Section 2.** Section 33-2-705, MCA, is amended to read:

9 **"33-2-705. Report on premiums and other consideration**
 10 **-- tax.** (1) Each authorized insurer and each formerly
 11 authorized insurer with respect to premiums so received
 12 while an authorized insurer in this state shall file with
 13 the commissioner, on or before March 1 each year, a report
 14 in form as prescribed by the commissioner showing total
 15 direct premium income, including policy, membership, and
 16 other fees, premiums paid by application of dividends,
 17 refunds, savings, savings coupons, and similar returns or
 18 credits to payment of premiums for new or additional or
 19 extended or renewed insurance, charges for payment of
 20 premium in installments, and all other consideration for
 21 insurance from all kinds and classes of insurance, whether
 22 designated as a premium or otherwise, received by it a life
 23 insurer or written by an insurer other than a life insurer
 24 during the preceding calendar year on account of policies
 25 covering property, subjects, or risks located, resident, or

1 to be performed in Montana, with proper proportionate
 2 allocation of premium as to such property, subjects, or
 3 risks in Montana insured under policies or contracts
 4 covering property, subjects, or risks located or resident in
 5 more than one state, after deducting from such total direct
 6 premium income applicable cancellations, returned premiums,
 7 the unabsorbed portion of any deposit premium, the amount of
 8 reduction in or refund of premiums allowed to industrial
 9 life policyholders for payment of premiums direct to an
 10 office of the insurer, all policy dividends, refunds,
 11 savings, savings coupons, and other similar returns paid or
 12 credited to policyholders with respect to such policies. As
 13 to title insurance, "premium" includes the total charge for
 14 such insurance. No deduction shall be made of the cash
 15 surrender values of policies. Considerations received on
 16 annuity contracts shall not be included in total direct
 17 premium income and shall not be subject to tax.

18 (2) Coincident with the filing of the tax report
 19 referred to in subsection (1) above, each such insurer shall
 20 pay to the commissioner a tax upon such net premiums
 21 computed at the rate of 2 3/4%.

22 (3) That portion of the tax paid hereunder by an
 23 insurer on account of premiums received for fire insurance
 24 shall be separately specified in the report as required by
 25 the commissioner, for apportionment as provided by law.

1 Where insurance against fire is included with insurance of
 2 property against other perils at an undivided premium, the
 3 insurer shall make such reasonable allocation from such
 4 entire premium to the fire portion of the coverage as shall
 5 be stated in such report and as may be approved or accepted
 6 by the commissioner.

7 (4) With respect to authorized insurers the premium tax
 8 provided by this section shall be payment in full and in
 9 lieu of all other demands for any and all state, county,
 10 city, district, municipal, and school taxes, licenses, fees,
 11 and excises of whatever kind or character, excepting only
 12 those prescribed by this code, taxes on real and tangible
 13 personal property located in this state, and taxes payable
 14 under 50-3-109.

15 (5) The commissioner may suspend or revoke the
 16 certificate of authority of any insurer which fails to pay
 17 its taxes as required under this section.

18 (6) In addition to the penalty provided for in
 19 subsection (5), the commissioner may impose upon an insurer
 20 who fails to pay the tax required under this section a fine
 21 of \$100 a day for each day the tax remains unpaid past the
 22 due date or 1% of the amount owed in tax, whichever is
 23 greater.

24 (7) The commissioner may by rule provide a quarterly
 25 schedule for payment of portions of the premium tax under

1 this section during the year in which such tax liability is
2 accrued."

3 **Section 3.** Section 33-2-708, MCA, is amended to read:

4 **"33-2-708. Fees and licenses.** (1) Except as provided in
5 33-17-212(2), the commissioner shall collect in advance and
6 the persons served shall pay to the commissioner the
7 following fees:

- 8 (a) certificates of authority:
 - 9 (i) for filing applications for original certificates
 - 10 of authority, articles of incorporation (except original
 - 11 articles of incorporation of domestic insurers as provided
 - 12 in subsection (1)(b)) and other charter documents, bylaws,
 - 13 financial statement, examination report, power of attorney
 - 14 to the commissioner, and all other documents and filings
 - 15 required in connection with the application and for issuance
 - 16 of an original certificate of authority, if issued:
 - 17 (A) domestic insurers \$ 600.00
 - 18 (B) foreign insurers 600.00
 - 19 (ii) annual continuation of certificate of authority
 - 20 600.00
 - 21 (iii) reinstatement of certificate of authority
 - 22 25.00
 - 23 (iv) amendment of certificate of authority 50.00
- 24 (b) articles of incorporation:
 - 25 (i) filing original articles of incorporation of a

- 1 domestic insurer, exclusive of fees required to be paid by
- 2 the corporation to the secretary of state 20.00
- 3 (ii) filing amendment of articles of incorporation,
- 4 domestic and foreign insurers, exclusive of fees required to
- 5 be paid to the secretary of state by a domestic corporation
- 6 25.00
- 7 (c) filing bylaws or amendment to bylaws where
- 8 required 10.00
- 9 (d) filing annual statement of insurer, other than as
- 10 part of application for original certificate of authority
- 11 25.00
- 12 (e) insurance producer's license:
 - 13 (i) application for original license, including
 - 14 issuance of license, if issued 15.00
 - 15 (ii) appointment of insurance producer, each insurer
 - 16 10.00
 - 17 (iii) temporary license 15.00
 - 18 (iv) amendment of license (excluding additions to
 - 19 license) or reissuance of master license 15.00
- 20 (f) nonresident insurance producer's license:
 - 21 (i) application for original license, including
 - 22 issuance of license, if issued 100.00
 - 23 (ii) appointment of insurance producer, each insurer
 - 24 10.00
 - 25 (iii) annual renewal of license 10.00

1 (iv) amendment of license (excluding additions to
2 license) or reissuance of master license 10.00
3 (g) examination, if administered by the commissioner,
4 for license as insurance producer, each examination
5 15.00
6 (h) surplus lines insurance producer license:
7 (i) application for original license and for issuance
8 of license, if issued 50.00
9 (ii) annual renewal of license 50.00
10 (i) adjuster's license:
11 (i) application for original license and for issuance
12 of license, if issued 15.00
13 (ii) annual renewal of license 15.00
14 (j) insurance vending machine license, each machine,
15 each year 10.00
16 (k) commissioner's certificate under seal (except when
17 on certificates of authority or licenses) 10.00
18 (l) copies of documents on file in the commissioner's
19 office, per page50
20 (m) policy forms:
21 (i) filing each policy form 25.00
22 (ii) filing each application, rider, endorsement,
23 amendment, insert page, schedule of rates, and clarification
24 of risks 10.00
25 (iii) maximum charge if policy and all forms submitted

1 at one time or resubmitted for approval within 180 days
2 100.00
3 (n) applications for approval of prelicensing education
4 courses:
5 (i) reviewing initial application 150.00
6 (ii) periodic review 50.00
7 (2) The commissioner shall promptly deposit with the
8 state treasurer to the credit of the general fund of this
9 state all fines and penalties, those amounts received
10 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees
11 and examination and miscellaneous charges that are collected
12 by him pursuant to Title 33 and the rules adopted under
13 Title 33.
14 (3) All fees are considered fully earned when received.
15 In the event of overpayment, only those amounts in excess of
16 \$10 will be refunded."
17 **Section 4.** Section 33-2-709, MCA, is amended to read:
18 **"33-2-709. Retaliatory fees, taxes, and other**
19 **obligations.** (1) When by or pursuant to the laws of any
20 other state or foreign country any taxes, licenses, and
21 other fees, in the aggregate, and any fines, penalties,
22 deposit requirements, or other material obligations,
23 prohibitions, or restrictions are or would be imposed upon
24 Montana insurers or upon the insurance producers or
25 representatives of such insurers which are in excess of such

1 taxes, licenses, and other fees, in the aggregate, or which
 2 are in excess of the fines, penalties, deposit requirements,
 3 or other obligations, prohibitions, or restrictions directly
 4 imposed upon similar insurers or upon the insurance
 5 producers or representatives of such insurers of such other
 6 state or country under the statutes of this state, so long
 7 as such laws of such other state or country continue in
 8 force or are so applied, the same taxes, licenses, and other
 9 fees, in the aggregate, or fines, penalties, or deposit
 10 requirements or other material obligations, prohibitions, or
 11 restrictions of whatever kind shall be imposed by the
 12 commissioner upon the insurers or upon the insurance
 13 producers or representatives of such insurers of such other
 14 state or country doing business or seeking to do business in
 15 Montana. Any tax, license, or other fee or other obligation
 16 imposed by any city, county, or other political subdivision
 17 or agency of such other state or country on Montana insurers
 18 or their insurance producers or representatives shall be
 19 deemed to be imposed by such state or country within the
 20 meaning of this section.

21 (2) This section shall not apply as to any fees in
 22 conjunction with the licensing of insurance producers,
 23 personal income taxes, ad valorem taxes on real or personal
 24 property, or special purpose obligations or assessments
 25 imposed by another state or by an agency of this state other

1 than the department in connection with particular kinds of
 2 insurance other than property insurance, except that
 3 deductions from premium taxes or other taxes otherwise
 4 payable allowed on account of real estate or personal
 5 property taxes paid shall be taken into consideration by the
 6 commissioner in determining the propriety and extent of
 7 retaliatory action under this section.

8 (3) (a) For the purposes of this section the domicile
 9 of an alien insurer, other than insurers formed under the
 10 laws of Canada, shall be that state designated by the
 11 insurer in writing filed with the commissioner at time of
 12 admission to this state or within 6 months after January 1,
 13 1961, whichever date is the later, and may be any one of the
 14 following states:

15 (i) that in which the insurer was first authorized to
 16 transact insurance;

17 (ii) that in which is located the insurer's principal
 18 place of business in the United States;

19 (iii) that in which is held the larger deposit of
 20 trusteed assets of the insurer for the protection of its
 21 policyholders and creditors in the United States.

22 (b) If the insurer makes no such designation, its
 23 domicile shall be deemed to be that state in which is
 24 located its principal place of business in the United
 25 States."

1 **Section 5.** Section 33-3-401, MCA, is amended to read:

2 "33-3-401. Home office and records -- penalty for
3 unlawful removal of records or assets. (1) Every domestic
4 insurer shall have and maintain its principal place of
5 business and home office in this state and shall keep
6 therein complete records of its assets, transactions, and
7 affairs in accordance with such methods and systems as are
8 customary or suitable as to the kind or kinds of insurance
9 transacted. Records of the insurer's operations and other
10 financial records reasonably related to its insurance
11 operations for the preceding 5 years must be maintained and
12 be available to the commissioner or his duly constituted
13 examiner.

14 (2) Every domestic insurer shall have and maintain its
15 assets in this state, except as to:

16 (a) real property and personal property appurtenant
17 thereto lawfully owned by the insurer and located outside
18 this state; and

19 (b) such property of the insurer as may be customary,
20 necessary, and convenient to enable and facilitate the
21 operation of its branch offices and regional home offices
22 located outside this state as referred to in subsection (4)
23 below.

24 (3) Removal of all or a material part of the records or
25 assets of a domestic insurer from this state except pursuant

1 to a plan of merger or consolidation approved by the
2 commissioner under this code or for such reasonable purposes
3 and periods of time as may be approved by the commissioner
4 in writing in advance of such removal or concealment of such
5 records or assets or material part thereof from the
6 commissioner is prohibited. Any person who removes or
7 attempts to remove such records or assets or such material
8 part thereof from the home office or other place of business
9 or of safekeeping of the insurer in this state with the
10 intent to remove the same from this state or who conceals or
11 attempts to conceal the same from the commissioner, in
12 violation of this subsection, shall upon conviction thereof
13 be guilty of a felony punishable by a fine of not more than
14 \$10,000 or by imprisonment in the penitentiary for not more
15 than 5 years or by both such fine and imprisonment in the
16 discretion of the court. Upon any removal or attempted
17 removal of such records or assets or upon retention of such
18 records or assets or material part thereof outside this
19 state beyond the period therefor specified in the
20 commissioner's consent under which the records were so
21 removed thereat or upon concealment of or attempt to conceal
22 records or assets in violation of this section, the
23 commissioner may institute delinquency proceedings against
24 the insurer pursuant to the provisions of chapter 2, part
25 13.

1 (4) This section shall not be deemed to prohibit or
2 prevent an insurer from:

3 (a) establishing and maintaining branch offices or
4 regional home offices in other states where necessary or
5 convenient to the transaction of its business and keeping
6 therein the detailed records and assets customary and
7 necessary for the servicing of its insurance in force and
8 affairs in the territory served by such an office, as long
9 as such records and assets are made readily available at
10 such office for examination by the commissioner at his
11 request;

12 (b) having, depositing, or transmitting funds and
13 assets of the insurer in or to jurisdictions outside of this
14 state as reasonably and customarily required in the regular
15 course of its business;

16 (c) making deposits under custodial arrangements as
17 provided by 33-2-604(3)."

18 **Section 6.** Section 33-3-431, MCA, is amended to read:

19 **"33-3-431. Borrowed surplus.** (1) A domestic stock or
20 mutual insurer may borrow money to defray the expenses of
21 its organization, provide it with surplus funds, or for any
22 purpose of its business, upon a written agreement that such
23 money is required to be repaid only out of the insurer's
24 surplus in excess of that stipulated in such agreement. The
25 agreement may provide for interest ~~not--exceeding--6%--per~~

1 annum at a rate no greater than the rate established in
2 25-9-205, which interest shall or shall not constitute a
3 liability of the insurer as to its funds other than such
4 excess of surplus, as stipulated in the agreement. No
5 commission or promotion expense shall be paid in connection
6 with any such loan.

7 (2) Money so borrowed, together with the interest
8 thereon if so stipulated in the agreement, shall not form a
9 part of the insurer's legal liabilities except as to its
10 surplus in excess of the amount thereof stipulated in the
11 agreement or be the basis of any setoff; but until repaid,
12 financial statements filed or published by the insurer shall
13 show as a footnote thereto the amount thereof then unpaid
14 together with any interest thereon accrued but unpaid.

15 (3) Any such loan to a mutual insurer shall be subject
16 to the commissioner's approval. The insurer shall, in
17 advance of the loan, file with the commissioner a statement
18 of the purpose of the loan and a copy of the proposed loan
19 agreement. The loan and agreement shall be deemed approved
20 unless within 15 days after date of such filing the insurer
21 is notified of the commissioner's disapproval and the
22 reasons therefor. The commissioner shall disapprove any
23 proposed loan or agreement if he finds the loan is
24 unnecessary or excessive for the purpose intended or that
25 the terms of the loan agreement are not fair and equitable

1 to the parties, and to other similar lenders, if any, to the
2 insurer, or that the information so filed by the insurer is
3 inadequate.

4 (4) Any such loan to a mutual insurer or substantial
5 portion thereof shall be repaid by the insurer when no
6 longer reasonably necessary for the purpose originally
7 intended. No repayment of such loan shall be made by a
8 mutual insurer unless in advance approved by the
9 commissioner.

10 (5) This section shall not apply to loans obtained by
11 the insurer in ordinary course of business from banks and
12 other financial institutions or to loans secured by pledge
13 or mortgage of assets."

14 **Section 7.** Section 33-7-406, MCA, is amended to read:

15 ~~"33-7-406. Annual statement -- penalty for failure to~~
16 ~~file or--to-comply. A-society-neglecting-to-file-the-annual~~
17 ~~statement-in-the-form-and-within-the-time-provided--in--this~~
18 ~~part-shall-forfeit~~ The commissioner may impose a fine upon a
19 society not to exceed \$100 for each day during which such
20 neglect-continues, and upon notice by the commissioner to
21 that effect, its authority to do business in this state
22 shall cease while such default continues after March 1 that
23 a society fails to file the annual statement required by
24 33-7-404. The fine may not exceed \$1,000."

25 **Section 8.** Section 33-17-208, MCA, is amended to read:

1 **"33-17-208. Prelicensing education -- basic**
2 **requirement.** (1) (a) A person applying for a license to act
3 as an insurance producer for property, casualty, and surety
4 insurance shall complete 40 hours of approved prelicensing
5 education courses in those areas of insurance within 12
6 months prior to the examination, unless he is exempted from
7 the requirement under subsection (3).

8 (b) A person applying for a license to act as an
9 insurance producer for life and disability insurance or as
10 an enrollment representative for a health service
11 corporation shall complete 40 hours of approved prelicensing
12 education courses in those areas of insurance within 12
13 months prior to the examination, unless he is exempted from
14 the requirement under subsection (3).

15 (2) A person applying for licenses to act as an
16 insurance producer for both the property, casualty, and
17 surety areas and the life and or disability areas must meet
18 the education requirements in all the areas of insurance.

19 (3) The minimum prelicensing education requirement does
20 not apply to a person who:

21 (a) has been licensed within the 12 preceding months as
22 an insurance producer in another state that requires
23 prelicensing education and has completed the education in
24 the other state;

25 (b) seeks a nonresident license, having been licensed

1 as an insurance provider in his state of residence for at
2 least 1 year;

3 (c) seeks a nonresident license and is from a state
4 having a prelicensing education requirement;

5 (d) seeks to reinstate a license lapsed for less than 2
6 years;

7 (e) seeks a temporary license under 33-17-216; or

8 (f) is exempt from examination requirements under
9 33-17-212~~(5)~~(7)."

10 **Section 9.** Section 33-17-603, MCA, is amended to read:

11 "33-17-603. Certificate of registration. (1) Except as
12 provided in 33-17-604, a person may not act as or hold
13 himself out to be an administrator in this state unless he
14 holds a certificate of registration as an administrator.

15 (2) An application for a certificate of registration
16 must be accompanied by a fee of \$100. The commissioner shall
17 issue the certificate unless he finds that the applicant is
18 not competent, trustworthy, financially responsible, or of
19 good personal and business reputation or that the applicant
20 has had a previous application for a license denied for
21 cause within 5 years.

22 (3) The certificate of registration is renewable
23 annually on the date of issue July 1. A request for renewal
24 must be accompanied by a renewal fee of \$100.

25 (4) The certificate of registration may be suspended or

1 revoked if, after notice and hearing, the commissioner finds
2 that the administrator has violated any of the requirements
3 of this part or that the administrator is not competent,
4 trustworthy, financially responsible, or of good personal
5 and business reputation.

6 (5) Unless the certification requirement is waived, a
7 person who acts as an administrator without a certificate of
8 registration is subject to a fine of not less than \$500 or
9 more than \$1,500."

10 **Section 10.** Section 33-20-303, MCA, is amended to read:

11 "33-20-303. Incontestability. If any statements other
12 than those relating to age~~7~~-sex~~7~~ and identity are required
13 as a condition to issuing an annuity or pure endowment
14 contract, other than a reversionary, survivorship, or group
15 annuity, and subject to 33-20-305, there shall be a
16 provision that the contract shall be incontestable after it
17 has been in force during the lifetime of the person or of
18 each of the persons as to whom such statements are required,
19 for a period of 2 years from its date of issue, except for
20 nonpayment of stipulated payments to the insurer; and at the
21 option of the insurer such contract may also except any
22 provisions relative to benefits in the event of disability
23 and any provisions which grant insurance specifically
24 against death by accident or accidental means."

25 **Section 11.** Section 33-20-305, MCA, is amended to read:

1 **"33-20-305. Misstatement of age or-sex.** In an annuity
 2 or pure endowment contract, other than a reversionary,
 3 survivorship, or group annuity, there shall be a provision
 4 that if the age or-sex of the person or persons upon whose
 5 life or lives the contract is made, or of any of them, has
 6 been misstated, the amount payable or benefits accruing
 7 under the contract shall be such as the stipulated payment
 8 or payments to the insurer would have purchased according to
 9 the correct age or-sex and that if the insurer shall make or
 10 has made any overpayment or overpayments on account of any
 11 such misstatement, the amount thereof, with interest at the
 12 rate to be specified in the contract but not exceeding 6%
 13 per annum, may be charged against the current or next
 14 succeeding payment or payments to be made by the insurer
 15 under the contract."

16 **Section 12.** Section 33-22-502, MCA, is amended to read:

17 **"33-22-502. Required provisions of group policies.** Each
 18 ~~such~~ group disability insurance policy ~~shall~~ delivered or
 19 issued for delivery in this state must contain in substance
 20 the following provisions:

21 (1) a provision that, in the absence of fraud, all
 22 statements made by applicants or the policyholder or by an
 23 insured person shall be deemed representations and not
 24 warranties and that no statement made for the purpose of
 25 effecting insurance shall avoid such insurance or reduce

1 benefits unless contained in a written instrument signed by
 2 the policyholder or the insured person, a copy of which has
 3 been furnished to such policyholder or to such person or his
 4 beneficiary;

5 (2) a provision that the insurer will furnish to the
 6 policyholder for delivery to each employee or member of the
 7 insured group a statement in summary form of the essential
 8 features of the insurance coverage of such employee or
 9 member and to whom benefits thereunder are payable. If
 10 dependents are included in the coverage, only one
 11 certificate need be issued for each family unit.

12 (3) a provision that to the group originally insured
 13 may be added from time to time eligible new employees or
 14 members or dependents, as the case may be, in accordance
 15 with the terms of the policy.

