

## HOUSE BUSINESS AND INDUSTRY COMMITTEE

The meeting was called to order by the chairman of the committee, Rep. W. J. Fabrega at 10:00 a.m., March 25, 1981, in room 129 of the Capitol Building, Helena. Reps. John Vincent and Orval Ellison were excused, as was Rep. Toni Bergene. HJR 55 was to be heard.

## HOUSE JOINT RESOLUTION 55 -

REP. BOB MARKS, District #80, Jefferson County, co-sponsored HJR 55 which requests appointment of an interim committee to study the system of motor vehicle liability insurance in Montana to see if there might possibly be an alternate way of carrying liability insurance on a person rather than on a vehicle because the vehicle doesn't normally cause an accident unless someone is driving it.

SENATOR TURNAGE, District #13, Lake County, another co-sponsor, asked the committee to review the resolution favorably. The adoption of the mandatory liability laws that are on the books make a study like this more important. We have had mandatory vehicle insurance since last session, since 1979, and in 1981 we have increased the penalties to be more realistic. The insurance really ought to be on the operator instead of the vehicle because many of the farms may have a multiple number of vehicles which they need. The farmer or rancher can only drive one of them at a time, and it is he if he is negligent that should be covered. Insurance is for the protection of people, and the question might be raised as to whether there is a windfall profit to the carriers. They are entitled to make a reasonable profit.

The carriers really promoted the mandatory liability and we should look over their shoulders to see how they are doing. This should be studied. There can't be property damage insurance for the operator because of values, but have bodily injury or liability for property damage that might be a real important thing for Montana. Ought to study this.

LARRY MAJERUS, Motor Vehicle Division of the Department of Justice, wanted to be on record as being in support of this resolution.

ROGER McGLENN, Independent Insurance Association of Montana, Helena, supports a study and looks forward to assisting any way possible in providing any material requested. Several studies have been done by other agencies. He would support looking into this matter and would like to help study the feasibility of insuring a person rather than vehicles, which would take us back to 'no-fault'. The only thing they ask is to keep the cost at a minimum for the Montana taxpayer.

PAUL KELLER, American Insurance Association, Helena, welcomes an investigation of this kind. There is nothing so misunderstood as insurance. Even a mutual insurance company, if it doesn't make money, will go broke. Have to be on the profit side. Everybody thinks the insurance companies are getting rich, but it isn't quite that way. The insurance business isn't

3/25/81

Page 2

that good. Senator Turnage is out to insure people and not vehicles. You can buy that kind of insurance today, but it is a little bit more expensive than the other kind. That kind of insurance costs \$120 a year to drive other people's vehicles and you are limited to other things you can do. You can buy a comprehensive personal liability policy and that will protect you against a lawsuit of any kind. What you have to think about is that half the people in Montana make less than \$14,000 a year, and it is important for them to get back and forth to work. They have to have some kind of transportation. They are forced to buy insurance, but everyday you run into someone who doesn't have insurance. Insurance has to be made affordable for those people and for that reason he personally wholeheartedly supports HJR 55. Many people are in favor of this so that we get a better idea of what insurance is and of what it does to people we are forcing to buy it.

PAT MELBY, Alliance of American Insurance Companies, a trade association of mutual insurance companies, took no position on HJR 55, but offered any cooperation and support that an interim committee desired. He disagreed with Senator Turnage that insurance companies are promoting compulsory insurance. He pointed out that the board of directors of his association had changed its policy on compulsory insurance of all kinds and from this point forward will oppose all compulsory insurance. Mandatory insurance laws have not been promoted by his insurance company.

LES KITSELMAN, District #60, Billings, writes compulsory auto insurance and has had a great deal of problems with clientele he has picked up. He welcomes this study and would like to find a method of insuring that is more equitable. He welcomes an investigation of how Montana can dovetail such insurance into reciprocity with other states.

OPPONENTS: None

QUESTIONS -

Rep. Harper mentioned the intent of Rep. Menahan's bill was what this is asking for, and it was categorized as totally unworkable. Mr. McGlenn said ever since the development of the automobile, insurance has been necessary. It would necessitate the study of Montana automobile liability and actuarial studies. The reasons they opposed it was because of the cost of doing actuarial studies. He would like to work with the committee to see if there is a way that this can be done at an adequate cost. You couldn't legislate something like this without an adverse effect on Montana citizens, and he thinks the citizens should have the right to have this studied.

Rep. Marks closed asking that the bill be passed without amendments. He does not concur that this would necessitate the formulation of a no-fault situation and he would not want the committee studying this because it is completely separate.

Senator Turnage agreed with Speaker Marks. He can't see the National Insurance companies wanting no-fault - they have got what they want now. They have compulsory liability -- so don't hear about no-fault. If you drive without the insurance, you are automatically guilty of a misdemeanor. They are vitally interested in compulsory insurance.

Regarding administration, if you had to have insurance to get your license, it would do away with all the problems at the courthouse.

3/25/81

Page 3

If you don't have a license, you don't have insurance. He agrees with the concern expressed by Paul Keller - when you mandate a man out of his job, he can't live and feed his family unless he gets to work. There is a real basic policy conflict here and looking at this is way past due. This should have been done without making the compulsory law. This should be looked at.

#### EXECUTIVE SESSION -

Rep. Kitselman moved HOUSE JOINT RESOLUTION 55 DO PASS. Motion carried unanimously. Reps. Vincent and Meyer were absent.

Rep. Schultz moved that SENATE BILL 242 be reconsidered, and the motion was adopted unanimously with two members absent. He said farm cooperatives were very concerned about the amendments put on the bill by Jo Driscoll, and wanted to withdraw those amendments. He asked Mr. Brown and Mr. Murphy to explain their thoughts.

William Brown said he feels the amendments have some very serious problems. He questions the constitutionality of authorizing Farm Bureau and not other such organizations to have the membership requirement privilege. It doesn't recognize other organizations that are specifically similar, have similar problems and similar needs. Mrs. Driscoll had a major hand in preparing the amendments in the senate.

Senator Oschner said Mrs. Driscoll had given more consideration to the bill after drafting in the senate. Other major question raised was the potential as it came from the senate to allow the organization of fictitious groups. The code in Montana at the present time prevents the organization of such fictitious groups.

Mr. Brown said the Commissioner of Insurance in Wyoming said that state has such a law, and this is patterned after the one written in May, 1979. He advised that Montana has the necessary laws to prohibit such fictitious groups. He reported that they had had no problem with fictitious groups or with the enforcement of the legislation that is being asked for.

TERRY MURPHY, Farmers Union, said that organization is interested in the passage of SB 242 as it came from the senate. A number of years ago members set up insurance programs to insure themselves the best they could to meet their insurance needs. It is set up to serve their own members. Because you have good insurance, other people want to buy it and you require membership. The way the law is now, you cannot require membership for renewals. Basically, that sort of defeats the purpose for which the companies were set up in the first place. If people do want that insurance, the organization should have the right to say that it is for members, and they are free to become members, but they don't want the law to say that it has to be renewed if they aren't a member.

Rep. Ellerd asked Mr. Murphy whether they are going to make it compulsory to be a member in order to renew insurance. Mr. Murphy said it is voluntary compulsion, in that a person doesn't have to belong, but can if he wants to. Somebody with a liability problem could really be left out unprotected. They don't want to get that strict about it, and want the board to have the authority

3/25/81

Page 4

to determine whether to renew or not.

Rep. Fabrega asked how much the membership fee is? Mr. Murphy said Farmers Union dues are \$10 per year. Mr. Brown said Farm Bureau fees are \$35 per year.

Rep. Kitselman asked if primary purpose was to promote the interest of Farm Bureau members. Mr. Murphy said the organization had existed as a Farm Bureau for 39 years before entering into the insurance business and that is only one of the services provided to members. Agents are remunerated by a base salary from the insurance company. They receive commissions on volume and from insurance companies. They have three insurance companies under their name. The county Farm Bureau organization and insurance companies together support the office. The bulk of the agents' remuneration comes from the sale of insurance.

Senator Don Ochsner was surprised Mrs. Driscoll took her senate amendments out in this House committee.

Grain growers aren't affected in any way, since they contract with an insurance company for their protection.

Rep. Schultz moved the amendments presently on SB 242 be removed. Motion carried with Rep. Kitselman voting No; Reps. Vincent, Ellison, Bergene were absent.