16 (4) a provision OR THE EQUIVALENT THERETO that reads:

17 Conformity with state statutes. A provision of this
 18 policy that on its effective date conflicts with the
 19 statutes of the state in which the insured resides on that
 20 date is hereby amended to conform to the minimum
 21 requirements of those statutes."

22 **Section 13.** Section 33-22-921, MCA, is amended to read:

23 **"33-22-921. Discontinuance or nonrenewal -- alternate**
 24 **policy or certificate -- same insurer.** (1) If a disability
 25 insurer discontinues or does not renew a medicare supplement

1 policy product or certificate and offers an alternate
 2 medicare supplement policy or certificate to its insureds
 3 within this state, it may not deny benefits under the
 4 replacing policy or certificate to an insured who receives
 5 treatment for a condition that was a covered expense under
 6 the replaced policy or certificate and is a covered expense
 7 under the replacing policy or certificate if the insured
 8 enrolls in and pays the premium for the replacing policy or
 9 certificate within 31 days after the termination of the
 10 replaced policy or certificate.

11 (2) A disability insurer who discontinues or does not
 12 renew a medicare supplement policy product or certificate
 13 and offers an alternate medicare supplement policy or
 14 certificate shall base its premium for the alternate policy
 15 or certificate on the rates currently in place for that
 16 policy or certificate.

17 (3) If the insured has not satisfied the preexisting
 18 condition limitation under the replaced medicare supplement
 19 policy or certificate, any period of time that was covered
 20 by that policy or certificate must be credited toward the
 21 preexisting condition limitation period of the replacing
 22 policy or certificate."

23 **Section 14.** Section 33-22-923, MCA, is amended to read:

24 "33-22-923. Replacement policy or certificate --
 25 different insurer. (1) If a disability insurer replaces a

1 medicare supplement policy or certificate, it may not deny
 2 benefits under the replacing policy or certificate to an
 3 insured who receives treatment for a condition that was a
 4 covered expense under the replaced policy or certificate and
 5 is a covered expense under the replacing policy or
 6 certificate if the insured pays the premium for the
 7 replacing policy or certificate when due or within 31 days
 8 after the termination of the replaced policy or certificate.

9 (2) An insurer who replaces a medicare supplement
 10 policy or certificate shall base its premium for the
 11 replacement policy or certificate on the rates currently in
 12 place for that policy or certificate.

13 (3) If the insured has not satisfied the preexisting
 14 condition limitation under the replaced medicare supplement
 15 policy or certificate, any period of time that was covered
 16 by that policy or certificate must be credited toward the
 17 preexisting condition limitation period of the replacing
 18 policy or certificate.

19 (4) To receive the benefits of subsections (1) through
 20 (3), a person shall submit to the replacing insurer proof of
 21 prior coverage, evidence of benefits provided under the
 22 previous policy or certificate, and the effective date and
 23 the date of termination of coverage under the previous
 24 policy or certificate."

25 **Section 15.** Section 33-22-924, MCA, is amended to read:

1 "33-22-924. Renewal requirement. (1) If a person pays a
2 renewal premium on the date it is due or within 31 days
3 after it is due, an insurer may not refuse to renew a
4 medicare supplement policy or certificate unless the
5 insurer:

6 (a) refuses to renew all policies or certificates in
7 this state that are of the same form and issued to persons
8 of the same class; and

9 (b) offers a replacement policy or certificate at
10 actuarially justified rates.

11 (2) If an insurer refuses to renew all policies or
12 certificates in this state that are of the same form and
13 issued to persons of the same class, the policies or
14 certificates will remain in force during the grace period
15 stated in the replaced policy or certificate. An insurer's
16 refusal to renew a policy or certificate may not affect a
17 claim that arose under the replaced discontinued policy or
18 certificate during the period in which an insured was
19 confined without interruption to a medical care facility for
20 treatment."

21 **Section 16.** Section 33-22-1501, MCA, is amended to
22 read:

23 "33-22-1501. Definitions. As used in this part, the
24 following definitions apply:

25 (1) "Association" means the comprehensive health

1 association created by 33-22-1503.

2 (2) "Association plan" means a policy of insurance
3 coverage offered by the association ~~through-the-lead-carrier~~
4 THAT IS CERTIFIED BY THE ASSOCIATION AS REQUIRED BY
5 33-22-1521.

6 (3) "Association plan premium" means the charge
7 determined pursuant to 33-22-1512 for membership in the
8 association plan based on the benefits provided in
9 33-22-1521.

10 (4) "Eligible person" means an individual who:

11 (a) is a resident of this state and applies for
12 coverage under the association plan; and

13 (b) unless the individual's eligibility is waived by
14 the association, within 6 months prior to the date of
15 application, has been rejected for disability insurance or
16 health service benefits by at least two insurers, societies,
17 or health service corporations, or has had a restrictive
18 rider or preexisting conditions limitation, which limitation
19 is required by at least two insurers, societies, or health
20 service corporations, which has the effect of substantially
21 reducing coverage from that received by a person considered
22 a standard risk.

23 (5) "Health service corporation" means a corporation
24 operating pursuant to Title 33, chapter 30, and offering or
25 selling contracts of disability insurance.

1 (6) "Insurance arrangement" means any plan, program,
2 contract, or other arrangement to the extent not exempt from
3 inclusion by virtue of the provisions of the federal
4 Employee Retirement Income Security Act of 1974 under which
5 one or more employers, unions, or other organizations
6 provide to their employees or members, either directly or
7 indirectly through a trust of a third-party administrator,
8 health care services or benefits other than through an
9 insurer.

10 (7) "Insurer" means a company operating pursuant to
11 Title 33, chapter 2 or 3, and offering or selling policies
12 or contracts of disability insurance, as provided in Title
13 33, chapter 22.

14 (8) "Lead carrier" means the licensed administrator or
15 insurer selected by the association to administer the
16 association plan.

17 (9) "Preexisting condition" means any condition for
18 which an applicant for coverage under the association plan
19 has received medical attention during the 5 years
20 immediately preceding the filing of an application.

21 ~~{10}-"Qualified--plan"--means--those--health--benefit--plans~~
22 ~~certified--by--the--commissioner--as--providing--the--minimum~~
23 ~~benefits--required--by--33-22-1521--or--the--actuarial--equivalent~~
24 ~~of--those--benefits-~~

25 ~~{11}~~(10) "Society" means a fraternal benefit society

1 operating pursuant to Title 33, chapter 7, and offering or
2 selling certificates of disability insurance."

3 **Section 17.** Section 33-22-1504, MCA, is amended to
4 read:

5 "33-22-1504. Association board of directors --
6 organization. (1) There is a board of directors of the
7 association, consisting of eight individuals:

8 (a) one from each of the seven participating members of
9 the association with the highest annual premium volume of
10 disability insurance contracts or health service corporation
11 contracts, derived from or on behalf of residents in the
12 previous calendar year, as determined by the commissioner;
13 and

14 (b) a member at large, appointed by the commissioner to
15 represent the public interest, who shall serve in an
16 advisory capacity only.

17 (2) Each of the seven board members representing the
18 association members is entitled to a weighted average vote,
19 in person or by proxy, based on the association member's
20 annual Montana premium volume. However, a board member may
21 not have more than 50% of the vote.

22 (3) Members of the board may be reimbursed from the
23 money of the association for expenses incurred by them due
24 to their service as board members but may not otherwise be
25 compensated by the association for their services. The costs

1 of conducting the meetings of the association and its board
2 of directors must be borne by participating members of the
3 association in accordance with 33-22-1513."

4 **Section 18.** Section 33-22-1513, MCA, is amended to
5 read:

6 "33-22-1513. Operation of association plan. (1) Upon
7 acceptance by the lead carrier under 33-22-1516, an eligible
8 person may enroll in the association plan by payment of the
9 association plan premium to the lead carrier.

10 (2) Not less than 88% of the association plan premiums
11 paid to the lead carrier may be used to pay claims and not
12 more than 12% may be used for payment of the lead carrier's
13 direct and indirect expenses as specified in 33-22-1514.

14 (3) Any income in excess of the costs incurred by the
15 association in providing reinsurance or administrative
16 services must be held at interest and used by the
17 association to offset past and future losses due to claims
18 expenses of the association plan or be allocated to reduce
19 association plan premiums.

20 (4) (a) Each participating member of the association
21 shall share the losses due to claims expenses of the
22 association plan for plans issued or approved for issuance
23 by the association and shall share in the operating and
24 administrative expenses incurred or estimated to be incurred
25 by the association incident to the conduct of its affairs.

1 Claims expenses of the association plan that exceed the
2 premium payments allocated to the payment of benefits are
3 the liability of the association members. Association
4 members shall share in the claims expenses of the
5 association plan and operating and administrative expenses
6 of the association in an amount equal to the ratio of:

7 (a)(i) the association member's total disability
8 insurance premium received from or on behalf of Montana
9 residents divided by;

10 (b)(ii) the total disability premium received by all
11 association members from or on behalf of Montana residents,
12 as determined by the commissioner.

13 (b) For purposes of this subsection (4), "total
14 disability insurance premium" does not include premiums
15 received from disability income insurance, credit disability
16 insurance, disability waiver insurance, or life insurance.

17 (5) The association shall make an annual determination
18 of each association member's liability, if any, and may make
19 an annual fiscal yearend assessment if necessary. The
20 association may also, subject to the approval of the
21 commissioner, provide for interim assessments against the
22 association members as may be necessary to assure the
23 financial capability of the association in meeting the
24 incurred or estimated claims expenses of the association
25 plan and operating and administrative expenses of the

1 association until the association's next annual fiscal
 2 yearend assessment. Payment of an assessment is due within
 3 30 days of receipt by an association member of a written
 4 notice of a fiscal yearend or interim assessment. Failure by
 5 a contributing member to tender to the association the
 6 assessment within 30 days is grounds for termination of
 7 membership. An association member that ceases to do
 8 disability insurance business within the state remains
 9 liable for assessments through the calendar year during
 10 which disability insurance business ceased. The association
 11 may decline to levy an assessment against an association
 12 member if the assessment, as determined pursuant to this
 13 section, would not exceed \$10.

14 (6) Any annual fiscal yearend or interim assessment
 15 levied against an association member may be offset, in an
 16 amount equal to the assessment paid to the association,
 17 against the premium tax payable by that association member
 18 pursuant to 33-2-705 for the year in which the annual fiscal
 19 yearend or interim assessment is levied. The insurance
 20 commissioner shall, each year the legislature meets in
 21 regular session, on or before January 15, report to the
 22 legislature the total amount of premium tax offset claimed
 23 by association members during the preceding biennium."

24 ~~Section 19. Section 33-22-1704, MCA, is amended to~~
 25 read:

1 ~~33-22-1704. Preferred provider agreements authorized;~~
 2 ~~{1} Notwithstanding any other provision of law to the~~
 3 ~~contrary, a health care insurer may:~~
 4 ~~{a} enter into agreements with providers relating to~~
 5 ~~health care services that may be rendered to insureds or~~
 6 ~~subscribers on whose behalf the health care insurer is~~
 7 ~~providing health care coverage, including preferred provider~~
 8 ~~agreements relating to:~~
 9 ~~{i} the amounts an insured may be charged for services~~
 10 ~~rendered; and~~
 11 ~~{ii} the amount and manner of payment to the provider;~~
 12 ~~and~~
 13 ~~{b} issue or administer policies or subscriber~~
 14 ~~contracts in this state that include incentives for the~~
 15 ~~insured to use the services of a provider that has entered~~
 16 ~~into an agreement with the insurer pursuant to subsection~~
 17 ~~{1}{a};~~
 18 ~~{2} A preferred provider agreement issued or delivered~~
 19 ~~in this state may not unfairly deny health benefits for~~
 20 ~~health care services covered;~~
 21 ~~{3} This part does not require that an insurer~~
 22 ~~negotiate or enter into agreements with any specific~~
 23 ~~provider or class of providers. Health care insurers may~~
 24 ~~place reasonable limits on the number or classes of~~
 25 ~~preferred providers that satisfy the standards set forth by~~

~~the health care insurer. However, insurers may not discriminate against providers on the basis of religion, race, color, national origin, age, sex, or marital status and shall select preferred providers primarily on but not limited to cost and availability of covered services and the quality of services performed by the providers.*~~

Section 19. Section 33-23-302, MCA, is amended to read:

*33-23-302. Cancellation or alteration of policy -- increase of premium rates -- sixty days' written notice required. Any insurer who insures a physician and surgeon, dentist, registered nurse, nursing home administrator, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, pharmacist, optometrist, or veterinarian, duly licensed as--such under the laws of this state, or a licensed hospital or long-term care facility as the employer of any such person against liability for error, omission, professional negligence, or performance of services without consent ~~shall~~ may not cancel or alter the policy ~~so~~ insuring such the person or increase the premium rates thereon without first providing the insured 60 days' written notice of the insurer's intention to cancel or alter the policy or increase the premium rates."

Section 20. Section 61-12-303, MCA, is amended to read:

*61-12-303. Requirements for license. (1) No-license

~~shall be issued by the~~ The commissioner may not issue a license to a company until the company has filed with him the following:

(a) a formal application in such form and detail as the commissioner may require, executed under oath by its president or other principal officer;

(b) a copy of the form of its contract;

(c) a certified copy of its charter or articles of incorporation and its bylaws, if any;

(d) a financial statement in such form and detail as the commissioner may require, executed on oath by its president or other principal officer;

(e) a certificate from the ~~state-treasurer~~ commissioner that it has complied with 61-12-304 in all cases where a deposit of cash or a bond is required by this part;

(f) a certificate from the corporation commissioner of the state of Montana, in the event it be a corporation, that it has complied with the corporation laws of said state.

(2) ~~No-license shall be issued by the~~ The commissioner may not issue a license to a company until the company has paid to the commissioner \$100 as an annual license fee, or the pro rata portion thereof necessary to be paid to the end of the current calendar year from the date of the application for such the license.

(3) ~~No-license shall be issued by the~~ The commissioner

1 may not issue a license TO A COMPANY until the company has
 2 satisfied him by such an examination as he may make and such
 3 evidence as he the commissioner may require, in his
 4 discretion, that such the company has complied with the laws
 5 of the state of Montana and that its management is
 6 trustworthy and competent."

7 **Section 21.** Section 61-12-304, MCA, is amended to read:

8 "61-12-304. Deposits required. No license shall be
 9 granted The commissioner may not grant a license to a
 10 company as herein defined except as hereinafter stated until
 11 it has deposited with the state treasurer commissioner the
 12 sum of \$25,000 in cash or in lieu thereof a bond in a form
 13 prescribed by the commissioner payable to the state of
 14 Montana in the sum of \$25,000, with surety approved by the
 15 commissioner, conditioned upon the faithful performance of
 16 its service contracts and payment of any fines or penalties
 17 levied against it for failure to comply with this part;
 18 provided, however, that. However, when any company, as
 19 herein defined, shall prove proves to the commissioner that
 20 it has been in continuous, active operation in the state for
 21 a period of more than the preceding 5 years immediately last
 22 past and has a paid membership of more than 5,000 members
 23 within the state or that there are more than 5,000 holders
 24 of its service contracts within the state and that it is
 25 being properly managed, is rendering to its members the

1 services promised to them, and is financially responsible,
 2 no such THE COMMISSIONER MAY NOT REQUIRE a cash deposit or
 3 bond shall be is not required while such the company remains
 4 in such that condition. The foregoing cash deposit or bond
 5 is not required in any instance as a penalty, but is for the
 6 protection of the public only."

7 **Section 22.** Section 61-12-305, MCA, is amended to read:

8 "61-12-305. Expiration Continuance of license. Every
 9 Subject to payment by January 1 of each year of the annual
 10 license fee required under 61-12-303, each license issued
 11 hereunder shall expire annually on January 1 of each year
 12 unless sooner continues in force as long as the company is
 13 entitled to the license under this part or until the license
 14 is revoked, or suspended, as hereinafter provided or
 15 otherwise terminated."

16 NEW SECTION. Section 23. Policy provisions --
 17 conformity with state statutes. Each policy regulated by
 18 this part must contain a provision OR THE EQUIVALENT THERETO
 19 as follows:

20 Conformity with state statutes. A provision of this
 21 policy that on its effective date conflicts with the
 22 statutes of the state in which the insured resides on that
 23 date is hereby amended to conform to the minimum
 24 requirements of those statutes.

25 NEW SECTION. Section 24. Casualty insurance policy --

1 conformity with state statutes. A casualty insurance policy
 2 relative to a risk resident, located, or to be performed in
 3 this state must contain a provision OR THE EQUIVALENT
 4 THERE TO as follows:

5 Conformity with state statutes. A provision of this
 6 policy that on its effective date conflicts with the
 7 statutes of the state in which the insured resides on that
 8 date is hereby amended to conform to the minimum
 9 requirements of those statutes.

10 NEW SECTION. Section 25. Property insurance policy --
 11 conformity with state statutes. A property insurance policy
 12 relative to a risk resident, located, or to be performed in
 13 this state must contain a provision OR THE EQUIVALENT
 14 THERE TO as follows:

15 Conformity with state statutes. A provision of this
 16 policy that on its effective date conflicts with the
 17 statutes of the state in which the insured resides on that
 18 date is hereby amended to conform to the minimum
 19 requirements of those statutes.

20 SECTION 26. SECTION 33-17-102, MCA, IS AMENDED TO READ:

21 "33-17-102. Definitions. As used in this title, the
 22 following definitions apply:

23 (1) "Adjuster" means a person who, on behalf of the
 24 insurer, for compensation as an independent contractor or as
 25 the employee of an independent contractor or for fee or

1 commission investigates and negotiates settlement of claims
 2 arising under insurance contracts or otherwise acts on
 3 behalf of the insurer. The term does not include a:

4 (a) licensed attorney who is qualified to practice law
 5 in this state;

6 (b) salaried employee of an insurer or of a managing
 7 general agent; or

8 (c) licensed insurance producer who adjusts or assists
 9 in adjustment of losses arising under policies issued by the
 10 insurer.

11 (2) "Adjuster license" means a document issued by the
 12 commissioner that authorizes a person to act as an adjuster.

13 (3) (a) "Administrator" means a person who collects
 14 charges or premiums from residents of this state in
 15 connection with life, disability, property, or casualty
 16 insurance or annuities or who adjusts or settles claims on
 17 such coverage.

18 (b) The term does not mean:

19 (i) an employer on behalf of its employees or on behalf
 20 of the employees of one or more subsidiaries of affiliated
 21 corporations of the employer;

22 (ii) a union on behalf of its members;

23 (iii) (A) an insurer that is either authorized in this
 24 state or acting as an insurer with respect to a policy
 25 lawfully issued and delivered by it in and pursuant to the

1 laws of a state in which the insurer is authorized to
2 transact insurance; or

3 (B) a health service corporation as defined in
4 33-30-101;

5 (iv) a life, disability, property, or casualty insurance
6 producer who is licensed in this state and whose activities
7 are limited exclusively to the sale of insurance;

8 (v) a creditor on behalf of its debtors with respect to
9 insurance covering a debt between the creditor and its
10 debtors;

11 (vi) a trust established in conformity with 29 U.S.C.
12 186 or the trustees, agents, and employees of the trust;

13 (vii) a trust exempt from taxation under section 501(a)
14 of the Internal Revenue Code or the trustees and employees
15 of the trust;

16 (viii) a custodian acting pursuant to a custodian
17 account that meets the requirements of section 401(f) of the
18 Internal Revenue Code or the agents and employees of the
19 custodian;

20 (ix) a bank, credit union, or other financial
21 institution that is subject to supervision or examination by
22 federal or state banking authorities;

23 (x) a company that issues credit cards and that
24 advances for and collects premiums or charges from its
25 credit card holders who have authorized it to do so, if the

1 company does not adjust or settle claims; or

2 (xi) a person who adjusts or settles claims in the
3 normal course of his practice or employment as an attorney
4 and who does not collect charges or premiums in connection
5 with life or disability insurance or annuities.

6 (4) "Administrator license" means a document issued by
7 the commissioner that authorizes a person to act as an
8 administrator.

9 (5) "Consultant" means a person who for a fee examines,
10 appraises, reviews, or evaluates an insurance policy,
11 annuity, or pension contract, plan, or program or who makes
12 recommendations or gives advice on an insurance policy,
13 annuity, or pension contract, plan, or program.

14 (6) "Consultant license" means a document issued by the
15 commissioner that authorizes a person to act as an insurance
16 consultant.

17 (7) "Controlled business" means insurance procured or
18 to be procured by or through a person upon the life, person,
19 property, or risks of himself, his spouse, his employer, or
20 his business.

21 (8) "Individual" means a private or natural person, as
22 distinguished from a partnership, corporation, or
23 association.

24 (9) "Insurance producer", except as provided in
25 33-17-103:

1 (a) means:

2 (i) a person who solicits, negotiates, effects,
3 procures, delivers, renews, continues, or binds:

4 (A) policies of insurance for risks residing, located,
5 or to be performed in this state; or

6 (B) membership contracts as defined in 33-30-101;

7 (ii) a managing general agent. For purposes of this
8 definition, a "managing general agent" is a person who, on
9 behalf of an insurer, exercises general supervision over the
10 business of the insurer in this state or in any other state,
11 including the authority to contract with an insurance
12 producer for the insurer and terminate those contracts.

13 (b) does not mean a customer service representative.
14 For purposes of this definition, a "customer service
15 representative" means a salaried employee of an insurance
16 producer who assists and is responsible to the insurance
17 producer.

18 (10) "License" means a document issued by the
19 commissioner that authorizes a person to act as an insurance
20 producer for the kinds of insurance specified in the
21 document. The license itself does not create actual,
22 apparent, or inherent authority in the holder to represent
23 or commit an insurer to a binding agreement.

24 (11) "Person" means an individual, partnership,
25 corporation, association, or other legal entity.

1 (12) "Public adjuster" means an adjuster employed by and
2 representing the interests of the insured."

3 SECTION 27. SECTION 33-22-1511, MCA, IS AMENDED TO

4 READ:

5 "33-22-1511. Minimum benefits of association plan. The
6 association through the association plan shall offer a
7 policy that provides at least the benefits of a qualified
8 plan as required by 33-22-1521."

9 SECTION 28. SECTION 33-22-1512, MCA, IS AMENDED TO

10 READ:

11 "33-22-1512. Association plan premium. The association
12 shall establish the schedule of premiums to be charged
13 eligible persons for membership in the association plan. The
14 schedule of premiums may not be less than 150% or more than
15 400% of the average premium rates charged by the five
16 largest insurers with the largest premium amount of
17 individual qualified--plan plans of major medical insurance
18 in force in this state. The premium rates of the five
19 insurers used to establish the premium rates for each type
20 of coverage offered by the association must be determined by
21 the commissioner from information provided annually by all
22 insurers at the request of the commissioner. ~~The information~~
23 ~~requested--must--include--the--number--of--qualified--plans--or~~
24 ~~actuarial--equivalent--plans--offered--by--each--insurer--the~~
25 ~~rates--charged--by--the--insurer--for--each--type--of--plan--offered~~

1 ~~by the insurer, and any other information the commissioner~~
 2 ~~considers necessary.~~ The association shall utilize generally
 3 acceptable actuarial principles and structurally compatible
 4 rates."

5 **SECTION 29.** SECTION 33-22-1514, MCA, IS AMENDED TO

6 **READ:**

7 "33-22-1514. Administration of association plan --
 8 rules. ~~{1} Any member of the association may submit to the~~
 9 ~~commissioner policies to be proposed to serve as the~~
 10 ~~association plan. The commissioner shall prescribe by rule~~
 11 ~~the time and manner of the submission.~~

12 ~~{2}(1) Upon the commissioner's approval of the policy~~
 13 ~~forms and contracts submitted, the association shall select~~
 14 ~~policies and contracts by a member or members of the~~
 15 ~~association to be the association plan. The association~~
 16 shall select one lead carrier to issue the ~~qualified plans~~
 17 association plan. The board of directors of the association
 18 shall prepare appropriate specifications and bid forms and
 19 may solicit bids from licensed administrators and the
 20 members of the association for the purpose of selecting the
 21 lead carrier. The selection of the lead carrier must be
 22 based upon criteria established by the board of directors.

23 ~~{3}(2) The lead carrier shall perform all~~
 24 administrative and claims payment functions required by this
 25 section upon the commissioner's approval of the policy forms

1 and contracts submitted. The lead carrier shall provide
 2 these services for a period of at least 3 years, unless a
 3 request to terminate is approved by the association and the
 4 commissioner. The association and the commissioner shall
 5 approve or deny a request to terminate within 90 days of its
 6 receipt. A failure to make a final decision on a request to
 7 terminate within the specified period is considered an
 8 approval. The association shall invite submissions of policy
 9 forms from members of the association, including the lead
 10 carrier, 6 months prior to the expiration of each 3-year
 11 period. The association shall follow the procedure provided
 12 in subsection ~~{2}~~ (1) in selecting a lead carrier for the
 13 subsequent 3-year period or, if a request to terminate is
 14 approved, on or before the end of the 3-year period.

15 ~~{4}(3) The lead carrier shall provide all eligible~~
 16 persons involved in the association plan an individual
 17 certificate setting forth a statement as to the insurance
 18 protection to which the person is entitled, the method and
 19 place of filing claims, and to whom benefits are payable.
 20 The certificate must indicate that coverage was obtained
 21 through the association.

22 ~~{5}(4) The lead carrier shall submit to the association~~
 23 and the commissioner on a semiannual basis a report of the
 24 operation of the association plan. The association must
 25 determine the specific information to be contained in the

1 report prior to the effective date of the association plan.

2 {6}(5) The lead carrier shall pay all claims pursuant
3 to this part and shall indicate that the claim was paid by
4 the association plan. Each claim payment must include
5 information specifying the procedure involved in the event a
6 dispute over the amount of payment arises.

7 {7}(6) The lead carrier must be reimbursed from the
8 association plan premiums received for its direct and
9 indirect expenses. Direct and indirect expenses include a
10 prorated reimbursement for the portion of the lead carrier's
11 administrative, printing, claims administration, management,
12 and building overhead expenses, which are assignable to the
13 maintenance and administration of the association plan. The
14 association must approve cost accounting methods to
15 substantiate the lead carrier's cost reports consistent with
16 generally accepted accounting principles. Direct and
17 indirect expenses may not include costs directly related to
18 the original submission of policy forms prior to selection
19 as the lead carrier.

20 {8}(7) The lead carrier is, when carrying out its
21 duties under this part, an independent contractor for the
22 association and is individually liable for its actions,
23 subject to the laws of this state."

24 **SECTION 30. SECTION 33-22-1515, MCA, IS AMENDED TO**

25 READ:

1 "33-22-1515. Solicitation of eligible persons. (1) The
2 association, pursuant to a plan approved by the
3 commissioner, shall disseminate appropriate information to
4 the residents of this state regarding the existence of the
5 association plan and the means of enrollment. Means of
6 communication may include use of the press, radio, and
7 television, as well as publication in appropriate state
8 offices and publications.

9 (2) The association shall devise and implement means of
10 maintaining public awareness of this part and shall
11 administer this part in a manner which facilitates public
12 participation in the association plan.

13 (3) All licensed disability insurance producers may
14 engage in the selling or marketing of qualified the
15 association plans plan. The lead carrier shall pay an
16 insurance producer's referral fee of \$25 to each licensed
17 disability insurance producer who refers an applicant to the
18 association plan, if the applicant is accepted. The referral
19 fees must be paid to by the lead carrier from money received
20 as premiums for the association plan.

21 (4) An insurer, society, or health service corporation
22 that rejects or applies underwriting restrictions to an
23 applicant for disability insurance must notify the applicant
24 of the existence of the association plan, requirements for
25 being accepted in it, and the procedure for applying to it."

SECTION 31. SECTION 33-22-1516, MCA, IS AMENDED TO

READ:

"33-22-1516. Enrollment by eligible person. (1) The association plan must be open for enrollment by eligible persons. An eligible person may enroll in the plan by submission of a certificate of eligibility to the lead carrier. The certificate must provide:

(a) the name, address, and age of the applicant and length of the applicant's residence in this state;

(b) the name, address, and age of spouse and children, if any, if they are to be insured;

(c) written evidence that he fulfills all of the elements of an eligible person, as defined in 33-22-1501; and

(d) a designation of coverage desired.

(2) Within 30 days of receipt of the certificate, the lead carrier shall either reject the application for failing to comply with the requirements of subsection (1) or forward the eligible person a notice of acceptance and billing information. Insurance is effective on the first of the month following acceptance.

(3) An eligible person may not purchase more than one policy from the association plan.

(4) A person who obtains coverage pursuant to this section may not be covered for any preexisting condition

during the first 12 months of coverage under the association plan if the person was diagnosed or treated for that condition during the 5 years immediately preceding the filing of an application. This subsection does not apply to a person who has had continuous coverage under an individual, family, or group policy during the year immediately preceding the filing of an application and whose cancellation date was within 30 days prior to the date of submission of a certificate of eligibility to the lead carrier for nonelective procedures.

(5) A change of residence from Montana to another state immediately terminates eligibility for renewal of coverage under the association plan."

SECTION 32. SECTION 33-22-1521, MCA, IS AMENDED TO

READ:

"33-22-1521. Qualified Association plan -- minimum benefits. A plan of health coverage must be certified as a qualified association plan if it otherwise meets the requirements of Title 33, chapters 15, 22 (excepting part 7), and 30, and other laws of this state, whether or not the policy is issued in this state, and meets or exceeds the following minimum standards:

(1) The minimum benefits for an insured must, subject to the other provisions of this section, be equal to at least 80% of the covered expenses required by this section

1 in excess of an annual deductible that does not exceed
 2 \$1,000 per person. The coverage must include a limitation of
 3 \$5,000 per person on the total annual out-of-pocket expenses
 4 for services covered under this section. Coverage must be
 5 subject to a maximum lifetime benefit, but such maximums may
 6 not be less than \$100,000.

7 (2) Covered expenses must be the usual and customary
 8 charges for the following services and articles when
 9 prescribed by a physician or other licensed health care
 10 professional provided for in 33-22-111:

- 11 (a) hospital services;
- 12 (b) professional services for the diagnosis or
- 13 treatment of injuries, illness, or conditions, other than
- 14 dental;
- 15 (c) use of radium or other radioactive materials;
- 16 (d) oxygen;
- 17 (e) anesthetics;
- 18 (f) diagnostic x-rays and laboratory tests, except as
- 19 specifically provided in subsection (3);
- 20 (g) services of a physical therapist;
- 21 (h) transportation provided by licensed ambulance
- 22 service to the nearest facility qualified to treat the
- 23 condition;
- 24 (i) oral surgery for the gums and tissues of the mouth
- 25 when not performed in connection with the extraction or

1 repair of teeth or in connection with TMJ;

2 (j) rental or purchase of medical equipment, which
 3 shall be reimbursed after the deductible has been met at the
 4 rate of 50%, up to a maximum of \$1,000;

5 (k) prosthetics, other than dental; and

6 (l) services of a licensed home health agency, up to a
 7 maximum of 180 visits per year.

8 (3) (a) Covered expenses for the services or articles
 9 specified in this section do not include:

10 (i) drugs requiring a physician's prescription;

11 (ii) services of a nursing home;

12 (iii) home and office calls, except as specifically
 13 provided in subsection (2);

14 (iv) rental or purchase of durable medical equipment,
 15 except as specifically provided in subsection (2);

16 (v) the first \$20 of diagnostic x-ray and laboratory
 17 charges in each 14-day period;

18 (vi) oral surgery, except as specifically provided in
 19 subsection (2);

20 (vii) that part of a charge for services or articles
 21 which exceeds the prevailing charge in the locality where
 22 the service is provided; or

23 (viii) care that is primarily for custodial or
 24 domiciliary purposes which would not qualify as eligible
 25 services under medicare.

1 (b) Covered expenses for the services or articles
2 specified in this section do not include charges for:

3 (i) care or for any injury or disease either arising
4 out of an injury in the course of employment and subject to
5 a workers' compensation or similar law, for which benefits
6 are payable under another policy of disability insurance or
7 medicare;

8 (ii) treatment for cosmetic purposes other than surgery
9 for the repair or treatment of an injury or congenital
10 bodily defect to restore normal bodily functions;

11 (iii) travel other than transportation provided by a
12 licensed ambulance service to the nearest facility qualified
13 to treat the condition;

14 (iv) confinement in a private room to the extent it is
15 in excess of the institution's charge for its most common
16 semiprivate room, unless the private room is prescribed as
17 medically necessary by a physician;

18 (v) services or articles the provision of which is not
19 within the scope of authorized practice of the institution
20 or individual rendering the services or articles;

21 (vi) organ transplants, including bone marrow
22 transplants;

23 (vii) room and board for a nonemergency admission on
24 Friday or Saturday;

25 (viii) pregnancy, except complications of pregnancy;

1 (ix) routine well baby care;

2 (x) complications to a newborn, unless no other source
3 of coverage is available;

4 (xi) sterilization or reversal of sterilization;

5 (xii) abortion, unless the life of the mother would be
6 endangered if the fetus were carried to term;

7 (xiii) weight modification or modification of the body
8 to improve the mental or emotional well-being of an insured;

9 (xiv) artificial insemination or treatment for
10 infertility; or

11 (xv) breast augmentation or reduction."

12 **SECTION 33. SECTION 33-1-704, MCA, IS AMENDED TO READ:**

13 "33-1-704. Hearing procedure. (1) All hearings shall be
14 open to the public unless closed pursuant to the provisions
15 of 2-3-203.

16 (2) The commissioner shall allow any party to the
17 hearing to appear in person and by counsel, to be present
18 during the giving of all evidence, to have a reasonable
19 opportunity to inspect all documentary evidence and to
20 examine witnesses, to present evidence in support of his
21 interest, and to have subpoenas issued by the commissioner
22 to compel attendance of witnesses and production of evidence
23 in his behalf.

24 (3) The commissioner shall permit to become a party to
25 the hearing by intervention, if timely, any person who was

1 not an original party thereto and whose pecuniary interests
2 will be directly and immediately affected by the
3 commissioner's order made upon the hearing.

4 (4) Except as provided in 33-31-404, rules of pleading
5 or-evidence need not be observed at any hearing, but the
6 rules of evidence must be observed.

7 (5) Upon written request seasonably made by a party to
8 the hearing and at that person's expense, the commissioner
9 shall cause a full stenographic record of the proceedings to
10 be made by a competent reporter. If transcribed, a copy of
11 such stenographic record shall be furnished to the
12 commissioner without cost to the commissioner or the state
13 and shall be a part of the commissioner's record of the
14 hearing. If so transcribed, a copy of such stenographic
15 record shall be furnished to any other party to such hearing
16 at the request and expense of such other party. If no
17 stenographic record is made or transcribed, the commissioner
18 shall prepare an adequate record of the evidence and of the
19 proceedings."

20 NEW SECTION. SECTION 34. REPEALER. SECTION 33-22-1522,
21 MCA, IS REPEALED.

22 NEW SECTION. Section 35. Name change -- short form
23 amendment. Wherever it appears in 33-7-519, 33-17-206,
24 33-18-210, and 33-18-501 or in insurance laws enacted by the
25 52nd legislature, the code commissioner is directed to

1 change the term "solicitor" to "insurance producer".

2 NEW SECTION. Section 36. Codification instruction. (1)
3 [Section ~~24~~ 23] is intended to be codified as an integral
4 part of Title 33, chapter 20, parts 1 and 12, and the
5 provisions of Title 33, chapter 20, parts 1 and 12, apply to
6 [section ~~24~~ 23].

7 (2) [Section ~~25~~ 24] is intended to be codified as an
8 integral part of Title 33, chapter 23, part 1, and the
9 provisions of Title 33, chapter 23, part 1, apply to
10 [section ~~25~~ 24].

11 (3) [Section ~~26~~ 25] is intended to be codified as an
12 integral part of Title 33, chapter 24, part 1, and the
13 provisions of Title 33, chapter 24, part 1, apply to
14 [section ~~26~~ 25].

-End-

1 SENATE BILL NO. 16
2 INTRODUCED BY GAGE
3 BY REQUEST OF THE STATE AUDITOR
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO THE REGULATION OF INSURERS AND MOTOR CLUB
7 SERVICE COMPANIES; DIRECTING THE CODE COMMISSIONER TO CHANGE
8 ANY REFERENCE TO THE TERM "SOLICITOR" TO "INSURANCE
9 PRODUCER" WHEREVER IT APPEARS IN THE MONTANA CODE ANNOTATED;
10 AND AMENDING SECTIONS 33-1-704, 33-1-711, 33-2-705,
11 33-2-708, 33-2-709, 33-3-401, 33-3-431, 33-7-406, 33-17-102,
12 33-17-208, 33-17-603, 33-20-303, 33-20-305, 33-22-502,
13 33-22-921, 33-22-923, 33-22-924, 33-22-1501, 33-22-1504,
14 33-22-1511, 33-22-1512, 33-22-1513, 33-22-1514, 33-22-1515,
15 33-22-1516, 33-22-1521, ~~33-22-1704~~, 33-23-302, 61-12-303,
16 61-12-304, AND 61-12-305, MCA; AND REPEALING SECTION
17 33-22-1522, MCA."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 33-1-711, MCA, is amended to read:

21 "33-1-711. **Appeals from the commissioner.** (1) An appeal
22 from the commissioner may be taken only from an order on
23 hearing or with respect to a matter as to which the
24 commissioner has refused a hearing. Any person who was a
25 party to the hearing or whose pecuniary interests are

There are no changes in this bill
and will not be reprinted. Please
refer to yellow copy for complete
text.

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 16
Representative T. Nelson

April 4, 1991
Page 2 of 2

April 4, 1991 11:52 am
Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 16 (third reading copy -- blue).

Signed: 
Representative T. Nelson

And, that such amendments to Senate Bill 16 read as follows:

1. Page 22, lines 17 through 22.

Strike: line 17 through 22 in their entirety

Insert: "Conformity with Montana statutes. The provisions of this policy conforms to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

2. Page 36, lines 20 through 24.

Strike: lines 20 through 24 in their entirety

Insert: "Conformity with Montana statutes. The provisions of this policy conforms to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

3. Page 37, lines 5 through 9.

Strike: lines 5 through 9 in their entirety

Insert: "Conformity with Montana statutes. The provisions of this policy conforms to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

4. Page 37, lines 15 through 19.

Strike: lines 15 through 19 in their entirety

Insert: "Conformity with Montana statutes. The provisions of this policy conforms to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

5. Page 53, line 20.

Following: line 19

Insert: " Section 33 Section 33-22-229, MCA, is amended to read: "33-22-229. Conformity with state statutes. There must be a provision OR THE EQUIVILANT THERETO as follows:

~~"Conformity with State Montana Statutes: Any provision of this policy which on its effective date is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes. The provisions of this policy conforms to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."~~

ADOPT

REJECT

SB0016.1
711152CW.Hpd

HOUSE
SB 16

1 SENATE BILL NO. 16
2 INTRODUCED BY GAGE
3 BY REQUEST OF THE STATE AUDITOR
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO THE REGULATION OF INSURERS AND MOTOR CLUB
7 SERVICE COMPANIES; DIRECTING THE CODE COMMISSIONER TO CHANGE
8 ANY REFERENCE TO THE TERM "SOLICITOR" TO "INSURANCE
9 PRODUCER" WHEREVER IT APPEARS IN THE MONTANA CODE ANNOTATED;
10 AND AMENDING SECTIONS 33-1-704, 33-1-711, 33-2-705,
11 33-2-708, 33-2-709, 33-3-401, 33-3-431, 33-7-406, 33-17-102,
12 33-17-208, 33-17-603, 33-20-303, 33-20-305, 33-22-229,
13 33-22-502, 33-22-921, 33-22-923, 33-22-924, 33-22-1501,
14 33-22-1504, 33-22-1511, 33-22-1512, 33-22-1513, 33-22-1514,
15 33-22-1515, 33-22-1516, 33-22-1521, ~~33-22-1704~~, 33-23-302,
16 61-12-303, 61-12-304, AND 61-12-305, MCA; AND REPEALING
17 SECTION 33-22-1522, MCA."
18

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

20 **Section 1.** Section 33-1-711, MCA, is amended to read:

21 "33-1-711. Appeals from the commissioner. (1) An appeal
22 from the commissioner may be taken only from an order on
23 hearing or with respect to a matter as to which the
24 commissioner has refused a hearing. Any person who was a
25 party to the hearing or whose pecuniary interests are

1 directly and immediately affected by any order or refusal
2 and who is aggrieved by an order or refusal may, within 30
3 days after the order has been mailed or delivered to the
4 persons entitled to receive the same, the commissioner's
5 order denying rehearing or reargument has been so mailed or
6 delivered, or the commissioner's refusal to grant a hearing,
7 appeal from the order on hearing or the refusal of a
8 hearing. Any request for a stay of the commissioner's order
9 must be made within 60 days, to run concurrently with the 30
10 days for appeal. The appeal must be taken to the district
11 court of Lewis and Clark County by filing written notice of
12 appeal in the court and by filing a copy of the notice with
13 the commissioner, except that in appeals from the suspension
14 or revocation of the certificate of authority of a domestic
15 insurer or of the license of an insurance producer or
16 surplus lines insurance producer, the person taking the
17 appeal may at his option, in lieu of the district court of
18 Lewis and Clark County, take the appeal to the district
19 court of the county of Montana in which the insurer has its
20 principal place of business or the licensee resides.

21 (2) Upon filing of the notice of appeal, the court has
22 full jurisdiction and shall determine whether the filing
23 operates as a stay of the order or action appealed from.

24 (3) Within 20 days after filing of the copy of the
25 notice of appeal in his office, the commissioner shall make

1 and return to the court in which the appeal is pending a
 2 copy of his order appealed from and a full and complete
 3 transcript, duly certified by the commissioner, of his
 4 record of the hearing upon which the order was issued,
 5 together with all exhibits and documentary evidence
 6 introduced at the hearing. If the appeal is from an action
 7 of the commissioner with respect to which a hearing was
 8 refused, the commissioner shall, within the 20-day period,
 9 make and return to the court a full and complete transcript,
 10 duly certified by him, of all documents on file in his
 11 office directly relating to the matter as to which the
 12 appeal is taken.