Rep. Harper reminded the question raised by Mrs. Driscoll was in having to be a member. Rep. Fabrega said the insurance law says you cannot force membership on any one, and that an insured has the right to renew. If you bought membership originally, you would have to continue to do so in SB 242.

Rep. Kitselman said the Farm Bureau's original intention was to sell to those engaged in farming activities, but they are making this insurance available to others than farmers, but are requiring membership. He asked Mrs. Driscoll what other dangers she saw if the amendments are removed. She answered an insurance company is authorized to do business and offer insurance to the public at large. Whenever you allow an insurance company to discriminate by offering coverage to only a certain preferred group, they select only good risks. The question of whether the membership fee is part of the insurance premium charge is raised. Insurance should be considered as something that is available to the public at large. This is not a farm mutual company and they do pay premium tax. It is up to the committee as to whether they want to open it up so any organization can sell such insurance. The Insurance Commissioner's office does not allow any membership fee to be charged.

Mr. Brown said it cannot be legally required to buy membership in order to participate in the first place or for renewal, but they encourage a person to participate as a member, and the majority of them do make an initial dues payment of \$35 at the time they buy insurance, but they do sell to some who do not pay the membership fee. The insurance premiums are the same to all whether members or not.

3/25/81

Page 5

Jo Driscoll answered Rep. Schultz when he said he had a sheet showing in every state a Farm Bureau requires membership to buy their insurance, by saying the controversy in the senate was caused by the way the bill was originally written as it applied to farm mutuals. The company interested in this bill is not a farm mutual under our laws, and that is why it was extended to an organization. When it came out only the Farm Bureau was interested, so it was restricted to that organization.

Mr. Murphy said it didn't sound that way to him because farm bureau is not a descriptive term - it is the name of that one organization. Farmers Union offers insurance on homes and for fire to city people and do not require membership from those people because the by-laws of the organization exclusive of insurance company, limit membership to the people whose major income is directly from farming, so they have never tried to force compulsory membership on people who are not farmers, but felt when it was set up to serve farmers, and others who wish to avail themselves of this insurance should become members. Don't require them to do so and don't intend to.

Mrs. Driscoll said an insurance company with a very favorable rate based on their experience could say that they will not offer insurance to anyone other than to a certain group. She feels your product should be available to the public at large. You can do some underwriting. She does not approve of the philosophy that you are prohibited from buying insurance from a company because you do not wish to belong to that organization. The difference between a private group and the public is the requirement of paying membership dues. She said she didn't realize that 'farm bureau' did not cover the Farmers Union. She thought it would be a bad thing if this were opened up to all organizations.

Rep. Fabrega asked if the word 'bureau' were removed to say 'owned or controlled by a farm association organization' it would be acceptable. Mr. Brown said they were interested in getting this legislation passed and that would in essence put it almost the way it was. He would like to have it passed out the way it came in so that it wouldn't run the risk of being turned down in the senate. The code prohibits formation of fictitious groups.

Rep. Schultz moved SENATE BILL 242 BE CONCURRED IN. Motion carried with Reps. Kitselman, Metcalf, Harper, Kessler voting No. Reps. Ellison, Vincent, and Bergene were absent. 12 - 4, 3 absent.

#### SENATE BILL 129 -

Rep. Jensen moved that former action be reconsidered. Motion carried with Rep. Kitselman voting No. Reps. Ellison, Vincent, Bergene, Andreason were absent. Rep. Jensen explained he thought the bill should go through in its original form.

Rep. Jensen moved that the amendments be stricken from the bill. Rep. Meyer opposed the motion saying the amendments cover the situation at the present time. - there are several reasons for not being able to get other insurance, such as termination, pre-existing conditions, etc. Two problems can be taken care of in this bill.

3/25/81

Page 6

Mrs. Driscoll explained that SB 332 which took care of the conversion privilege, and SB 314 which added a conversion privilege to the individual health insurance, were to go to a subcommittee. Senator Turnage's bill approached the problem of taking care of persons not eligible for insurance because of not being able to work the required 20 hours a week for coverage. The subcommittee never materialized and she never had the opportunity to present her proposed amendments. Senator Turnage said he didn't have any problems with the amendments which allowed a person under a group policy to stay under that policy for six months while still working and convert to another form of insurance coverage. She feels these amendments are good consumer protection amendments. They do not take away from the Senator's bill.