13 (4) Upon receipt of the transcripts and evidence, the
 14 court shall hear the matter *de-novo* as soon as reasonably
 15 possible thereafter. Upon the hearing of the appeal, the
 16 court shall consider the evidence contained in the
 17 transcript, exhibits, and documents filed by the
 18 commissioner, together with additional proper evidence as
 19 may be offered by any party to the appeal.

20 (5) After hearing the appeal, the court may affirm,
 21 modify, or reverse the order or action of the commissioner,
 22 in whole or in part, or remand the action to the
 23 commissioner for further proceedings in accordance with the
 24 court's direction.

25 (6) Costs must be awarded as in civil actions.

1 (7) Appeal may be taken to the supreme court from the
 2 judgment of the district court as in other civil cases to
 3 which the state is a party. A stay of the effectiveness of
 4 any judgment may be made only by order of the supreme court
 5 upon the giving of security as that court considers proper.

6 (8) This section does not apply to appeals as to
 7 matters covered by chapter 16."

8 **Section 2.** Section 33-2-705, MCA, is amended to read:

9 "33-2-705. Report on premiums and other consideration
 10 -- tax. (1) Each authorized insurer and each formerly
 11 authorized insurer with respect to premiums so received
 12 while an authorized insurer in this state shall file with
 13 the commissioner, on or before March 1 each year, a report
 14 in form as prescribed by the commissioner showing total
 15 direct premium income, including policy, membership, and
 16 other fees, premiums paid by application of dividends,
 17 refunds, savings, savings coupons, and similar returns or
 18 credits to payment of premiums for new or additional or
 19 extended or renewed insurance, charges for payment of
 20 premium in installments, and all other consideration for
 21 insurance from all kinds and classes of insurance, whether
 22 designated as a premium or otherwise, received by it a life
 23 insurer or written by an insurer other than a life insurer
 24 during the preceding calendar year on account of policies
 25 covering property, subjects, or risks located, resident, or

1 to be performed in Montana, with proper proportionate
 2 allocation of premium as to such property, subjects, or
 3 risks in Montana insured under policies or contracts
 4 covering property, subjects, or risks located or resident in
 5 more than one state, after deducting from such total direct
 6 premium income applicable cancellations, returned premiums,
 7 the unabsorbed portion of any deposit premium, the amount of
 8 reduction in or refund of premiums allowed to industrial
 9 life policyholders for payment of premiums direct to an
 10 office of the insurer, all policy dividends, refunds,
 11 savings, savings coupons, and other similar returns paid or
 12 credited to policyholders with respect to such policies. As
 13 to title insurance, "premium" includes the total charge for
 14 such insurance. No deduction shall be made of the cash
 15 surrender values of policies. Considerations received on
 16 annuity contracts shall not be included in total direct
 17 premium income and shall not be subject to tax.

18 (2) Coincident with the filing of the tax report
 19 referred to in subsection (1) above, each such insurer shall
 20 pay to the commissioner a tax upon such net premiums
 21 computed at the rate of $2\frac{3}{4}\%$.

22 (3) That portion of the tax paid hereunder by an
 23 insurer on account of premiums received for fire insurance
 24 shall be separately specified in the report as required by
 25 the commissioner, for apportionment as provided by law.

1 Where insurance against fire is included with insurance of
 2 property against other perils at an undivided premium, the
 3 insurer shall make such reasonable allocation from such
 4 entire premium to the fire portion of the coverage as shall
 5 be stated in such report and as may be approved or accepted
 6 by the commissioner.

7 (4) With respect to authorized insurers the premium tax
 8 provided by this section shall be payment in full and in
 9 lieu of all other demands for any and all state, county,
 10 city, district, municipal, and school taxes, licenses, fees,
 11 and excises of whatever kind or character, excepting only
 12 those prescribed by this code, taxes on real and tangible
 13 personal property located in this state, and taxes payable
 14 under 50-3-109.

15 (5) The commissioner may suspend or revoke the
 16 certificate of authority of any insurer which fails to pay
 17 its taxes as required under this section.

18 (6) In addition to the penalty provided for in
 19 subsection (5), the commissioner may impose upon an insurer
 20 who fails to pay the tax required under this section a fine
 21 of \$100 a day for each day the tax remains unpaid past the
 22 due date or 1% of the amount owed in tax, whichever is
 23 greater.

24 (7) The commissioner may by rule provide a quarterly
 25 schedule for payment of portions of the premium tax under

1 this section during the year in which such tax liability is
2 accrued."

3 **Section 3.** Section 33-2-708, MCA, is amended to read:

4 **"33-2-708. Fees and licenses.** (1) Except as provided in
5 33-17-212(2), the commissioner shall collect in advance and
6 the persons served shall pay to the commissioner the
7 following fees:

8 (a) certificates of authority:

9 (i) for filing applications for original certificates
10 of authority, articles of incorporation (except original
11 articles of incorporation of domestic insurers as provided
12 in subsection (1)(b)) and other charter documents, bylaws,
13 financial statement, examination report, power of attorney
14 to the commissioner, and all other documents and filings
15 required in connection with the application and for issuance
16 of an original certificate of authority, if issued:

17 (A) domestic insurers \$ 600.00

18 (B) foreign insurers 600.00

19 (ii) annual continuation of certificate of authority
20 600.00

21 (iii) reinstatement of certificate of authority
22 25.00

23 (iv) amendment of certificate of authority 50.00

24 (b) articles of incorporation:

25 (i) filing original articles of incorporation of a

1 domestic insurer, exclusive of fees required to be paid by
2 the corporation to the secretary of state 20.00

3 (ii) filing amendment of articles of incorporation,
4 domestic and foreign insurers, exclusive of fees required to
5 be paid to the secretary of state by a domestic corporation
6 25.00

7 (c) filing bylaws or amendment to bylaws where
8 required 10.00

9 (d) filing annual statement of insurer, other than as
10 part of application for original certificate of authority
11 25.00

12 (e) insurance producer's license:

13 (i) application for original license, including
14 issuance of license, if issued 15.00

15 (ii) appointment of insurance producer, each insurer
16 10.00

17 (iii) temporary license 15.00

18 (iv) amendment of license (excluding additions to
19 license) or reissuance of master license 15.00

20 (f) nonresident insurance producer's license:

21 (i) application for original license, including
22 issuance of license, if issued 100.00

23 (ii) appointment of insurance producer, each insurer
24 10.00

25 (iii) annual renewal of license 10.00

1 (iv) amendment of license (excluding additions to
2 license) or reissuance of master license 10.00
3 (g) examination, if administered by the commissioner,
4 for license as insurance producer, each examination
5 15.00
6 (h) surplus lines insurance producer license:
7 (i) application for original license and for issuance
8 of license, if issued 50.00
9 (ii) annual renewal of license 50.00
10 (i) adjuster's license:
11 (i) application for original license and for issuance
12 of license, if issued 15.00
13 (ii) annual renewal of license 15.00
14 (j) insurance vending machine license, each machine,
15 each year 10.00
16 (k) commissioner's certificate under seal (except when
17 on certificates of authority or licenses) 10.00
18 (l) copies of documents on file in the commissioner's
19 office, per page50
20 (m) policy forms:
21 (i) filing each policy form 25.00
22 (ii) filing each application, rider, endorsement,
23 amendment, insert page, schedule of rates, and clarification
24 of risks 10.00
25 (iii) maximum charge if policy and all forms submitted

1 at one time or resubmitted for approval within 180 days
2 100.00
3 (n) applications for approval of preclicensing education
4 courses:
5 (i) reviewing initial application 150.00
6 (ii) periodic review 50.00
7 (2) The commissioner shall promptly deposit with the
8 state treasurer to the credit of the general fund of this
9 state all fines and penalties, those amounts received
10 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees
11 and examination and miscellaneous charges that are collected
12 by him pursuant to Title 33 and the rules adopted under
13 Title 33.
14 (3) All fees are considered fully earned when received.
15 In the event of overpayment, only those amounts in excess of
16 \$10 will be refunded."
17 **Section 4.** Section 33-2-709, MCA, is amended to read:
18 "33-2-709. Retaliatory fees, taxes, and other
19 obligations. (1) When by or pursuant to the laws of any
20 other state or foreign country any taxes, licenses, and
21 other fees, in the aggregate, and any fines, penalties,
22 deposit requirements, or other material obligations,
23 prohibitions, or restrictions are or would be imposed upon
24 Montana insurers or upon the insurance producers or
25 representatives of such insurers which are in excess of such

1 taxes, licenses, and other fees, in the aggregate, or which
 2 are in excess of the fines, penalties, deposit requirements,
 3 or other obligations, prohibitions, or restrictions directly
 4 imposed upon similar insurers or upon the insurance
 5 producers or representatives of such insurers of such other
 6 state or country under the statutes of this state, so long
 7 as such laws of such other state or country continue in
 8 force or are so applied, the same taxes, licenses, and other
 9 fees, in the aggregate, or fines, penalties, or deposit
 10 requirements or other material obligations, prohibitions, or
 11 restrictions of whatever kind shall be imposed by the
 12 commissioner upon the insurers or upon the insurance
 13 producers or representatives of such insurers of such other
 14 state or country doing business or seeking to do business in
 15 Montana. Any tax, license, or other fee or other obligation
 16 imposed by any city, county, or other political subdivision
 17 or agency of such other state or country on Montana insurers
 18 or their insurance producers or representatives shall be
 19 deemed to be imposed by such state or country within the
 20 meaning of this section.

21 (2) This section shall not apply as to any fees in
 22 conjunction with the licensing of insurance producers,
 23 personal income taxes, ad valorem taxes on real or personal
 24 property, or special purpose obligations or assessments
 25 imposed by another state or by an agency of this state other

1 than the department in connection with particular kinds of
 2 insurance other than property insurance, except that
 3 deductions from premium taxes or other taxes otherwise
 4 payable allowed on account of real estate or personal
 5 property taxes paid shall be taken into consideration by the
 6 commissioner in determining the propriety and extent of
 7 retaliatory action under this section.

8 (3) (a) For the purposes of this section the domicile
 9 of an alien insurer, other than insurers formed under the
 10 laws of Canada, shall be that state designated by the
 11 insurer in writing filed with the commissioner at time of
 12 admission to this state or within 6 months after January 1,
 13 1961, whichever date is the later, and may be any one of the
 14 following states:

15 (i) that in which the insurer was first authorized to
 16 transact insurance;

17 (ii) that in which is located the insurer's principal
 18 place of business in the United States;

19 (iii) that in which is held the larger deposit of
 20 trusted assets of the insurer for the protection of its
 21 policyholders and creditors in the United States.

22 (b) If the insurer makes no such designation, its
 23 domicile shall be deemed to be that state in which is
 24 located its principal place of business in the United
 25 States."

1 **Section 5.** Section 33-3-401, MCA, is amended to read:

2 "33-3-401. Home office and records -- penalty for
3 unlawful removal of records or assets. (1) Every domestic
4 insurer shall have and maintain its principal place of
5 business and home office in this state and shall keep
6 therein complete records of its assets, transactions, and
7 affairs in accordance with such methods and systems as are
8 customary or suitable as to the kind or kinds of insurance
9 transacted. Records of the insurer's operations and other
10 financial records reasonably related to its insurance
11 operations for the preceding 5 years must be maintained and
12 be available to the commissioner or his duly constituted
13 examiner.

14 (2) Every domestic insurer shall have and maintain its
15 assets in this state, except as to:

16 (a) real property and personal property appurtenant
17 thereto lawfully owned by the insurer and located outside
18 this state; and

19 (b) such property of the insurer as may be customary,
20 necessary, and convenient to enable and facilitate the
21 operation of its branch offices and regional home offices
22 located outside this state as referred to in subsection (4)
23 below.

24 (3) Removal of all or a material part of the records or
25 assets of a domestic insurer from this state except pursuant

1 to a plan of merger or consolidation approved by the
2 commissioner under this code or for such reasonable purposes
3 and periods of time as may be approved by the commissioner
4 in writing in advance of such removal or concealment of such
5 records or assets or material part thereof from the
6 commissioner is prohibited. Any person who removes or
7 attempts to remove such records or assets or such material
8 part thereof from the home office or other place of business
9 or of safekeeping of the insurer in this state with the
10 intent to remove the same from this state or who conceals or
11 attempts to conceal the same from the commissioner, in
12 violation of this subsection, shall upon conviction thereof
13 be guilty of a felony punishable by a fine of not more than
14 \$10,000 or by imprisonment in the penitentiary for not more
15 than 5 years or by both such fine and imprisonment in the
16 discretion of the court. Upon any removal or attempted
17 removal of such records or assets or upon retention of such
18 records or assets or material part thereof outside this
19 state beyond the period therefor specified in the
20 commissioner's consent under which the records were so
21 removed thereat or upon concealment of or attempt to conceal
22 records or assets in violation of this section, the
23 commissioner may institute delinquency proceedings against
24 the insurer pursuant to the provisions of chapter 2, part
25 13.

1 (4) This section shall not be deemed to prohibit or
2 prevent an insurer from:

3 (a) establishing and maintaining branch offices or
4 regional home offices in other states where necessary or
5 convenient to the transaction of its business and keeping
6 therein the detailed records and assets customary and
7 necessary for the servicing of its insurance in force and
8 affairs in the territory served by such an office, as long
9 as such records and assets are made readily available at
10 such office for examination by the commissioner at his
11 request;

12 (b) having, depositing, or transmitting funds and
13 assets of the insurer in or to jurisdictions outside of this
14 state as reasonably and customarily required in the regular
15 course of its business;

16 (c) making deposits under custodial arrangements as
17 provided by 33-2-604(3)."

18 **Section 6.** Section 33-3-431, MCA, is amended to read:

19 **"33-3-431. Borrowed surplus.** (1) A domestic stock or
20 mutual insurer may borrow money to defray the expenses of
21 its organization, provide it with surplus funds, or for any
22 purpose of its business, upon a written agreement that such
23 money is required to be repaid only out of the insurer's
24 surplus in excess of that stipulated in such agreement. The
25 agreement may provide for interest ~~not exceeding 6% per~~

1 annum at a rate no greater than the rate established in
2 25-9-205, which interest shall or shall not constitute a
3 liability of the insurer as to its funds other than such
4 excess of surplus, as stipulated in the agreement. No
5 commission or promotion expense shall be paid in connection
6 with any such loan.

7 (2) Money so borrowed, together with the interest
8 thereon if so stipulated in the agreement, shall not form a
9 part of the insurer's legal liabilities except as to its
10 surplus in excess of the amount thereof stipulated in the
11 agreement or be the basis of any setoff; but until repaid,
12 financial statements filed or published by the insurer shall
13 show as a footnote thereto the amount thereof then unpaid
14 together with any interest thereon accrued but unpaid.

15 (3) Any such loan to a mutual insurer shall be subject
16 to the commissioner's approval. The insurer shall, in
17 advance of the loan, file with the commissioner a statement
18 of the purpose of the loan and a copy of the proposed loan
19 agreement. The loan and agreement shall be deemed approved
20 unless within 15 days after date of such filing the insurer
21 is notified of the commissioner's disapproval and the
22 reasons therefor. The commissioner shall disapprove any
23 proposed loan or agreement if he finds the loan is
24 unnecessary or excessive for the purpose intended or that
25 the terms of the loan agreement are not fair and equitable

1 to the parties, and to other similar lenders, if any, to the
2 insurer, or that the information so filed by the insurer is
3 inadequate.

4 (4) Any such loan to a mutual insurer or substantial
5 portion thereof shall be repaid by the insurer when no
6 longer reasonably necessary for the purpose originally
7 intended. No repayment of such loan shall be made by a
8 mutual insurer unless in advance approved by the
9 commissioner.

10 (5) This section shall not apply to loans obtained by
11 the insurer in ordinary course of business from banks and
12 other financial institutions or to loans secured by pledge
13 or mortgage of assets."

14 **Section 7.** Section 33-7-406, MCA, is amended to read:

15 ~~"33-7-406. Annual statement -- penalty for failure to~~
16 ~~file or--to-comply. A-society-neglecting-to-file-the-annual~~
17 ~~statement-in-the-form-and-within-the-time-provided--in--this~~
18 ~~part-shall-forfeit~~ The commissioner may impose a fine upon a
19 society not to exceed \$100 for each day during which such
20 ~~neglect-continues,-and,-upon-notice-by-the--commissioner--to~~
21 ~~that--effect,-its--authority--to--do-business-in-this-state~~
22 ~~shall-cease-while-such-default-continues~~ after March 1 that
23 a society fails to file the annual statement required by
24 33-7-404. The fine may not exceed \$1,000."

25 **Section 8.** Section 33-17-208, MCA, is amended to read:

1 **"33-17-208. Prelicensing education -- basic**
2 **requirement.** (1) (a) A person applying for a license to act
3 as an insurance producer for property, casualty, and surety
4 insurance shall complete 40 hours of approved prelicensing
5 education courses in those areas of insurance within 12
6 months prior to the examination, unless he is exempted from
7 the requirement under subsection (3).

8 (b) A person applying for a license to act as an
9 insurance producer for life and disability insurance or as
10 an enrollment representative for a health service
11 corporation shall complete 40 hours of approved prelicensing
12 education courses in those areas of insurance within 12
13 months prior to the examination, unless he is exempted from
14 the requirement under subsection (3).

15 (2) A person applying for licenses to act as an
16 insurance producer for both the property, casualty, and
17 surety areas and the life and or disability areas must meet
18 the education requirements in all the areas of insurance.

19 (3) The minimum prelicensing education requirement does
20 not apply to a person who:

21 (a) has been licensed within the 12 preceding months as
22 an insurance producer in another state that requires
23 prelicensing education and has completed the education in
24 the other state;

25 (b) seeks a nonresident license, having been licensed

1 as an insurance provider in his state of residence for at
2 least 1 year;

3 (c) seeks a nonresident license and is from a state
4 having a prelicensing education requirement;

5 (d) seeks to reinstate a license lapsed for less than 2
6 years;

7 (e) seeks a temporary license under 33-17-216; or

8 (f) is exempt from examination requirements under
9 33-17-212(5)(7)."

10 **Section 9.** Section 33-17-603, MCA, is amended to read:

11 **"33-17-603. Certificate of registration.** (1) Except as
12 provided in 33-17-604, a person may not act as or hold
13 himself out to be an administrator in this state unless he
14 holds a certificate of registration as an administrator.

15 (2) An application for a certificate of registration
16 must be accompanied by a fee of \$100. The commissioner shall
17 issue the certificate unless he finds that the applicant is
18 not competent, trustworthy, financially responsible, or of
19 good personal and business reputation or that the applicant
20 has had a previous application for a license denied for
21 cause within 5 years.

22 (3) The certificate of registration is renewable
23 annually on the ~~date of issue~~ July 1. A request for renewal
24 must be accompanied by a renewal fee of \$100.

25 (4) The certificate of registration may be suspended or

1 revoked if, after notice and hearing, the commissioner finds
2 that the administrator has violated any of the requirements
3 of this part or that the administrator is not competent,
4 trustworthy, financially responsible, or of good personal
5 and business reputation.

6 (5) Unless the certification requirement is waived, a
7 person who acts as an administrator without a certificate of
8 registration is subject to a fine of not less than \$500 or
9 more than \$1,500."

10 **Section 10.** Section 33-20-303, MCA, is amended to read:

11 **"33-20-303. Incontestability.** If any statements other
12 than those relating to age, sex, and identity are required
13 as a condition to issuing an annuity or pure endowment
14 contract, other than a reversionary, survivorship, or group
15 annuity, and subject to 33-20-305, there shall be a
16 provision that the contract shall be incontestable after it
17 has been in force during the lifetime of the person or of
18 each of the persons as to whom such statements are required,
19 for a period of 2 years from its date of issue, except for
20 nonpayment of stipulated payments to the insurer; and at the
21 option of the insurer such contract may also except any
22 provisions relative to benefits in the event of disability
23 and any provisions which grant insurance specifically
24 against death by accident or accidental means."

25 **Section 11.** Section 33-20-305, MCA, is amended to read:

1 ***33-20-305. Misstatement of age or-sex.** In an annuity
 2 or pure endowment contract, other than a reversionary,
 3 survivorship, or group annuity, there shall be a provision
 4 that if the age or-sex of the person or persons upon whose
 5 life or lives the contract is made, or of any of them, has
 6 been misstated, the amount payable or benefits accruing
 7 under the contract shall be such as the stipulated payment
 8 or payments to the insurer would have purchased according to
 9 the correct age or-sex and that if the insurer shall make or
 10 has made any overpayment or overpayments on account of any
 11 such misstatement, the amount thereof, with interest at the
 12 rate to be specified in the contract but not exceeding 6%
 13 per annum, may be charged against the current or next
 14 succeeding payment or payments to be made by the insurer
 15 under the contract."

16 **Section 12.** Section 33-22-502, MCA, is amended to read:

17 **"33-22-502. Required provisions of group policies.** Each
 18 such group disability insurance policy ~~shall delivered or~~
 19 issued for delivery in this state must contain in substance
 20 the following provisions:

21 (1) a provision that, in the absence of fraud, all
 22 statements made by applicants or the policyholder or by an
 23 insured person shall be deemed representations and not
 24 warranties and that no statement made for the purpose of
 25 effecting insurance shall avoid such insurance or reduce

1 benefits unless contained in a written instrument signed by
 2 the policyholder or the insured person, a copy of which has
 3 been furnished to such policyholder or to such person or his
 4 beneficiary;

5 (2) a provision that the insurer will furnish to the
 6 policyholder for delivery to each employee or member of the
 7 insured group a statement in summary form of the essential
 8 features of the insurance coverage of such employee or
 9 member and to whom benefits thereunder are payable. If
 10 dependents are included in the coverage, only one
 11 certificate need be issued for each family unit.

12 (3) a provision that to the group originally insured
 13 may be added from time to time eligible new employees or
 14 members or dependents, as the case may be, in accordance
 15 with the terms of the policy.

16 (4) a provision OR THE EQUIVALENT THERETO that reads:

17 ~~Conformity--with--state--statutes;--A--provision--of--this~~
 18 ~~policy--that--on--its--effective--date--conflicts--with--the~~
 19 ~~statutes--of--the--state--in--which--the--insured--resides--on--that~~
 20 ~~date--is--hereby--amended--to--conform--to--the--minimum~~
 21 ~~requirements--of--those--statutes; "CONFORMITY WITH MONTANA~~
 22 ~~STATUTES. THE PROVISIONS OF THIS POLICY CONFORM TO THE~~
 23 ~~MINIMUM REQUIREMENTS OF MONTANA LAW AND CONTROL OVER ANY~~
 24 ~~CONFLICTING STATUTES OF ANY STATE IN WHICH THE INSURED~~
 25 ~~RESIDES ON OR AFTER THE EFFECTIVE DATE OF THIS POLICY."~~

1 **Section 13.** Section 33-22-921, MCA, is amended to read:

2 "33-22-921. Discontinuance or nonrenewal -- alternate
3 policy or certificate -- same insurer. (1) If a disability
4 insurer discontinues or does not renew a medicare supplement
5 policy product or certificate and offers an alternate
6 medicare supplement policy or certificate to its insureds
7 within this state, it may not deny benefits under the
8 replacing policy or certificate to an insured who receives
9 treatment for a condition that was a covered expense under
10 the replaced policy or certificate and is a covered expense
11 under the replacing policy or certificate if the insured
12 enrolls in and pays the premium for the replacing policy or
13 certificate within 31 days after the termination of the
14 replaced policy or certificate.

15 (2) A disability insurer who discontinues or does not
16 renew a medicare supplement policy product or certificate
17 and offers an alternate medicare supplement policy or
18 certificate shall base its premium for the alternate policy
19 or certificate on the rates currently in place for that
20 policy or certificate.

21 (3) If the insured has not satisfied the preexisting
22 condition limitation under the replaced medicare supplement
23 policy or certificate, any period of time that was covered
24 by that policy or certificate must be credited toward the
25 preexisting condition limitation period of the replacing

1 policy or certificate."

2 **Section 14.** Section 33-22-923, MCA, is amended to read:

3 "33-22-923. Replacement policy or certificate --
4 different insurer. (1) If a disability insurer replaces a
5 medicare supplement policy or certificate, it may not deny
6 benefits under the replacing policy or certificate to an
7 insured who receives treatment for a condition that was a
8 covered expense under the replaced policy or certificate and
9 is a covered expense under the replacing policy or
10 certificate if the insured pays the premium for the
11 replacing policy or certificate when due or within 31 days
12 after the termination of the replaced policy or certificate.

13 (2) An insurer who replaces a medicare supplement
14 policy or certificate shall base its premium for the
15 replacement policy or certificate on the rates currently in
16 place for that policy or certificate.

17 (3) If the insured has not satisfied the preexisting
18 condition limitation under the replaced medicare supplement
19 policy or certificate, any period of time that was covered
20 by that policy or certificate must be credited toward the
21 preexisting condition limitation period of the replacing
22 policy or certificate.

23 (4) To receive the benefits of subsections (1) through
24 (3), a person shall submit to the replacing insurer proof of
25 prior coverage, evidence of benefits provided under the

1 previous policy or certificate, and the effective date and
 2 the date of termination of coverage under the previous
 3 policy or certificate."

4 **Section 15.** Section 33-22-924, MCA, is amended to read:

5 **"33-22-924. Renewal requirement.** (1) If a person pays a
 6 renewal premium on the date it is due or within 31 days
 7 after it is due, an insurer may not refuse to renew a
 8 medicare supplement policy or certificate unless the
 9 insurer:

10 (a) refuses to renew all policies or certificates in
 11 this state that are of the same form and issued to persons
 12 of the same class; and

13 (b) offers a replacement policy or certificate at
 14 actuarially justified rates.

15 (2) If an insurer refuses to renew all policies or
 16 certificates in this state that are of the same form and
 17 issued to persons of the same class, the policies or
 18 certificates will remain in force during the grace period
 19 stated in the replaced policy or certificate. An insurer's
 20 refusal to renew a policy or certificate may not affect a
 21 claim that arose under the replaced discontinued policy or
 22 certificate during the period in which an insured was
 23 confined without interruption to a medical care facility for
 24 treatment."

25 **Section 16.** Section 33-22-1501, MCA, is amended to

1 read:

2 **"33-22-1501. Definitions.** As used in this part, the
 3 following definitions apply:

4 (1) "Association" means the comprehensive health
 5 association created by 33-22-1503.

6 (2) "Association plan" means a policy of insurance
 7 coverage offered by the association ~~through-the-lead-carrier~~
 8 THAT IS CERTIFIED BY THE ASSOCIATION AS REQUIRED BY
 9 33-22-1521.

10 (3) "Association plan premium" means the charge
 11 determined pursuant to 33-22-1512 for membership in the
 12 association plan based on the benefits provided in
 13 33-22-1521.

14 (4) "Eligible person" means an individual who:

15 (a) is a resident of this state and applies for
 16 coverage under the association plan; and

17 (b) unless the individual's eligibility is waived by
 18 the association, within 6 months prior to the date of
 19 application, has been rejected for disability insurance or
 20 health service benefits by at least two insurers, societies,
 21 or health service corporations, or has had a restrictive
 22 rider or preexisting conditions limitation, which limitation
 23 is required by at least two insurers, societies, or health
 24 service corporations, which has the effect of substantially
 25 reducing coverage from that received by a person considered

1 a standard risk.

2 (5) "Health service corporation" means a corporation
3 operating pursuant to Title 33, chapter 30, and offering or
4 selling contracts of disability insurance.

5 (6) "Insurance arrangement" means any plan, program,
6 contract, or other arrangement to the extent not exempt from
7 inclusion by virtue of the provisions of the federal
8 Employee Retirement Income Security Act of 1974 under which
9 one or more employers, unions, or other organizations
10 provide to their employees or members, either directly or
11 indirectly through a trust of a third-party administrator,
12 health care services or benefits other than through an
13 insurer.

14 (7) "Insurer" means a company operating pursuant to
15 Title 33, chapter 2 or 3, and offering or selling policies
16 or contracts of disability insurance, as provided in Title
17 33, chapter 22.

18 (8) "Lead carrier" means the licensed administrator or
19 insurer selected by the association to administer the
20 association plan.

21 (9) "Preexisting condition" means any condition for
22 which an applicant for coverage under the association plan
23 has received medical attention during the 5 years
24 immediately preceding the filing of an application.

25 ~~(10) "Qualified plan" means these health benefit plans~~

1 ~~certified by the commissioner as providing the minimum~~
2 ~~benefits required by 33-22-1521 or the actuarial equivalent~~
3 ~~of those benefits.~~

4 ~~(10) "Society" means a fraternal benefit society~~
5 ~~operating pursuant to Title 33, chapter 7, and offering or~~
6 ~~selling certificates of disability insurance."~~

7 **Section 17.** Section 33-22-1504, MCA, is amended to
8 read:

9 **"33-22-1504. Association board of directors --**
10 **organization.** (1) There is a board of directors of the
11 association, consisting of eight individuals:

12 (a) one from each of the seven participating members of
13 the association with the highest annual premium volume of
14 disability insurance contracts or health service corporation
15 contracts, derived from or on behalf of residents in the
16 previous calendar year, as determined by the commissioner;
17 and

18 (b) a member at large, appointed by the commissioner to
19 represent the public interest, who shall serve in an
20 advisory capacity only.

21 (2) Each of the seven board members representing the
22 association members is entitled to a weighted average vote,
23 in person or by proxy, based on the association member's
24 annual Montana premium volume. However, a board member may
25 not have more than 50% of the vote.

1 (3) Members of the board may be reimbursed from the
 2 money of the association for expenses incurred by them due
 3 to their service as board members but may not otherwise be
 4 compensated by the association for their services. The costs
 5 of conducting the meetings of the association and its board
 6 of directors must be borne by participating members of the
 7 association in accordance with 33-22-1513."

8 **Section 18.** Section 33-22-1513, MCA, is amended to
 9 read:

10 "33-22-1513. Operation of association plan. (1) Upon
 11 acceptance by the lead carrier under 33-22-1516, an eligible
 12 person may enroll in the association plan by payment of the
 13 association plan premium to the lead carrier.

14 (2) Not less than 88% of the association plan premiums
 15 paid to the lead carrier may be used to pay claims and not
 16 more than 12% may be used for payment of the lead carrier's
 17 direct and indirect expenses as specified in 33-22-1514.

18 (3) Any income in excess of the costs incurred by the
 19 association in providing reinsurance or administrative
 20 services must be held at interest and used by the
 21 association to offset past and future losses due to claims
 22 expenses of the association plan or be allocated to reduce
 23 association plan premiums.

24 (4) (a) Each participating member of the association
 25 shall share the losses due to claims expenses of the

1 association plan for plans issued or approved for issuance
 2 by the association and shall share in the operating and
 3 administrative expenses incurred or estimated to be incurred
 4 by the association incident to the conduct of its affairs.
 5 Claims expenses of the association plan that exceed the
 6 premium payments allocated to the payment of benefits are
 7 the liability of the association members. Association
 8 members shall share in the claims expenses of the
 9 association plan and operating and administrative expenses
 10 of the association in an amount equal to the ratio of:

11 (a)(i) the association member's total disability
 12 insurance premium received from or on behalf of Montana
 13 residents divided by;

14 (b)(ii) the total disability premium received by all
 15 association members from or on behalf of Montana residents,
 16 as determined by the commissioner.

17 (b) For purposes of this subsection (4), "total
 18 disability insurance premium" does not include premiums
 19 received from disability income insurance, credit disability
 20 insurance, disability waiver insurance, or life insurance.

21 (5) The association shall make an annual determination
 22 of each association member's liability, if any, and may make
 23 an annual fiscal yearend assessment if necessary. The
 24 association may also, subject to the approval of the
 25 commissioner, provide for interim assessments against the

1 association members as may be necessary to assure the
 2 financial capability of the association in meeting the
 3 incurred or estimated claims expenses of the association
 4 plan and operating and administrative expenses of the
 5 association until the association's next annual fiscal
 6 yearend assessment. Payment of an assessment is due within
 7 30 days of receipt by an association member of a written
 8 notice of a fiscal yearend or interim assessment. Failure by
 9 a contributing member to tender to the association the
 10 assessment within 30 days is grounds for termination of
 11 membership. An association member that ceases to do
 12 disability insurance business within the state remains
 13 liable for assessments through the calendar year during
 14 which disability insurance business ceased. The association
 15 may decline to levy an assessment against an association
 16 member if the assessment, as determined pursuant to this
 17 section, would not exceed \$10.

18 (6) Any annual fiscal yearend or interim assessment
 19 levied against an association member may be offset, in an
 20 amount equal to the assessment paid to the association,
 21 against the premium tax payable by that association member
 22 pursuant to 33-2-705 for the year in which the annual fiscal
 23 yearend or interim assessment is levied. The insurance
 24 commissioner shall, each year the legislature meets in
 25 regular session, on or before January 15, report to the

1 legislature the total amount of premium tax offset claimed
 2 by association members during the preceding biennium."

3 ~~Section 19. Section 33-22-1704, MCA, is amended to~~
 4 ~~read:~~

5 ~~"33-22-1704. Preferred provider agreements authorized.~~
 6 ~~(i) Notwithstanding any other provision of law to the~~
 7 ~~contrary, a health care insurer may:~~

8 ~~(a) enter into agreements with providers relating to~~
 9 ~~health care services that may be rendered to insureds or~~
 10 ~~subscribers on whose behalf the health care insurer is~~
 11 ~~providing health care coverage, including preferred provider~~
 12 ~~agreements relating to:~~

13 ~~(i) the amounts an insured may be charged for services~~
 14 ~~rendered; and~~

15 ~~(ii) the amount and manner of payment to the provider;~~
 16 ~~and~~

17 ~~(b) issue or administer policies or subscriber~~
 18 ~~contracts in this state that include incentives for the~~
 19 ~~insured to use the services of a provider that has entered~~
 20 ~~into an agreement with the insurer pursuant to subsection~~
 21 ~~(i)(a);~~

22 ~~(2) A preferred provider agreement issued or delivered~~
 23 ~~in this state may not unfairly deny health benefits for~~
 24 ~~health care services covered;~~

25 ~~(3) This part does not require that an insurer~~

~~negotiate or enter into agreements with any specific provider or class of providers. Health care insurers may place reasonable limits on the number or classes of preferred providers that satisfy the standards set forth by the health care insurer. However, insurers may not discriminate against providers on the basis of religion, race, color, national origin, age, sex, or marital status and shall select preferred providers primarily on but not limited to cost and availability of covered services and the quality of services performed by the providers."~~

Section 19. Section 33-23-302, MCA, is amended to read:

"33-23-302. Cancellation or alteration of policy -- increase of premium rates -- sixty days' written notice required. Any insurer who insures a physician and surgeon, dentist, registered nurse, nursing home administrator, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, pharmacist, optometrist, or veterinarian, duly licensed as such under the laws of this state, or a licensed hospital or long-term care facility as the employer of any such person against liability for error, omission, professional negligence, or performance of services without consent shall may not cancel or alter the policy so insuring such the person or increase the premium rates thereon without first providing the insured 60 days' written notice of the insurer's intention

to cancel or alter the policy or increase the premium rates."

Section 20. Section 61-12-303, MCA, is amended to read:

"61-12-303. Requirements for license. (1) No license shall be issued by the The commissioner may not issue a license to a company until the company has filed with him the following:

(a) a formal application in such form and detail as the commissioner may require, executed under oath by its president or other principal officer;

(b) a copy of the form of its contract;

(c) a certified copy of its charter or articles of incorporation and its bylaws, if any;

(d) a financial statement in such form and detail as the commissioner may require, executed on oath by its president or other principal officer;

(e) a certificate from the state-treasurer commissioner that it has complied with 61-12-304 in all cases where a deposit of cash or a bond is required by this part;

(f) a certificate from the corporation commissioner of the state of Montana, in the event it be a corporation, that it has complied with the corporation laws of said state.

(2) No license shall be issued by the The commissioner may not issue a license to a company until the company has paid to the commissioner \$100 as an annual license fee, or

1 the pro rata portion thereof necessary to be paid to the end
2 of the current calendar year from the date of the
3 application for such the license.

4 ~~(3) No license shall be issued by the~~ The commissioner
5 ~~may not issue a license TO A COMPANY~~ until the company has
6 satisfied him by ~~such an~~ examination ~~as he may make~~ and ~~such~~
7 evidence ~~as--he~~ the commissioner may require, in his
8 discretion, that ~~such the~~ company has complied with the laws
9 of the state of Montana and that its management is
10 trustworthy and competent."

11 **Section 21.** Section 61-12-304, MCA, is amended to read:

12 ~~"61-12-304. Deposits required. No--licens--shall--be~~
13 ~~granted~~ The commissioner may not grant a license to a
14 ~~company as--herein--defined--except--as--hereinafter--stated~~ until
15 it has deposited with the state-treasurer commissioner the
16 sum of \$25,000 in cash or in lieu thereof a bond in a form
17 prescribed by the commissioner payable to the state of
18 Montana in the sum of \$25,000, with surety approved by the
19 commissioner, conditioned upon the faithful performance of
20 its service contracts and payment of any fines or penalties
21 levied against it for failure to comply with this part,
22 ~~provided, however,--that.~~ However, when any company,~~--as~~
23 ~~herein--defined,--shall--prove~~ proves to the commissioner that
24 it has been in continuous, active operation in the state for
25 a period of more than the preceding 5 years ~~immediately--last~~

1 ~~past~~ and has a paid membership of more than 5,000 members
2 within the state or that there are more than 5,000 holders
3 of its service contracts within the state and that it is
4 being properly managed, is rendering to its members the
5 services promised to them, and is financially responsible,
6 ~~no--such~~ THE COMMISSIONER MAY NOT REQUIRE a cash deposit or
7 bond ~~shall--be~~ is--not required while ~~such the~~ company remains
8 in ~~such that~~ condition. The ~~foregoing~~ cash deposit or bond
9 is not ~~required--in--any--instance--as~~ a penalty, but is for the
10 protection of the public only."

11 **Section 22.** Section 61-12-305, MCA, is amended to read:

12 ~~"61-12-305. Expiration~~ Continuance of license. Every
13 Subject to payment by January 1 of each year of the annual
14 license fee required under 61-12-303, each license issued
15 ~~hereunder--shall--expire--annually--on--January--1--of--each--year~~
16 ~~unless--sooner~~ continues in force as long as the company is
17 entitled to the license under this part or until the license
18 is revoked, or suspended, as--hereinafter--provided or
19 otherwise terminated."

20 NEW SECTION. **Section 23.** Policy provisions --
21 conformity with state statutes. Each policy regulated by
22 this part must contain a provision OR THE EQUIVALENT THERETO
23 as follows:

24 ~~Conformity--with--state--statutes,--A--provision--of--this~~
25 ~~policy--that--on--its--effective--date--conflicts--with--the~~

1 statutes--of--the--state--in--which--the--insured--resides--on--that
 2 date--is--hereby--amended--to--conform--to--the--minimum
 3 requirements--of--those--statutes: "CONFORMITY WITH MONTANA
 4 STATUTES. THE PROVISIONS OF THIS POLICY CONFORM TO THE
 5 MINIMUM REQUIREMENTS OF MONTANA LAW AND CONTROL OVER ANY
 6 CONFLICTING STATUTES OF ANY STATE IN WHICH THE INSURED
 7 RESIDES ON OR AFTER THE EFFECTIVE DATE OF THIS POLICY."

8 **NEW SECTION. Section 24.** Casualty insurance policy --
 9 conformity with state statutes. A casualty insurance policy
 10 relative to a risk resident, located, or to be performed in
 11 this state must contain a provision OR THE EQUIVALENT
 12 THERE TO as follows:

13 Conformity--with--state--statutes--A--provision--of--this
 14 policy--that--on--its--effective--date--conflicts--with--the
 15 statutes--of--the--state--in--which--the--insured--resides--on--that
 16 date--is--hereby--amended--to--conform--to--the--minimum
 17 requirements--of--those--statutes: "CONFORMITY WITH MONTANA
 18 STATUTES. THE PROVISIONS OF THIS POLICY CONFORM TO THE
 19 MINIMUM REQUIREMENTS OF MONTANA LAW AND CONTROL OVER ANY
 20 CONFLICTING STATUTES OF ANY STATE IN WHICH THE INSURED
 21 RESIDES ON OR AFTER THE EFFECTIVE DATE OF THIS POLICY."

22 **NEW SECTION. Section 25.** Property insurance policy --
 23 conformity with state statutes. A property insurance policy
 24 relative to a risk resident, located, or to be performed in
 25 this state must contain a provision OR THE EQUIVALENT

1 THERE TO as follows:

2 Conformity--with--state--statutes--A--provision--of--this
 3 policy--that--on--its--effective--date--conflicts--with--the
 4 statutes--of--the--state--in--which--the--insured--resides--on--that
 5 date--is--hereby--amended--to--conform--to--the--minimum
 6 requirements--of--those--statutes: "CONFORMITY WITH MONTANA
 7 STATUTES. THE PROVISIONS OF THIS POLICY CONFORM TO THE
 8 MINIMUM REQUIREMENTS OF MONTANA LAW AND CONTROL OVER ANY
 9 CONFLICTING STATUTES OF ANY STATE IN WHICH THE INSURED
 10 RESIDES ON OR AFTER THE EFFECTIVE DATE OF THIS POLICY."