Rep. Fabrega explained the Driscoll amendments will grant a person in a group to remain in there for six months and that pre-existing conditions will be insured. Jo Driscoll those leaving employment would have other coverage. She said by omitting her amendments, the Senator is restricting his. She suggested leaving his provisions alone, but take care of these things also. It would be very confusing to administer the bill the way it is written. The bill does something that hasn't been done in the past in allowing persons working one or two hours a week to be covered. Those employers can negotiate with the companies and they can have that provision. This isn't going to do what the intent of the bill seems to be, but they will administer it in this fashion and take care of it as best they can. It will require some immediate forms to be filed which will be very difficult. The effective date is July 1.

Rep. Fabrega said the committee has the choice of inserting whole new sections which would come in as whole new sections.

Rep. Jensen's motion to remove amendments failed 12-7 with Reps. Vincent, Ellison, Bergene, Ellerd absent; and Reps. Jensen and O'Hara voting Yes.

Rep. Meyer moved that the Driscoll amendments be pulled out and inserted as new sections. Motion was reworded to say that the amendments be pulled out. Motion carried unanimously.

Rep. Harper moved to reconsider action on Driscoll amendments. Unanimously carried.

Rep. Meyer moved to reinsert the amendments as separate sections that would allow a six months grace period and also that pre-existing conditions would be covered. The spirit of those amendments will be incorporated as separate sections. Motion carried with Rep. Jensen voting No; same Representatives absent.

Rep. Meyer then moved SENATE BILL 129 BE CONCURRED IN AS AMENDED. Motion carried with Rep. Jensen voting No; Reps. Vincent, Andreason, Ellison, Bergene absent. Motion carried 13-1, 5 absent. Rep. Ellerd was also absent.

Rep. Harper remarked the amendments stay in.

Meeting adjourned at 12:15 p.m.

*Josephine L. L...*

Secretary

*W. J. Fabrega*  
REP., W. J. FABREGA, Chairman

## VISITORS' REGISTER

HOUSE \_\_\_\_\_ COMMITTEE \_\_\_\_\_

BILL HJR 55

Date 3-25-81

SPONSOR Marks

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon or in any other of the terms and conditions of such contract.

(2) No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of disability insurance or in the benefits payable thereunder or in any of the terms or conditions of such contract or in any other manner whatever.

History: En. Sec. 211, Ch. 286, L. 1959; R.C.M. 1947, 40-3509.

**33-18-207. Preferred rates to fictitious groups prohibited — approval of preferred group rates and forms.** (1) No insurer, whether an authorized insurer or an unauthorized insurer, shall make available through any rating plan or form, property, casualty, or surety insurance to any firm, corporation, or association of individuals, any preferred rate or premium based upon any fictitious group of such firm, corporation, or association of individuals.

(2) No form or plan of insurance covering any group or combination of persons or risks shall be written or delivered within or outside this state to cover persons or risks in this state at any preferred rate or on any form other than as offered to persons not in such group or combination and to the public generally unless such form, plan of insurance, and the rates or premiums to be charged therefor have been submitted to and approved by the commissioner as being not unfairly discriminatory and as not otherwise being in conflict with subsection (1) above or with any provision of parts 1 through 4 of chapter 16 to the extent that parts 1 through 4 are, by their terms, applicable thereto.

(3) This section does not apply to life insurance, disability insurance, workers' compensation insurance written for industry or business associations, or annuity contracts. However, workers' compensation group insurance rates are subject to all applicable provisions of chapter 16, part 10.

History: En. Sec. 222, Ch. 286, L. 1959; amd. Sec. 1, Ch. 292, L. 1977; R.C.M. 1947, 40-3520.