11 **SECTION 26.** SECTION 33-17-102, MCA, IS AMENDED TO READ:

12 **"33-17-102. Definitions.** As used in this title, the
 13 following definitions apply:

14 (1) "Adjuster" means a person who, on behalf of the
 15 insurer, for compensation as an independent contractor or as
 16 the employee of an independent contractor or for fee or
 17 commission investigates and negotiates settlement of claims
 18 arising under insurance contracts or otherwise acts on
 19 behalf of the insurer. The term does not include a:

20 (a) licensed attorney who is qualified to practice law
 21 in this state;

22 (b) salaried employee of an insurer or of a managing
 23 general agent; or

24 (c) licensed insurance producer who adjusts or assists
 25 in adjustment of losses arising under policies issued by the

1 insurer.

2 (2) "Adjuster license" means a document issued by the
3 commissioner that authorizes a person to act as an adjuster.

4 (3) (a) "Administrator" means a person who collects
5 charges or premiums from residents of this state in
6 connection with life, disability, property, or casualty
7 insurance or annuities or who adjusts or settles claims on
8 such coverage.

9 (b) The term does not mean:

10 (i) an employer on behalf of its employees or on behalf
11 of the employees of one or more subsidiaries of affiliated
12 corporations of the employer;

13 (ii) a union on behalf of its members;

14 (iii) (A) an insurer that is either authorized in this
15 state or acting as an insurer with respect to a policy
16 lawfully issued and delivered by it in and pursuant to the
17 laws of a state in which the insurer is authorized to
18 transact insurance; or

19 (B) a health service corporation as defined in
20 33-30-101;

21 (iv) a life, disability, property, or casualty insurance
22 producer who is licensed in this state and whose activities
23 are limited exclusively to the sale of insurance;

24 (v) a creditor on behalf of its debtors with respect to
25 insurance covering a debt between the creditor and its

1 debtors;

2 (vi) a trust established in conformity with 29 U.S.C.
3 186 or the trustees, agents, and employees of the trust;

4 (vii) a trust exempt from taxation under section 501(a)
5 of the Internal Revenue Code or the trustees and employees
6 of the trust;

7 (viii) a custodian acting pursuant to a custodian
8 account that meets the requirements of section 401(f) of the
9 Internal Revenue Code or the agents and employees of the
10 custodian;

11 (ix) a bank, credit union, or other financial
12 institution that is subject to supervision or examination by
13 federal or state banking authorities;

14 (x) a company that issues credit cards and that
15 advances for and collects premiums or charges from its
16 credit card holders who have authorized it to do so, if the
17 company does not adjust or settle claims; or

18 (xi) a person who adjusts or settles claims in the
19 normal course of his practice or employment as an attorney
20 and who does not collect charges or premiums in connection
21 with life or disability insurance or annuities.

22 (4) "Administrator license" means a document issued by
23 the commissioner that authorizes a person to act as an
24 administrator.

25 (5) "Consultant" means a person who for a fee examines,

1 appraises, reviews, or evaluates an insurance policy,
2 annuity, or pension contract, plan, or program or who makes
3 recommendations or gives advice on an insurance policy,
4 annuity, or pension contract, plan, or program.

5 (6) "Consultant license" means a document issued by the
6 commissioner that authorizes a person to act as an insurance
7 consultant.

8 (7) "Controlled business" means insurance procured or
9 to be procured by or through a person upon the life, person,
10 property, or risks of himself, his spouse, his employer, or
11 his business.

12 (8) "Individual" means a private or natural person, as
13 distinguished from a partnership, corporation, or
14 association.

15 (9) "Insurance producer", except as provided in
16 33-17-103:

17 (a) means:

18 (i) a person who solicits, negotiates, effects,
19 procures, delivers, renews, continues, or binds:

20 (A) policies of insurance for risks residing, located,
21 or to be performed in this state; or

22 (B) membership contracts as defined in 33-30-101;

23 (ii) a managing general agent. For purposes of this
24 definition, a "managing general agent" is a person who, on
25 behalf of an insurer, exercises general supervision over the

1 business of the insurer in this state or in any other state,
2 including the authority to contract with an insurance
3 producer for the insurer and terminate those contracts.

4 (b) does not mean a customer service representative.
5 For purposes of this definition, a "customer service
6 representative" means a salaried employee of an insurance
7 producer who assists and is responsible to the insurance
8 producer.

9 (10) "License" means a document issued by the
10 commissioner that authorizes a person to act as an insurance
11 producer for the kinds of insurance specified in the
12 document. The license itself does not create actual,
13 apparent, or inherent authority in the holder to represent
14 or commit an insurer to a binding agreement.

15 (11) "Person" means an individual, partnership,
16 corporation, association, or other legal entity.

17 (12) "Public adjuster" means an adjuster employed by and
18 representing the interests of the insured."

19 **SECTION 27. SECTION 33-22-1511, MCA, IS AMENDED TO**

20 **READ:**

21 "33-22-1511. Minimum benefits of association plan. The
22 association through the association plan shall offer a
23 policy that provides at least the benefits of a qualified
24 plan as required by 33-22-1521."

25 **SECTION 28. SECTION 33-22-1512, MCA, IS AMENDED TO**

READ:

"33-22-1512. Association plan premium. The association shall establish the schedule of premiums to be charged eligible persons for membership in the association plan. The schedule of premiums may not be less than 150% or more than 400% of the average premium rates charged by the five largest insurers with the largest premium amount of individual qualified--plan plans of major medical insurance in force in this state. The premium rates of the five insurers used to establish the premium rates for each type of coverage offered by the association must be determined by the commissioner from information provided annually by all insurers at the request of the commissioner. ~~The information requested--must--include--the--number--of-qualified-plans-or-actuarial-equivalent-plans--offered--by--each--insurer,--the rates--charged--by--the-insurer-for-each-type-of-plan-offered by-the-insurer,--and-any-other-information--the--commissioner considers-necessary.~~ The association shall utilize generally acceptable actuarial principles and structurally compatible rates."

SECTION 29. SECTION 33-22-1514, MCA, IS AMENDED TOREAD:

"33-22-1514. Administration of association plan -- rules. ~~{1}--Any-member-of-the-association-may-submit-to-the commissioner--policies--to-be--proposed--to--serve--as--the~~

~~association-plan--The-commissioner-shall-prescribe--by--rule the-time-and-manner-of-the-submission-~~

~~{2}{1} Upon--the--commissioner's-approval-of-the-policy forms-and-contracts-submitted,--the-association-shall--select policies--and--contracts--by--a--member--or--members--of-the association-to-be--the--association--plan.~~ The association shall select one lead carrier to issue the qualified-plans association plan. The board of directors of the association shall prepare appropriate specifications and bid forms and may solicit bids from licensed administrators and the members of the association for the purpose of selecting the lead carrier. The selection of the lead carrier must be based upon criteria established by the board of directors.

~~{3}{2} The lead carrier shall perform all administrative and claims payment functions required by this section upon the commissioner's approval of the policy forms and contracts submitted. The lead carrier shall provide these services for a period of at least 3 years, unless a request to terminate is approved by the association and the commissioner. The association and the commissioner shall approve or deny a request to terminate within 90 days of its receipt. A failure to make a final decision on a request to terminate within the specified period is considered an approval. The association shall invite submissions of policy forms from members of the association, including the lead~~

1 carrier, 6 months prior to the expiration of each 3-year
2 period. The association shall follow the procedure provided
3 in subsection ~~(2)~~ (1) in selecting a lead carrier for the
4 subsequent 3-year period or, if a request to terminate is
5 approved, on or before the end of the 3-year period.

6 ~~(4)~~ (3) The lead carrier shall provide all eligible
7 persons involved in the association plan an individual
8 certificate setting forth a statement as to the insurance
9 protection to which the person is entitled, the method and
10 place of filing claims, and to whom benefits are payable.
11 The certificate must indicate that coverage was obtained
12 through the association.

13 ~~(5)~~ (4) The lead carrier shall submit to the association
14 and the commissioner on a semiannual basis a report of the
15 operation of the association plan. The association must
16 determine the specific information to be contained in the
17 report prior to the effective date of the association plan.

18 ~~(6)~~ (5) The lead carrier shall pay all claims pursuant
19 to this part and shall indicate that the claim was paid by
20 the association plan. Each claim payment must include
21 information specifying the procedure involved in the event a
22 dispute over the amount of payment arises.

23 ~~(7)~~ (6) The lead carrier must be reimbursed from the
24 association plan premiums received for its direct and
25 indirect expenses. Direct and indirect expenses include a

1 prorated reimbursement for the portion of the lead carrier's
2 administrative, printing, claims administration, management,
3 and building overhead expenses, which are assignable to the
4 maintenance and administration of the association plan. The
5 association must approve cost accounting methods to
6 substantiate the lead carrier's cost reports consistent with
7 generally accepted accounting principles. Direct and
8 indirect expenses may not include costs directly related to
9 the original submission of policy forms prior to selection
10 as the lead carrier.

11 ~~(8)~~ (7) The lead carrier is, when carrying out its
12 duties under this part, an independent contractor for the
13 association and is individually liable for its actions,
14 subject to the laws of this state."

15 **SECTION 30. SECTION 33-22-1515, MCA, IS AMENDED TO**

16 **READ:**

17 "33-22-1515. Solicitation of eligible persons. (1) The
18 association, pursuant to a plan approved by the
19 commissioner, shall disseminate appropriate information to
20 the residents of this state regarding the existence of the
21 association plan and the means of enrollment. Means of
22 communication may include use of the press, radio, and
23 television, as well as publication in appropriate state
24 offices and publications.

25 (2) The association shall devise and implement means of

1 maintaining public awareness of this part and shall
 2 administer this part in a manner which facilitates public
 3 participation in the association plan.

4 (3) All licensed disability insurance producers may
 5 engage in the selling or marketing of qualified the
 6 association plans plan. The lead carrier shall pay an
 7 insurance producer's referral fee of \$25 to each licensed
 8 disability insurance producer who refers an applicant to the
 9 association plan, if the applicant is accepted. The referral
 10 fees must be paid to by the lead carrier from money received
 11 as premiums for the association plan.

12 (4) An insurer, society, or health service corporation
 13 that rejects or applies underwriting restrictions to an
 14 applicant for disability insurance must notify the applicant
 15 of the existence of the association plan, requirements for
 16 being accepted in it, and the procedure for applying to it."

17 **SECTION 31. SECTION 33-22-1516, MCA, IS AMENDED TO**

18 **READ:**

19 *33-22-1516. Enrollment by eligible person. (1) The
 20 association plan must be open for enrollment by eligible
 21 persons. An eligible person may enroll in the plan by
 22 submission of a certificate of eligibility to the lead
 23 carrier. The certificate must provide:

24 (a) the name, address, and age of the applicant and
 25 length of the applicant's residence in this state;

1 (b) the name, address, and age of spouse and children,
 2 if any, if they are to be insured;

3 (c) written evidence that he fulfills all of the
 4 elements of an eligible person, as defined in 33-22-1501;
 5 and

6 (d) a designation of coverage desired.

7 (2) Within 30 days of receipt of the certificate, the
 8 lead carrier shall either reject the application for failing
 9 to comply with the requirements of subsection (1) or forward
 10 the eligible person a notice of acceptance and billing
 11 information. Insurance is effective on the first of the
 12 month following acceptance.

13 (3) An eligible person may not purchase more than one
 14 policy from the association plan.

15 (4) A person who obtains coverage pursuant to this
 16 section may not be covered for any preexisting condition
 17 during the first 12 months of coverage under the association
 18 plan if the person was diagnosed or treated for that
 19 condition during the 5 years immediately preceding the
 20 filing of an application. This subsection does not apply to
 21 a person who has had continuous coverage under an
 22 individual, family, or group policy during the year
 23 immediately preceding the filing of an application and whose
 24 cancellation date was within 30 days prior to the date of
 25 submission of a certificate of eligibility to the lead

1 carrier for nonelective procedures.

2 * (5) A change of residence from Montana to another state
3 immediately terminates eligibility for renewal of coverage
4 under the association plan."

5 **SECTION 32. SECTION 33-22-1521, MCA, IS AMENDED TO**

6 **READ:**

7 "33-22-1521. Qualified Association plan -- minimum
8 benefits. A plan of health coverage must be certified as a
9 qualified association plan if it otherwise meets the
10 requirements of Title 33, chapters 15, 22 (excepting part
11 7), and 30, and other laws of this state, whether or not the
12 policy is issued in this state, and meets or exceeds the
13 following minimum standards:

14 (1) The minimum benefits for an insured must, subject
15 to the other provisions of this section, be equal to at
16 least 80% of the covered expenses required by this section
17 in excess of an annual deductible that does not exceed
18 \$1,000 per person. The coverage must include a limitation of
19 \$5,000 per person on the total annual out-of-pocket expenses
20 for services covered under this section. Coverage must be
21 subject to a maximum lifetime benefit, but such maximums may
22 not be less than \$100,000.

23 (2) Covered expenses must be the usual and customary
24 charges for the following services and articles when
25 prescribed by a physician or other licensed health care

1 professional provided for in 33-22-111:

- 2 (a) hospital services;
- 3 (b) professional services for the diagnosis or
4 treatment of injuries, illness, or conditions, other than
5 dental;
- 6 (c) use of radium or other radioactive materials;
- 7 (d) oxygen;
- 8 (e) anesthetics;
- 9 (f) diagnostic x-rays and laboratory tests, except as
10 specifically provided in subsection (3);
- 11 (g) services of a physical therapist;
- 12 (h) transportation provided by licensed ambulance
13 service to the nearest facility qualified to treat the
14 condition;
- 15 (i) oral surgery for the gums and tissues of the mouth
16 when not performed in connection with the extraction or
17 repair of teeth or in connection with TMJ;
- 18 (j) rental or purchase of medical equipment, which
19 shall be reimbursed after the deductible has been met at the
20 rate of 50%, up to a maximum of \$1,000;
- 21 (k) prosthetics, other than dental; and
- 22 (l) services of a licensed home health agency, up to a
23 maximum of 180 visits per year.
- 24 (3) (a) Covered expenses for the services or articles
25 specified in this section do not include:

1 (i) drugs requiring a physician's prescription;
 2 (ii) services of a nursing home;
 3 (iii) home and office calls, except as specifically
 4 provided in subsection (2);
 5 (iv) rental or purchase of durable medical equipment,
 6 except as specifically provided in subsection (2);
 7 (v) the first \$20 of diagnostic x-ray and laboratory
 8 charges in each 14-day period;
 9 (vi) oral surgery, except as specifically provided in
 10 subsection (2);
 11 (vii) that part of a charge for services or articles
 12 which exceeds the prevailing charge in the locality where
 13 the service is provided; or
 14 (viii) care that is primarily for custodial or
 15 domiciliary purposes which would not qualify as eligible
 16 services under medicare.

17 (b) Covered expenses for the services or articles
 18 specified in this section do not include charges for:
 19 (i) care or for any injury or disease either arising
 20 out of an injury in the course of employment and subject to
 21 a workers' compensation or similar law, for which benefits
 22 are payable under another policy of disability insurance or
 23 medicare;
 24 (ii) treatment for cosmetic purposes other than surgery
 25 for the repair or treatment of an injury or congenital

1 bodily defect to restore normal bodily functions;
 2 (iii) travel other than transportation provided by a
 3 licensed ambulance service to the nearest facility qualified
 4 to treat the condition;
 5 (iv) confinement in a private room to the extent it is
 6 in excess of the institution's charge for its most common
 7 semiprivate room, unless the private room is prescribed as
 8 medically necessary by a physician;
 9 (v) services or articles the provision of which is not
 10 within the scope of authorized practice of the institution
 11 or individual rendering the services or articles;
 12 (vi) organ transplants, including bone marrow
 13 transplants;
 14 (vii) room and board for a nonemergency admission on
 15 Friday or Saturday;
 16 (viii) pregnancy, except complications of pregnancy;
 17 (ix) routine well baby care;
 18 (x) complications to a newborn, unless no other source
 19 of coverage is available;
 20 (xi) sterilization or reversal of sterilization;
 21 (xii) abortion, unless the life of the mother would be
 22 endangered if the fetus were carried to term;
 23 (xiii) weight modification or modification of the body
 24 to improve the mental or emotional well-being of an insured;
 25 (xiv) artificial insemination or treatment for

1 infertility; or

2 (xv) breast augmentation or reduction."

3 **SECTION 33. SECTION 33-1-704, MCA, IS AMENDED TO READ:**

4 "33-1-704. Hearing procedure. (1) All hearings shall be
5 open to the public unless closed pursuant to the provisions
6 of 2-3-203.

7 (2) The commissioner shall allow any party to the
8 hearing to appear in person and by counsel, to be present
9 during the giving of all evidence, to have a reasonable
10 opportunity to inspect all documentary evidence and to
11 examine witnesses, to present evidence in support of his
12 interest, and to have subpoenas issued by the commissioner
13 to compel attendance of witnesses and production of evidence
14 in his behalf.

15 (3) The commissioner shall permit to become a party to
16 the hearing by intervention, if timely, any person who was
17 not an original party thereto and whose pecuniary interests
18 will be directly and immediately affected by the
19 commissioner's order made upon the hearing.

20 (4) Except as provided in 33-31-404, rules of pleading
21 ~~or evidence~~ need not be observed at any hearing, but the
22 rules of evidence must be observed.

23 (5) Upon written request seasonably made by a party to
24 the hearing and at that person's expense, the commissioner
25 shall cause a full stenographic record of the proceedings to

1 be made by a competent reporter. If transcribed, a copy of
2 such stenographic record shall be furnished to the
3 commissioner without cost to the commissioner or the state
4 and shall be a part of the commissioner's record of the
5 hearing. If so transcribed, a copy of such stenographic
6 record shall be furnished to any other party to such hearing
7 at the request and expense of such other party. If no
8 stenographic record is made or transcribed, the commissioner
9 shall prepare an adequate record of the evidence and of the
10 proceedings."

11 **SECTION 34. SECTION 33-22-229, MCA, IS AMENDED TO READ:**

12 "33-22-229. Conformity with state statutes. There must
13 be a provision or the equivalent thereto as follows:

14 "Conformity with Seate-Statutes Montana statutes: Any
15 provision--of--this-policy-which-on-its-effective-date-is-in
16 confliet-with-the-statutes-of-the-state-in-which-the-insured
17 resides-on-such-date-is-hereby-amended--to--conform--to--the
18 minimum--requirements--of--such--statutes. The provisions of
19 this policy conform to the minimum requirements of Montana
20 law and control over any conflicting statutes of any state
21 in which the insured resides on or after the effective date
22 of this policy."

23 NEW SECTION. SECTION 35. REPEALER. SECTION 33-22-1522,
24 MCA, IS REPEALED.

25 NEW SECTION. Section 36. Name change -- short form

1 amendment. Wherever it appears in 33-7-519, 33-17-206,
2 33-18-210, and 33-18-501 or in insurance laws enacted by the
3 52nd legislature, the code commissioner is directed to
4 change the term "solicitor" to "insurance producer".

5 NEW SECTION. **Section 37.** Codification instruction. (1)
6 [Section 24 23] is intended to be codified as an integral
7 part of Title 33, chapter 20, parts 1 and 12, and the
8 provisions of Title 33, chapter 20, parts 1 and 12, apply to
9 [section 24 23].

10 (2) [Section 25 24] is intended to be codified as an
11 integral part of Title 33, chapter 23, part 1, and the
12 provisions of Title 33, chapter 23, part 1, apply to
13 [section 25 24].

14 (3) [Section 26 25] is intended to be codified as an
15 integral part of Title 33, chapter 24, part 1, and the
16 provisions of Title 33, chapter 24, part 1, apply to
17 [section 26 25].

-End-

And that this Free Conference Committee report be adopted.

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 16, met, considered and recommend that Senate Bill No. 16 (reference copy - salmon) be amended as follows:

1. Title, line 11.
Strike: "33-7-406,"
2. Page 9, line 2.
Strike: "10.00"
Insert: "15.00"
3. Page 17, lines 14 through 24.
Strike: section 7 in its entirety
Renumber: subsequent sections
4. Page 55, line 6.
Strike: "23"
Insert: "22"
5. Page 55, line 9.
Strike: "23"
Insert: "22"
6. Page 55, line 10.
Strike: "24"
Insert: "23"
7. Page 55, line 13.
Strike: "24"
Insert: "23"
8. Page 55, line 14.
Strike: "25"
Insert: "24"
9. Page 55, line 17.
Strike: "25"
Insert: "24"

ADOPT

REJECT

For the Senate:

Ed Kennedy
Chair, Sen. Kennedy

Steve Bruski
Sen. Bruski

Anthony Gage
Sen. Gage

For the House:

Scott T. McCulloch
Chair Rep. McCulloch

Paul Pavlovich
Rep. Pavlovich

Tom Nelson
Rep. T. Nelson

4/23
And. Coord.
SB 4/23
Sec. of Senate



AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE REGULATION OF INSURERS AND MOTOR CLUB SERVICE COMPANIES; DIRECTING THE CODE COMMISSIONER TO CHANGE ANY REFERENCE TO THE TERM "SOLICITOR" TO "INSURANCE PRODUCER" WHEREVER IT APPEARS IN THE MONTANA CODE ANNOTATED; AMENDING SECTIONS 33-1-704, 33-1-711, 33-2-705, 33-2-708, 33-2-709, 33-3-401, 33-3-431, 33-17-102, 33-17-208, 33-17-603, 33-20-303, 33-20-305, 33-22-229, 33-22-502, 33-22-921, 33-22-923, 33-22-924, 33-22-1501, 33-22-1504, 33-22-1511, 33-22-1512, 33-22-1513, 33-22-1514, 33-22-1515, 33-22-1516, 33-22-1521, 33-23-302, 61-12-303, 61-12-304, AND 61-12-305, MCA; AND REPEALING SECTION 33-22-1522, MCA.