**33-18-208. Contract to contain agreements — rebates prohibited — life, disability, and annuity contracts.** Except as otherwise expressly provided by law, no person shall knowingly:

(1) permit or offer to make or make any contract of life insurance, life annuity, or disability insurance or agreement as to such contract other than as plainly expressed in the contract issued thereon;

(2) pay or allow or give or offer to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity any rebate of premiums payable on the contract or any special favor or advantage in the dividends or other benefits thereon or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the contract;

(3) directly or indirectly give or sell or purchase or offer or agree to give, sell, purchase, or allow as inducement to such insurance or annuity or in connection therewith and whether or not to be specified in the policy or contract, any agreement of any form or nature promising returns and profits or any stocks, bonds, or other securities or interest present or contingent therein



AMENDMENTS TO SENATE BILL 129, third reading copy, including Alan Cain's amendment only - NOT Driscoll's.

1. Page 9, lines 13 and 14.

Following: "ENTITY" on line 13

Strike: remainder of line 13 and line 14 through "POLICIES"

2. Page 10, line 7.

Following: "(2)"

Strike: "Sections"

Insert: "Section"

Following: "6"

Strike: "AND 7 are"

Insert: "is"

3. Page 10, line 8.

Following: "as"

Insert: "an"

Following: "integral"

Strike: "parts"

Insert: "part"

Amendments to SB 129/third reading

1. Page 5, line 19.  
Following: "termination."  
Insert: "(1)"
2. Page 6, line 4.  
Following: line 3  
Insert: "(2) A group policy delivered or issued for delivery in this state which insures employees or members for hospital, surgical, or major medical insurance on an expense incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose insurance under the group policy would otherwise terminate because of termination of employment or membership are entitled to continue the hospital, surgical, and major medical insurance coverage of that group policy for themselves and their eligible dependents, subject to all of the group policy's terms and conditions applicable to those forms of insurance and subject to the following conditions:
  - (a) Continuation shall be available only to an employee or member who has been continuously insured under the group policy (and for similar benefits under any group policy which it replaced) during the entire 3-month period ending with such termination.
  - (b) Continuation shall not be available for a person who is or could be:
    - (i) covered by Medicare; or
    - (ii) covered by any other insured or uninsured arrangement which provides hospital, surgical, or medical coverage for individuals in a group.
  - (3) An employee or member who wishes continuation of coverage must request such continuation in writing within the 31-day period following the later of:
    - (a) the date of such termination, or
    - (b) the date the employee is given notice of the right of continuation by either his employer or the group policyholder, but the employee or member must elect continuation within 31 days of the date of termination.
  - (4) An employee or member electing continuation must pay to the group policyholder or his employer, on a monthly basis in advance, the amount of contribution

required by the policyholder or employer, but not more than the group rate for the insurance being continued under the group policy on the due date of each payment. The employee's or member's written election of continuation, together with the first contribution required to establish contributions on a monthly basis in advance, must be given to the policyholder or employer within 31 days of the date the employee's or member's insurance would otherwise terminate.

(5) Continuation of insurance under the group policy for any person shall terminate when he fails to satisfy the conditions of subsection (2)(b) or, if earlier, at the first to occur of the following:

(a) the date 6 months after the date the employee's or member's insurance under the policy would otherwise have terminated because of termination of employment or membership;

(b) If the employee or member fails to make timely payment of a required contribution, the end of the period for which contributions were made; or

(c) the date on which the group policy is terminated or, in the case of an employee, the date his employer terminates participation under the group policy.

(6) If subsection (5)(c) applies and the coverage ceasing by reason of such termination is replaced by similar coverage under another group policy, the following shall apply:

(a) The employee or member shall have the right to become covered under that other group policy for the balance of the period that he would have remained covered under the prior group policy in accordance with subsection (5) had a termination described in subsection (5)(c) not occurred.

(b) The minimum level of benefits to be provided by the other group policy shall be the applicable level of benefits of the prior group policy reduced by any benefits payable under that prior group policy.

(c) The prior group policy shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred.

(7) A notification of the continuation privilege must be included in each certificate of coverage."

3. Page 8, line 2

Following: line 1

Insert: "NEW SECTION. Section 5: Other health coverage -- limitations on issuance of converted policy.<sup>(1)</sup> The insurer is not required to issue a converted policy covering any person if such person is or could be covered by medicare. Furthermore, the insurer is not required to issue a converted policy covering any person if:

(1) (a) such person is covered for similar benefits by another individual policy;

(b) such person is or could be covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured; or

(c) similar benefits are provided for or available to such person, by reason of any state or federal law; and

(2) the benefits under sources of the kind referred to in subsection (1)(a) for such person or benefits provided or available under sources of the kind referred to in subsections (1)(b) and (1)(c) for such person, together with the converted policy's benefits would result in a duplication of benefits.