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

Section 1. Section 33-1-711, MCA, is amended to read:

"33-1-711. Appeals from the commissioner. (1) An appeal from the commissioner may be taken only from an order on hearing or with respect to a matter as to which the commissioner has refused a hearing. Any person who was a party to the hearing or whose pecuniary interests are directly and immediately affected by any order or refusal and who is aggrieved by an order or refusal may, within 30 days after the order has been mailed or delivered to the persons entitled to receive the same, the commissioner's order denying rehearing or reargument has been so mailed or delivered, or the commissioner's refusal to grant a hearing, appeal from the order on hearing or the refusal of a hearing. Any request for a

stay of the commissioner's order must be made within 60 days, to run concurrently with the 30 days for appeal. The appeal must be taken to the district court of Lewis and Clark County by filing written notice of appeal in the court and by filing a copy of the notice with the commissioner, except that in appeals from the suspension or revocation of the certificate of authority of a domestic insurer or of the license of an insurance producer or surplus lines insurance producer, the person taking the appeal may at his option, in lieu of the district court of Lewis and Clark County, take the appeal to the district court of the county of Montana in which the insurer has its principal place of business or the licensee resides.

(2) Upon filing of the notice of appeal, the court has full jurisdiction and shall determine whether the filing operates as a stay of the order or action appealed from.

(3) Within 20 days after filing of the copy of the notice of appeal in his office, the commissioner shall make and return to the court in which the appeal is pending a copy of his order appealed from and a full and complete transcript, duly certified by the commissioner, of his record of the hearing upon which the order was issued, together with all exhibits and documentary evidence introduced at the hearing. If the appeal is from an action of the commissioner with respect to which a hearing was refused, the commissioner shall, within the 20-day period, make and return to the court a full and complete transcript, duly

certified by him, of all documents on file in his office directly relating to the matter as to which the appeal is taken.

(4) Upon receipt of the transcripts and evidence, the court shall hear the matter ~~de--novo~~ as soon as reasonably possible thereafter. Upon the hearing of the appeal, the court shall consider the evidence contained in the transcript, exhibits, and documents filed by the commissioner, together with additional proper evidence as may be offered by any party to the appeal.

(5) After hearing the appeal, the court may affirm, modify, or reverse the order or action of the commissioner, in whole or in part, or remand the action to the commissioner for further proceedings in accordance with the court's direction.

(6) Costs must be awarded as in civil actions.

(7) Appeal may be taken to the supreme court from the judgment of the district court as in other civil cases to which the state is a party. A stay of the effectiveness of any judgment may be made only by order of the supreme court upon the giving of security as that court considers proper.

(8) This section does not apply to appeals as to matters covered by chapter 16."

Section 2. Section 33-2-705, MCA, is amended to read:

"33-2-705. Report on premiums and other consideration -- tax.

(1) Each authorized insurer and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state shall file with the commissioner, on or before March

1 each year, a report in form as prescribed by the commissioner showing total direct premium income, including policy, membership, and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance, whether designated as a premium or otherwise, received by it a life insurer or written by an insurer other than a life insurer during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana, with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state, after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance, "premium" includes the total charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall

not be included in total direct premium income and shall not be subject to tax.

(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums computed at the rate of 2 3/4%.

(3) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

(4) With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state, and taxes payable under 50-3-109.

(5) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

(6) In addition to the penalty provided for in subsection (5), the commissioner may impose upon an insurer who fails to pay the tax required under this section a fine of \$100 a day for each day the tax remains unpaid past the due date or 1% of the amount owed in tax, whichever is greater.

(7) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium tax under this section during the year in which such tax liability is accrued."

Section 3. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) Except as provided in 33-17-212(2), the commissioner shall collect in advance and the persons served shall pay to the commissioner the following fees:

(a) certificates of authority:

(i) for filing applications for original certificates of authority, articles of incorporation (except original articles of incorporation of domestic insurers as provided in subsection (1)(b)) and other charter documents, bylaws, financial statement, examination report, power of attorney to the commissioner, and all other documents and filings required in connection with the application and for issuance of an original certificate of authority, if issued:

- (A) domestic insurers \$ 600.00
- (B) foreign insurers 600.00
- (ii) annual continuation of certificate of authority . 600.00
- (iii) reinstatement of certificate of authority 25.00

- (iv) amendment of certificate of authority 50.00
- (b) articles of incorporation:
 - (i) filing original articles of incorporation of a domestic insurer, exclusive of fees required to be paid by the corporation to the secretary of state 20.00
 - (ii) filing amendment of articles of incorporation, domestic and foreign insurers, exclusive of fees required to be paid to the secretary of state by a domestic corporation 25.00
 - (c) filing bylaws or amendment to bylaws where required 10.00
 - (d) filing annual statement of insurer, other than as part of application for original certificate of authority 25.00
 - (e) insurance producer's license:
 - (i) application for original license, including issuance of license, if issued 15.00
 - (ii) appointment of insurance producer, each insurer . 10.00
 - (iii) temporary license 15.00
 - (iv) amendment of license (excluding additions to license) or reissuance of master license 15.00
 - (f) nonresident insurance producer's license:
 - (i) application for original license, including issuance of license, if issued 100.00
 - (ii) appointment of insurance producer, each insurer . 10.00
 - (iii) annual renewal of license 10.00
 - (iv) amendment of license (excluding additions to license) or

- reissuance of master license ~~10.00~~ 15.00
- (g) examination, if administered by the commissioner, for license as insurance producer, each examination 15.00
- (h) surplus lines insurance producer license:
 - (i) application for original license and for issuance of license, if issued 50.00
 - (ii) annual renewal of license 50.00
- (i) adjuster's license:
 - (i) application for original license and for issuance of license, if issued 15.00
 - (ii) annual renewal of license 15.00
- (j) insurance vending machine license, each machine, each year 10.00
- (k) commissioner's certificate under seal (except when on certificates of authority or licenses) 10.00
- (l) copies of documents on file in the commissioner's office, per page50
- (m) policy forms:
 - (i) filing each policy form 25.00
 - (ii) filing each application, rider, endorsement, amendment, insert page, schedule of rates, and clarification of risks 10.00
 - (iii) maximum charge if policy and all forms submitted at one time or resubmitted for approval within 180 days 100.00
- (n) applications for approval of prelicensing education

courses:

(i) reviewing initial application 150.00

(ii) periodic review 50.00

(2) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund of this state all fines and penalties, those amounts received pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees and examination and miscellaneous charges that are collected by him pursuant to Title 33 and the rules adopted under Title 33.

(3) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

Section 4. Section 33-2-709, MCA, is amended to read:

"33-2-709. Retaliatory fees, taxes, and other obligations.

(1) When by or pursuant to the laws of any other state or foreign country any taxes, licenses, and other fees, in the aggregate, and any fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions are or would be imposed upon Montana insurers or upon the insurance producers or representatives of such insurers which are in excess of such taxes, licenses, and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements, or other obligations, prohibitions, or restrictions directly imposed upon similar insurers or upon the insurance producers or representatives of such insurers of such other state or country

under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses, and other fees, in the aggregate, or fines, penalties, or deposit requirements or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the commissioner upon the insurers or upon the insurance producers or representatives of such insurers of such other state or country doing business or seeking to do business in Montana. Any tax, license, or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on Montana insurers or their insurance producers or representatives shall be deemed to be imposed by such state or country within the meaning of this section.

(2) This section shall not apply as to any fees in conjunction with the licensing of insurance producers, personal income taxes, ad valorem taxes on real or personal property, or special purpose obligations or assessments imposed by another state or by an agency of this state other than the department in connection with particular kinds of insurance other than property insurance, except that deductions from premium taxes or other taxes otherwise payable allowed on account of real estate or personal property taxes paid shall be taken into consideration by the commissioner in determining the propriety and extent of retaliatory action under this section.

(3) (a) For the purposes of this section the domicile of an

alien insurer, other than insurers formed under the laws of Canada, shall be that state designated by the insurer in writing filed with the commissioner at time of admission to this state or within 6 months after January 1, 1961, whichever date is the later, and may be any one of the following states:

(i) that in which the insurer was first authorized to transact insurance;

(ii) that in which is located the insurer's principal place of business in the United States;

(iii) that in which is held the larger deposit of trusteed assets of the insurer for the protection of its policyholders and creditors in the United States.

(b) If the insurer makes no such designation, its domicile shall be deemed to be that state in which is located its principal place of business in the United States."

Section 5. Section 33-3-401, MCA, is amended to read:

"33-3-401. Home office and records -- penalty for unlawful removal of records or assets. (1) Every domestic insurer shall have and maintain its principal place of business and home office in this state and shall keep therein complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary or suitable as to the kind or kinds of insurance transacted. Records of the insurer's operations and other financial records reasonably related to its insurance operations for the preceding 5 years must be maintained and be

available to the commissioner or his duly constituted examiner.

(2) Every domestic insurer shall have and maintain its assets in this state, except as to:

(a) real property and personal property appurtenant thereto lawfully owned by the insurer and located outside this state; and

(b) such property of the insurer as may be customary, necessary, and convenient to enable and facilitate the operation of its branch offices and regional home offices located outside this state as referred to in subsection (4) below.

(3) Removal of all or a material part of the records or assets of a domestic insurer from this state except pursuant to a plan of merger or consolidation approved by the commissioner under this code or for such reasonable purposes and periods of time as may be approved by the commissioner in writing in advance of such removal or concealment of such records or assets or material part thereof from the commissioner is prohibited. Any person who removes or attempts to remove such records or assets or such material part thereof from the home office or other place of business or of safekeeping of the insurer in this state with the intent to remove the same from this state or who conceals or attempts to conceal the same from the commissioner, in violation of this subsection, shall upon conviction thereof be guilty of a felony punishable by a fine of not more than \$10,000 or by imprisonment in the penitentiary for not more than 5 years or by both such fine and imprisonment in the discretion of the court.

Upon any removal or attempted removal of such records or assets or upon retention of such records or assets or material part thereof outside this state beyond the period therefor specified in the commissioner's consent under which the records were so removed thereat or upon concealment of or attempt to conceal records or assets in violation of this section, the commissioner may institute delinquency proceedings against the insurer pursuant to the provisions of chapter 2, part 13.

(4) This section shall not be deemed to prohibit or prevent an insurer from:

(a) establishing and maintaining branch offices or regional home offices in other states where necessary or convenient to the transaction of its business and keeping therein the detailed records and assets customary and necessary for the servicing of its insurance in force and affairs in the territory served by such an office, as long as such records and assets are made readily available at such office for examination by the commissioner at his request;

(b) having, depositing, or transmitting funds and assets of the insurer in or to jurisdictions outside of this state as reasonably and customarily required in the regular course of its business;

(c) making deposits under custodial arrangements as provided by 33-2-604(3)."

Section 6. Section 33-3-431, MCA, is amended to read:

"33-3-431. Borrowed surplus. (1) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest not-exceeding-6%-per-annum at a rate no greater than the rate established in 25-9-205, which interest shall or shall not constitute a liability of the insurer as to its funds other than such excess of surplus, as stipulated in the agreement. No commission or promotion expense shall be paid in connection with any such loan.

(2) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement or be the basis of any setoff; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(3) Any such loan to a mutual insurer shall be subject to the commissioner's approval. The insurer shall, in advance of the loan, file with the commissioner a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement shall be deemed approved unless within 15 days after

date of such filing the insurer is notified of the commissioner's disapproval and the reasons therefor. The commissioner shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the insurer, or that the information so filed by the insurer is inadequate.

(4) Any such loan to a mutual insurer or substantial portion thereof shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such loan shall be made by a mutual insurer unless in advance approved by the commissioner.

(5) This section shall not apply to loans obtained by the insurer in ordinary course of business from banks and other financial institutions or to loans secured by pledge or mortgage of assets."

Section 7. Section 33-17-208, MCA, is amended to read:

"33-17-208. Prelicensing education -- basic requirement.

(1) (a) A person applying for a license to act as an insurance producer for property, casualty, and surety insurance shall complete 40 hours of approved prelicensing education courses in those areas of insurance within 12 months prior to the examination, unless he is exempted from the requirement under subsection (3).

(b) A person applying for a license to act as an insurance

producer for life and disability insurance or as an enrollment representative for a health service corporation shall complete 40 hours of approved prelicensing education courses in those areas of insurance within 12 months prior to the examination, unless he is exempted from the requirement under subsection (3).

(2) A person applying for licenses to act as an insurance producer for both the property, casualty, and surety areas and the life and or disability areas must meet the education requirements in all the areas of insurance.

(3) The minimum prelicensing education requirement does not apply to a person who:

(a) has been licensed within the 12 preceding months as an insurance producer in another state that requires prelicensing education and has completed the education in the other state;

(b) seeks a nonresident license, having been licensed as an insurance provider in his state of residence for at least 1 year;

(c) seeks a nonresident license and is from a state having a prelicensing education requirement;

(d) seeks to reinstate a license lapsed for less than 2 years;

(e) seeks a temporary license under 33-17-216; or

(f) is exempt from examination requirements under 33-17-212(5)(7)."

Section 8. Section 33-17-603, MCA, is amended to read:

"33-17-603. Certificate of registration. (1) Except as

provided in 33-17-604, a person may not act as or hold himself out to be an administrator in this state unless he holds a certificate of registration as an administrator.

(2) An application for a certificate of registration must be accompanied by a fee of \$100. The commissioner shall issue the certificate unless he finds that the applicant is not competent, trustworthy, financially responsible, or of good personal and business reputation or that the applicant has had a previous application for a license denied for cause within 5 years.

(3) The certificate of registration is renewable annually on ~~the--date--of--issue~~ July 1. A request for renewal must be accompanied by a renewal fee of \$100.

(4) The certificate of registration may be suspended or revoked if, after notice and hearing, the commissioner finds that the administrator has violated any of the requirements of this part or that the administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

(5) Unless the certification requirement is waived, a person who acts as an administrator without a certificate of registration is subject to a fine of not less than \$500 or more than \$1,500."

Section 9. Section 33-20-303, MCA, is amended to read:

"33-20-303. Incontestability. If any statements other than those relating to age~~7~~--~~sex~~7 and identity are required as a condition to issuing an annuity or pure endowment contract, other

than a reversionary, survivorship, or group annuity, and subject to 33-20-305, there shall be a provision that the contract shall be incontestable after it has been in force during the lifetime of the person or of each of the persons as to whom such statements are required, for a period of 2 years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means."

Section 10. Section 33-20-305, MCA, is amended to read:

"33-20-305. Misstatement of age or-sex. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that if the age or-sex of the person or persons upon whose life or lives the contract is made, or of any of them, has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or-sex and that if the insurer shall make or has made any overpayment or overpayments on account of any such misstatement, the amount thereof, with interest at the rate to be specified in the contract but not exceeding 6% per annum, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract."

Section 11. Section 33-22-502, MCA, is amended to read:

"33-22-502. Required provisions of group policies. Each such group disability insurance policy shall delivered or issued for delivery in this state must contain in substance the following provisions:

(1) a provision that, in the absence of fraud, all statements made by applicants or the policyholder or by an insured person shall be deemed representations and not warranties and that no statement made for the purpose of effecting insurance shall avoid such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary;

(2) a provision that the insurer will furnish to the policyholder for delivery to each employee or member of the insured group a statement in summary form of the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit.

(3) a provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

(4) a provision or the equivalent thereto that reads:

"Conformity with Montana statutes. The provisions of this

policy conform to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

Section 12. Section 33-22-921, MCA, is amended to read:

"33-22-921. Discontinuance or nonrenewal -- alternate policy or certificate -- same insurer. (1) If a disability insurer discontinues or does not renew a medicare supplement policy product or certificate and offers an alternate medicare supplement policy or certificate to its insureds within this state, it may not deny benefits under the replacing policy or certificate to an insured who receives treatment for a condition that was a covered expense under the replaced policy or certificate and is a covered expense under the replacing policy or certificate if the insured enrolls in and pays the premium for the replacing policy or certificate within 31 days after the termination of the replaced policy or certificate.

(2) A disability insurer who discontinues or does not renew a medicare supplement policy product or certificate and offers an alternate medicare supplement policy or certificate shall base its premium for the alternate policy or certificate on the rates currently in place for that policy or certificate.

(3) If the insured has not satisfied the preexisting condition limitation under the replaced medicare supplement policy or certificate, any period of time that was covered by that policy or certificate must be credited toward the preexisting condition

limitation period of the replacing policy or certificate."

Section 13. Section 33-22-923, MCA, is amended to read:

"33-22-923. Replacement policy or certificate -- different insurer. (1) If a disability insurer replaces a medicare supplement policy or certificate, it may not deny benefits under the replacing policy or certificate to an insured who receives treatment for a condition that was a covered expense under the replaced policy or certificate and is a covered expense under the replacing policy or certificate if the insured pays the premium for the replacing policy or certificate when due or within 31 days after the termination of the replaced policy or certificate.

(2) An insurer who replaces a medicare supplement policy or certificate shall base its premium for the replacement policy or certificate on the rates currently in place for that policy or certificate.

(3) If the insured has not satisfied the preexisting condition limitation under the replaced medicare supplement policy or certificate, any period of time that was covered by that policy or certificate must be credited toward the preexisting condition limitation period of the replacing policy or certificate.

(4) To receive the benefits of subsections (1) through (3), a person shall submit to the replacing insurer proof of prior coverage, evidence of benefits provided under the previous policy or certificate, and the effective date and the date of termination of coverage under the previous policy or certificate."

Section 14. Section 33-22-924, MCA, is amended to read:

"33-22-924. Renewal requirement. (1) If a person pays a renewal premium on the date it is due or within 31 days after it is due, an insurer may not refuse to renew a medicare supplement policy or certificate unless the insurer:

(a) refuses to renew all policies or certificates in this state that are of the same form and issued to persons of the same class; and

(b) offers a replacement policy or certificate at actuarially justified rates.

(2) If an insurer refuses to renew all policies or certificates in this state that are of the same form and issued to persons of the same class, the policies or certificates will remain in force during the grace period stated in the replaced policy or certificate. An insurer's refusal to renew a policy or certificate may not affect a claim that arose under the replaced discontinued policy or certificate during the period in which an insured was confined without interruption to a medical care facility for treatment."

Section 15. Section 33-22-1501, MCA, is amended to read:

"33-22-1501. Definitions. As used in this part, the following definitions apply:

(1) "Association" means the comprehensive health association created by 33-22-1503.

(2) "Association plan" means a policy of insurance coverage

offered by the association through--the--lead--carrier that is certified by the association as required by 33-22-1521.

(3) "Association plan premium" means the charge determined pursuant to 33-22-1512 for membership in the association plan based on the benefits provided in 33-22-1521.

(4) "Eligible person" means an individual who:

(a) is a resident of this state and applies for coverage under the association plan; and

(b) unless the individual's eligibility is waived by the association, within 6 months prior to the date of application, has been rejected for disability insurance or health service benefits by at least two insurers, societies, or health service corporations, or has had a restrictive rider or preexisting conditions limitation, which limitation is required by at least two insurers, societies, or health service corporations, which has the effect of substantially reducing coverage from that received by a person considered a standard risk.

(5) "Health service corporation" means a corporation operating pursuant to Title 33, chapter 30, and offering or selling contracts of disability insurance.

(6) "Insurance arrangement" means any plan, program, contract, or other arrangement to the extent not exempt from inclusion by virtue of the provisions of the federal Employee Retirement Income Security Act of 1974 under which one or more employers, unions, or other organizations provide to their

employees or members, either directly or indirectly through a trust of a third-party administrator, health care services or benefits other than through an insurer.

(7) "Insurer" means a company operating pursuant to Title 33, chapter 2 or 3, and offering or selling policies or contracts of disability insurance, as provided in Title 33, chapter 22.

(8) "Lead carrier" means the licensed administrator or insurer selected by the association to administer the association plan.

(9) "Preexisting condition" means any condition for which an applicant for coverage under the association plan has received medical attention during the 5 years immediately preceding the filing of an application.

~~{10} "Qualified--plan"--means--those--health---benefit---plans certified--by--the--commissioner-as-providing-the-minimum-benefits required-by--33-22-1521--or--the--actuarial--equivalent--of--those benefits-~~

~~{11}~~(10) "Society" means a fraternal benefit society operating pursuant to Title 33, chapter 7, and offering or selling certificates of disability insurance."

Section 16. Section 33-22-1504, MCA, is amended to read:

"33-22-1504. Association board of directors -- organization.

(1) There is a board of directors of the association, consisting of eight individuals:

(a) one from each of the seven participating members of the

association with the highest annual premium volume of disability insurance contracts or health service corporation contracts, derived from or on behalf of residents in the previous calendar year, as determined by the commissioner; and

(b) a member at large, appointed by the commissioner to represent the public interest, who shall serve in an advisory capacity only.