NEW SECTION. Section 6. Benefit levels -- converted policy need be no greater than group policy. An insurer is not required to issue a converted policy providing benefits in excess of the hospital, surgical, or major medical insurance under the group policy from which conversion is made.

NEW SECTION. Section 7. Pre-existing conditions -- total benefits payable first policy year. The converted policy may not exclude, as a pre-existing condition, any condition covered by the group policy.

However, the converted policy may provide for a reduction of its hospital, surgical, or medical benefits by the amount of any such benefits payable under the group policy after the individual's insurance terminates thereunder. The converted policy may also provide that during the first policy year, the benefits payable under the converted policy, together with the benefits payable under the group policy, may not exceed those that would have been payable had the individual's insurance under the group policy remained in force.

NEW SECTION. Section 8. Continued group insurance upon retirement -- conversion election. If coverage would be continued under the group policy on an employee or member following his retirement prior to the time he is or could be covered by medicare, the employee or member may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had that insurance terminated at retirement.

NEW SECTION. Section 9. Medicare eligibility -- benefit reduction. The converted policy may provide for reduction or termination of coverage of any person upon his eligibility for coverage under medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

NEW SECTION. Section 10. Insured's family -- conversion entitlement. Subject to the conditions set forth in this section, the conversion privilege is also

available:

(1) to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or if the group policy provides for continuation of dependents coverage following the employee's or member's death, at the end of such continuation;

(2) to the spouse of the employee or member upon termination of coverage of the spouse, by reason of ceasing to be a qualified family member under the group policy, while the employee or member remains insured under the group policy, including such children whose coverage under the group policy terminates at the same time; or

(3) to a child solely with respect to himself upon termination of his coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

4. Page 8, line 2.

Strike: "Section 5"

Insert: "Section 11"

5. Page 8, line 3.

Following: "termination."

Insert: "(1)"

6. Page 8, line 12.

Following: line 12

Insert: "(2) A group hospital or medical service plan contract delivered or issued for delivery in this state which insures employees or members for hospital, surgical, or major medical insurance on an expense incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose insurance under the group contract would otherwise terminate because of termination of employment or membership are entitled to continue the hospital, surgical, and major medical insurance coverage of that group contract for themselves and their eligible dependents, subject to all of the group contract's terms and conditions applicable to those forms of insurance and subject to the following conditions:

(a) Continuation shall be available only to an employee or member who has been continuously insured under the group contract (and for similar benefits under any group policy or contract which it replaced) during the entire 3-month period ending with such termination.

(b) Continuation shall not be available for a person who is or could be:

(i) covered by Medicare; or  
(ii) covered by any other insured or uninsured arrangement which provides hospital, surgical, or medical coverage for individuals in a group.

(3) An employee or member who wishes continuation of coverage must request such continuation in writing within the 31-day period following the later of:

(a) the date of such termination, or  
(b) the date the employee is given notice of the right of continuation by either his employer or the group contractholder, but the employee or member must elect continuation within 31 days of the date of termination.

(4) An employee or member electing continuation must pay to the group policyholder or his employer, on a monthly basis in advance, the amount of contribution required by the contractholder or employer, but not more than the group rate for the insurance being continued under the group policy on the due date of each payment. The employee's or member's written election of continuation, together with the first contribution required to establish contributions on a monthly basis in advance, must be given to the contractholder or employer within 31 days of the date the employee's or member's insurance would otherwise terminate.

(5) Continuation of insurance under the group policy for any person shall terminate when he fails to satisfy the conditions of subsection (2)(b) or, if earlier, at the first to occur of the following:

(a) the date 6 months after the date the employee's or member's insurance under the contract would otherwise have terminated because of termination of employment or membership;

(b) If the employee or member fails to make timely payment of a required contribution, the end of the period for which contributions were made; or

(c) the date on which the group contract is terminated or, in the case of an employee, the date his employer terminates participation under the group contract.