(2) Each of the seven board members representing the association members is entitled to a weighted average vote, in person or by proxy, based on the association member's annual Montana premium volume. However, a board member may not have more than 50% of the vote.

(3) Members of the board may be reimbursed from the money of the association for expenses incurred by them due to their service as board members but may not otherwise be compensated by the association for their services. The costs of conducting the meetings of the association and its board of directors must be borne by participating members of the association in accordance with 33-22-1513."

Section 17. Section 33-22-1513, MCA, is amended to read:

"33-22-1513. Operation of association plan. (1) Upon acceptance by the lead carrier under 33-22-1516, an eligible person may enroll in the association plan by payment of the association plan premium to the lead carrier.

(2) Not less than 88% of the association plan premiums paid

to the lead carrier may be used to pay claims and not more than 12% may be used for payment of the lead carrier's direct and indirect expenses as specified in 33-22-1514.

(3) Any income in excess of the costs incurred by the association in providing reinsurance or administrative services must be held at interest and used by the association to offset past and future losses due to claims expenses of the association plan or be allocated to reduce association plan premiums.

(4) (a) Each participating member of the association shall share the losses due to claims expenses of the association plan for plans issued or approved for issuance by the association and shall share in the operating and administrative expenses incurred or estimated to be incurred by the association incident to the conduct of its affairs. Claims expenses of the association plan that exceed the premium payments allocated to the payment of benefits are the liability of the association members. Association members shall share in the claims expenses of the association plan and operating and administrative expenses of the association in an amount equal to the ratio of:

(a)(i) the association member's total disability insurance premium received from or on behalf of Montana residents divided by;

(b)(ii) the total disability premium received by all association members from or on behalf of Montana residents, as determined by the commissioner.

(b) For purposes of this subsection (4), "total disability insurance premium" does not include premiums received from disability income insurance, credit disability insurance, disability waiver insurance, or life insurance.

(5) The association shall make an annual determination of each association member's liability, if any, and may make an annual fiscal yearend assessment if necessary. The association may also, subject to the approval of the commissioner, provide for interim assessments against the association members as may be necessary to assure the financial capability of the association in meeting the incurred or estimated claims expenses of the association plan and operating and administrative expenses of the association until the association's next annual fiscal yearend assessment. Payment of an assessment is due within 30 days of receipt by an association member of a written notice of a fiscal yearend or interim assessment. Failure by a contributing member to tender to the association the assessment within 30 days is grounds for termination of membership. An association member that ceases to do disability insurance business within the state remains liable for assessments through the calendar year during which disability insurance business ceased. The association may decline to levy an assessment against an association member if the assessment, as determined pursuant to this section, would not exceed \$10.

(6) Any annual fiscal yearend or interim assessment levied

against an association member may be offset, in an amount equal to the assessment paid to the association, against the premium tax payable by that association member pursuant to 33-2-705 for the year in which the annual fiscal yearend or interim assessment is levied. The insurance commissioner shall, each year the legislature meets in regular session, on or before January 15, report to the legislature the total amount of premium tax offset claimed by association members during the preceding biennium."

Section 18. Section 33-23-302, MCA, is amended to read:

"33-23-302. Cancellation or alteration of policy -- increase of premium rates -- sixty days' written notice required. Any insurer who insures a physician and surgeon, dentist, registered nurse, nursing home administrator, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, pharmacist, optometrist, or veterinarian, duly licensed ~~as such~~ under the laws of this state, or a licensed hospital or long-term care facility as the employer of any such person against liability for error, omission, professional negligence, or performance of services without consent ~~shall~~ may not cancel or alter the policy ~~so insuring such the person or increase the premium rates thereon~~ without first providing the insured 60 days' written notice of the insurer's intention to cancel or alter the policy or increase the premium rates."

Section 19. Section 61-12-303, MCA, is amended to read:

"61-12-303. Requirements for license. (1) ~~No license shall be~~

~~issued--by--the~~ The commissioner may not issue a license to a company until the company has filed with him the following:

(a) a formal application in such form and detail as the commissioner may require, executed under oath by its president or other principal officer;

(b) a copy of the form of its contract;

(c) a certified copy of its charter or articles of incorporation and its bylaws, if any;

(d) a financial statement in such form and detail as the commissioner may require, executed on oath by its president or other principal officer;

(e) a certificate from the ~~state-treasurer~~ commissioner that it has complied with 61-12-304 in all cases where a deposit of cash or a bond is required by this part;

(f) a certificate from the corporation commissioner of the state of Montana, in the event it be a corporation, that it has complied with the corporation laws of said state.

(2) ~~No--license--shall--be--issued--by--the~~ The commissioner may not issue a license to a company until the company has paid to the commissioner \$100 as an annual license fee, or the pro rata portion thereof necessary to be paid to the end of the current calendar year from the date of the application for such the license.

(3) ~~No--license--shall--be--issued--by--the~~ The commissioner may not issue a license to a company until the company has satisfied

him by such an examination as he may make and such evidence as he the commissioner may require, in his discretion, that such the company has complied with the laws of the state of Montana and that its management is trustworthy and competent."

Section 20. Section 61-12-304, MCA, is amended to read:

"61-12-304. Deposits required. ~~No--license--shall--be--granted~~ The commissioner may not grant a license to a company ~~as--herein~~ defined--except--as--hereinafter--stated until it has deposited with the ~~state-treasurer~~ commissioner the sum of \$25,000 in cash or in lieu thereof a bond in a form prescribed by the commissioner payable to the state of Montana in the sum of \$25,000, with surety approved by the commissioner, conditioned upon the faithful performance of its service contracts and payment of any fines or penalties levied against it for failure to comply with this part; ~~provided--however--that,~~ However, when any company, ~~as--herein~~ defined--shall--prove proves to the commissioner that it has been in continuous, active operation in the state for a period of more than the preceding 5 years ~~immediately--last--past~~ and has a paid membership of more than 5,000 members within the state or that there are more than 5,000 holders of its service contracts within the state and that it is being properly managed, is rendering to its members the services promised to them, and is financially responsible, ~~no--such~~ the commissioner may not require a cash deposit or bond ~~shall--be~~ required while such the company remains in such that condition. The ~~foregoing~~ cash deposit or bond is not

~~required-in-any-instance-as~~ a penalty, but is for the protection of the public only."

Section 21. Section 61-12-305, MCA, is amended to read:

"61-12-305. Expiration Continuance of license. Every Subject to payment by January 1 of each year of the annual license fee required under 61-12-303, each license issued-hereunder-shall expire-annually-on-January-1-of-each-year-unless-sooner continues in force as long as the company is entitled to the license under this part or until the license is revoked, or suspended, as hereinafter-provided or otherwise terminated."

Section 22. Policy provisions -- conformity with state statutes. Each policy regulated by this part must contain a provision or the equivalent thereto as follows:

"Conformity with Montana statutes. The provisions of this policy conform to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

Section 23. Casualty insurance policy -- conformity with state statutes. A casualty insurance policy relative to a risk resident, located, or to be performed in this state must contain a provision or the equivalent thereto as follows:

"Conformity with Montana statutes. The provisions of this policy conform to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

Section 24. Property insurance policy -- conformity with state statutes. A property insurance policy relative to a risk resident, located, or to be performed in this state must contain a provision or the equivalent thereto as follows:

"Conformity with Montana statutes. The provisions of this policy conform to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

Section 25. Section 33-17-102, MCA, is amended to read:

"33-17-102. Definitions. As used in this title, the following definitions apply:

(1) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for fee or commission investigates and negotiates settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer. The term does not include a:

(a) licensed attorney who is qualified to practice law in this state;

(b) salaried employee of an insurer or of a managing general agent; or

(c) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer.

(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an adjuster.

(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on such coverage.

(b) The term does not mean:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

(B) a health service corporation as defined in 33-30-101;

(iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;

(vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;

(viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue

Code or the agents and employees of the custodian;

(ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;

(x) a company that issues credit cards and that advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims; or

(xi) a person who adjusts or settles claims in the normal course of his practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities.

(4) "Administrator license" means a document issued by the commissioner that authorizes a person to act as an administrator.

(5) "Consultant" means a person who for a fee examines, appraises, reviews, or evaluates an insurance policy, annuity, or pension contract, plan, or program or who makes recommendations or gives advice on an insurance policy, annuity, or pension contract, plan, or program.

(6) "Consultant license" means a document issued by the commissioner that authorizes a person to act as an insurance consultant.

(7) "Controlled business" means insurance procured or to be procured by or through a person upon the life, person, property, or risks of himself, his spouse, his employer, or his business.

(8) "Individual" means a private or natural person, as distinguished from a partnership, corporation, or association.

(9) "Insurance producer", except as provided in 33-17-103:

(a) 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; or

(B) membership contracts as defined in 33-30-101;

(ii) a managing general agent. For purposes of this definition, a "managing general agent" is a person who, on behalf of an insurer, exercises general supervision over the business of the insurer in this state or in any other state, including the authority to contract with an insurance producer for the insurer and terminate those contracts.

(b) does not mean a customer service representative. For purposes of this definition, a "customer service representative" means a salaried employee of an insurance producer who assists and is responsible to the insurance producer.

(10) "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the kinds of insurance specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

(11) "Person" means an individual, partnership, corporation,

association, or other legal entity.

(12) "Public adjuster" means an adjuster employed by and representing the interests of the insured."

Section 26. Section 33-22-1511, MCA, is amended to read:

"33-22-1511. Minimum benefits of association plan. The association through the association plan shall offer a policy that provides at least the benefits ~~of a qualified plan as~~ required by 33-22-1521."

Section 27. Section 33-22-1512, MCA, is amended to read:

"33-22-1512. Association plan premium. The association shall establish the schedule of premiums to be charged eligible persons for membership in the association plan. The schedule of premiums may not be less than 150% or more than 400% of the average premium rates charged by the five largest insurers with the largest premium amount of individual qualified-plan plans of major medical insurance in force in this state. The premium rates of the five insurers used to establish the premium rates for each type of coverage offered by the association must be determined by the commissioner from information provided annually by all insurers at the request of the commissioner. ~~The--information--requested--must include--the--number--of--qualified--plans--or--actuarial--equivalent plans--offered--by--each--insurer,--the--rates--charged--by--the--insurer for--each--type--of--plan--offered--by--the--insurer,--and--any--other information--the--commissioner--considers--necessary.~~ The association shall utilize generally acceptable actuarial principles and

structurally compatible rates."

Section 28. Section 33-22-1514, MCA, is amended to read:

~~"33-22-1514. Administration of association plan -- rules. †† Any member of the association may submit to the commissioner policies to be proposed to serve as the association plan. The commissioner shall prescribe by rule the time and manner of the submission.~~

†2) (1) ~~Upon the commissioner's approval of the policy forms and contracts submitted, the association shall select policies and contracts by a member or members of the association to be the association plan.~~ The association shall select one lead carrier to issue the ~~qualified plans~~ association plan. The board of directors of the association shall prepare appropriate specifications and bid forms and may solicit bids from licensed administrators and the members of the association for the purpose of selecting the lead carrier. The selection of the lead carrier must be based upon criteria established by the board of directors.

†3) (2) The lead carrier shall perform all administrative and claims payment functions required by this section upon the commissioner's approval of the policy forms and contracts submitted. The lead carrier shall provide these services for a period of at least 3 years, unless a request to terminate is approved by the association and the commissioner. The association and the commissioner shall approve or deny a request to terminate within 90 days of its receipt. A failure to make a final decision

on a request to terminate within the specified period is considered an approval. The association shall invite submissions of policy forms from members of the association, including the lead carrier, 6 months prior to the expiration of each 3-year period. The association shall follow the procedure provided in subsection †2) (1) in selecting a lead carrier for the subsequent 3-year period or, if a request to terminate is approved, on or before the end of the 3-year period.

†4) (3) The lead carrier shall provide all eligible persons involved in the association plan an individual certificate setting forth a statement as to the insurance protection to which the person is entitled, the method and place of filing claims, and to whom benefits are payable. The certificate must indicate that coverage was obtained through the association.

†5) (4) The lead carrier shall submit to the association and the commissioner on a semiannual basis a report of the operation of the association plan. The association must determine the specific information to be contained in the report prior to the effective date of the association plan.

†6) (5) The lead carrier shall pay all claims pursuant to this part and shall indicate that the claim was paid by the association plan. Each claim payment must include information specifying the procedure involved in the event a dispute over the amount of payment arises.

†7) (6) The lead carrier must be reimbursed from the

association plan premiums received for its direct and indirect expenses. Direct and indirect expenses include a prorated reimbursement for the portion of the lead carrier's administrative, printing, claims administration, management, and building overhead expenses, which are assignable to the maintenance and administration of the association plan. The association must approve cost accounting methods to substantiate the lead carrier's cost reports consistent with generally accepted accounting principles. Direct and indirect expenses may not include costs directly related to the original submission of policy forms prior to selection as the lead carrier.

(b)(7) The lead carrier is, when carrying out its duties under this part, an independent contractor for the association and is individually liable for its actions, subject to the laws of this state."

Section 29. Section 33-22-1515, MCA, is amended to read:

"33-22-1515. Solicitation of eligible persons. (1) The association, pursuant to a plan approved by the commissioner, shall disseminate appropriate information to the residents of this state regarding the existence of the association plan and the means of enrollment. Means of communication may include use of the press, radio, and television, as well as publication in appropriate state offices and publications.

(2) The association shall devise and implement means of maintaining public awareness of this part and shall administer

this part in a manner which facilitates public participation in the association plan.

(3) All licensed disability insurance producers may engage in the selling or marketing of qualified the association plans plan. The lead carrier shall pay an insurance producer's referral fee of \$25 to each licensed disability insurance producer who refers an applicant to the association plan, if the applicant is accepted. The referral fees must be paid to by the lead carrier from money received as premiums for the association plan.

(4) An insurer, society, or health service corporation that rejects or applies underwriting restrictions to an applicant for disability insurance must notify the applicant of the existence of the association plan, requirements for being accepted in it, and the procedure for applying to it."

Section 30. Section 33-22-1516, MCA, is amended to read:

"33-22-1516. Enrollment by eligible person. (1) The association plan must be open for enrollment by eligible persons. An eligible person may enroll in the plan by submission of a certificate of eligibility to the lead carrier. The certificate must provide:

(a) the name, address, and age of the applicant and length of the applicant's residence in this state;

(b) the name, address, and age of spouse and children, if any, if they are to be insured;

(c) written evidence that he fulfills all of the elements of

an eligible person, as defined in 33-22-1501; and

(d) a designation of coverage desired.

(2) Within 30 days of receipt of the certificate, the lead carrier shall either reject the application for failing to comply with the requirements of subsection (1) or forward the eligible person a notice of acceptance and billing information. Insurance is effective on the first of the month following acceptance.

(3) An eligible person may not purchase more than one policy from the association plan.

(4) A person who obtains coverage pursuant to this section may not be covered for any preexisting condition during the first 12 months of coverage under the association plan if the person was diagnosed or treated for that condition during the 5 years immediately preceding the filing of an application. This subsection does not apply to a person who has had continuous coverage under an individual, family, or group policy during the year immediately preceding the filing of an application and whose cancellation date was within 30 days prior to the date of submission of a certificate of eligibility to the lead carrier for nonelective procedures.

(5) A change of residence from Montana to another state immediately terminates eligibility for renewal of coverage under the association plan."

Section 31. Section 33-22-1521, MCA, is amended to read:

"33-22-1521. Qualified Association plan -- minimum benefits.

A plan of health coverage must be certified as a qualified association plan if it otherwise meets the requirements of Title 33, chapters 15, 22 (excepting part 7), and 30, and other laws of this state, whether or not the policy is issued in this state, and meets or exceeds the following minimum standards:

(1) The minimum benefits for an insured must, subject to the other provisions of this section, be equal to at least 80% of the covered expenses required by this section in excess of an annual deductible that does not exceed \$1,000 per person. The coverage must include a limitation of \$5,000 per person on the total annual out-of-pocket expenses for services covered under this section. Coverage must be subject to a maximum lifetime benefit, but such maximums may not be less than \$100,000.

(2) Covered expenses must be the usual and customary charges for the following services and articles when prescribed by a physician or other licensed health care professional provided for in 33-22-111:

(a) hospital services;

(b) professional services for the diagnosis or treatment of injuries, illness, or conditions, other than dental;

(c) use of radium or other radioactive materials;

(d) oxygen;

(e) anesthetics;

(f) diagnostic x-rays and laboratory tests, except as specifically provided in subsection (3);

- (g) services of a physical therapist;
 - (h) transportation provided by licensed ambulance service to the nearest facility qualified to treat the condition;
 - (i) oral surgery for the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth or in connection with TMJ;
 - (j) rental or purchase of medical equipment, which shall be reimbursed after the deductible has been met at the rate of 50%, up to a maximum of \$1,000;
 - (k) prosthetics, other than dental; and
 - (l) services of a licensed home health agency, up to a maximum of 180 visits per year.
- (3) (a) Covered expenses for the services or articles specified in this section do not include:
- (i) drugs requiring a physician's prescription;
 - (ii) services of a nursing home;
 - (iii) home and office calls, except as specifically provided in subsection (2);
 - (iv) rental or purchase of durable medical equipment, except as specifically provided in subsection (2);
 - (v) the first \$20 of diagnostic x-ray and laboratory charges in each 14-day period;
 - (vi) oral surgery, except as specifically provided in subsection (2);
 - (vii) that part of a charge for services or articles which

exceeds the prevailing charge in the locality where the service is provided; or

(viii) care that is primarily for custodial or domiciliary purposes which would not qualify as eligible services under medicare.

(b) Covered expenses for the services or articles specified in this section do not include charges for:

(i) care or for any injury or disease either arising out of an injury in the course of employment and subject to a workers' compensation or similar law, for which benefits are payable under another policy of disability insurance or medicare;

(ii) treatment for cosmetic purposes other than surgery for the repair or treatment of an injury or congenital bodily defect to restore normal bodily functions;

(iii) travel other than transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition;

(iv) confinement in a private room to the extent it is in excess of the institution's charge for its most common semiprivate room, unless the private room is prescribed as medically necessary by a physician;

(v) services or articles the provision of which is not within the scope of authorized practice of the institution or individual rendering the services or articles;

(vi) organ transplants, including bone marrow transplants;

(vii) room and board for a nonemergency admission on Friday or Saturday;

(viii) pregnancy, except complications of pregnancy;

(ix) routine well baby care;

(x) complications to a newborn, unless no other source of coverage is available;

(xi) sterilization or reversal of sterilization;

(xii) abortion, unless the life of the mother would be endangered if the fetus were carried to term;

(xiii) weight modification or modification of the body to improve the mental or emotional well-being of an insured;

(xiv) artificial insemination or treatment for infertility; or

(xv) breast augmentation or reduction."

Section 32. Section 33-1-704, MCA, is amended to read:

"33-1-704. Hearing procedure. (1) All hearings shall be open to the public unless closed pursuant to the provisions of 2-3-203.

(2) The commissioner shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his interest, and to have subpoenas issued by the commissioner to compel attendance of witnesses and production of evidence in his behalf.

(3) The commissioner shall permit to become a party to the hearing by intervention, if timely, any person who was not an

original party thereto and whose pecuniary interests will be directly and immediately affected by the commissioner's order made upon the hearing.

(4) Except as provided in 33-31-404, rules of pleading or evidence need not be observed at any hearing, but the rules of evidence must be observed.

(5) Upon written request seasonably made by a party to the hearing and at that person's expense, the commissioner shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, a copy of such stenographic record shall be furnished to the commissioner without cost to the commissioner or the state and shall be a part of the commissioner's record of the hearing. If so transcribed, a copy of such stenographic record shall be furnished to any other party to such hearing at the request and expense of such other party. If no stenographic record is made or transcribed, the commissioner shall prepare an adequate record of the evidence and of the proceedings."

Section 33. Section 33-22-229, MCA, is amended to read:

"33-22-229. Conformity with state statutes. There must be a provision or the equivalent thereto as follows:

~~"Conformity with State---Statutes Montana statutes: Any provision of this policy which on its effective date is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum~~

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requirements--of--such--statutes: The provisions of this policy conform to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

Section 34. Repealer. Section 33-22-1522, MCA, is repealed.

Section 35. Name change -- short form amendment. Wherever it appears in 33-7-519, 33-17-206, 33-18-210, and 33-18-501 or in insurance laws enacted by the 52nd legislature, the code commissioner is directed to change the term "solicitor" to "insurance producer".

Section 36. Codification instruction. (1) [Section 22] is intended to be codified as an integral part of Title 33, chapter 20, parts 1 and 12, and the provisions of Title 33, chapter 20, parts 1 and 12, apply to [section 22].

(2) [Section 23] is intended to be codified as an integral part of Title 33, chapter 23, part 1, and the provisions of Title 33, chapter 23, part 1, apply to [section 23].

(3) [Section 24] is intended to be codified as an integral part of Title 33, chapter 24, part 1, and the provisions of Title 33, chapter 24, part 1, apply to [section 24].