(6) If subsection (5)(c) applies and the coverage ceasing by reason of such termination is replaced by similar coverage under another group policy or contract, the following shall apply:

(a) The employee or member shall have the right to become covered under that other group policy or contract for the balance of the period that he would have remained covered under the prior group contract in accordance with subsection (5) had a termination described in subsection (5)(c) not occurred.

(b) The minimum level of benefits to be provided by the other group policy or contract shall be the applicable level of benefits of the prior group contract reduced by any benefits payable under that prior group contract.

(c) The prior group contract shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred.

(7) A notification of the continuation privilege must be included in each certificate of coverage.

7. Page 8, line 13.

Following: line 12

Insert: "NEW SECTION. Section 12. Other health coverage -- limitations on issuance of converted policy.

The health service corporation is not required to issue a converted policy covering any person if such person is or could be covered by medicare. Furthermore, the health service corporation is not required to issue a converted policy covering any person if:

(1) (a) such person is covered for similar benefits by another individual policy;

(b) such person is or could be covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured; or

(c) similar benefits are provided for or available to such person, by reason of any state or federal law; and

(2) the benefits under sources of the kind referred to in subsection (1)(a) for such person or benefits provided or available under sources of the kind referred to in subsections (1)(b) and (1)(c) for such person, together with the converted policy's benefits would result in a duplication of benefits.

NEW SECTION. Section ~~13~~<sup>13</sup>. Benefit levels -- converted policy need be no greater than group policy. A health service corporation is not required to issue a converted policy providing benefits in excess of the hospital, surgical, or major medical insurance under the group policy from which conversion is made.

NEW SECTION. Section 14. Pre-existing conditions -- total benefits payable first policy year. The converted contract may not exclude, as a pre-existing condition, any condition covered by the group contract.

However, the converted contract may provide for a reduction of its hospital, surgical, or medical benefits by the amount of any such benefits payable under the group policy after the individual's insurance terminates thereunder. The converted policy may also provide that during the first policy year, the benefits payable under the converted policy, together with the benefits payable under the group policy, may not exceed those that would have been payable had the individual's insurance under the group policy remained in force.

NEW SECTION. Section 15. Continued group insurance upon retirement -- conversion election. If coverage would be continued under the group contract on an employee or member following his retirement prior to the time he is or could be covered by medicare, the employee or member may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had that insurance terminated at retirement.

NEW SECTION. Section 16. Medicare eligibility -- benefit reduction. The converted policy may provide for reduction or termination of coverage of any person upon his eligibility for coverage under medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

NEW SECTION. Section 17. Insured's family -- conversion entitlement. Subject to the conditions set forth in this section, the conversion privilege is also available:

(1) to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or if the group policy provides for continuation of dependents coverage following the employee's or member's death, at the end of such continuation;

(2) to the spouse of the employee or member upon termination of coverage of the spouse, by reason of ceasing to be a qualified family member under the group policy, while the employee or member remains insured under the group policy, including such children whose coverage under the group policy terminates at the same time; or

(3) to a child solely with respect to himself upon termination of his coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

Renumber: all subsequent sections



8. Page 10, line 2 and 3  
Following: "3" on line 2  
Strike: ", " on line 2  
and "4, AND 5" on line 3  
Insert: "through 10"
9. Page 10, line 5.  
Following: "3"  
Strike: ", 4, AND 5"  
Insert: "through 10"
10. Page 10, line 6.  
Following: "Sections"  
Strike: "5 AND 6"  
Insert: "11 through 18"
11. Page 10, line 9.  
Following: "sections"  
Strike: "5 and 6"  
Insert: "11 through 18"

-END-

SENATE BILL NO. 129

INTRODUCED BY TURNAGE, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING CONVERSIONS OF GROUP LIFE INSURANCE AND GROUP DISABILITY INSURANCE AND PROVIDING FOR CONTINUATION OF GROUP COVERAGE UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 33-20-1209 AND 33-20-1210, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 33-20-1209, MCA, is amended to read:

"33-20-1209. Conversion on termination of eligibility.

(1) The group life insurance policy shall contain a provision that if the insurance or any portion of it on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made and the first premium paid tendered PAID to the insurer within 31 days after such termination written notice SUCH TERMINATION by the insurer to the insured of the

insured's right of conversion and pending termination of coverage, and provided further that:

(a) the individual policy shall, at the option of such person, be on any one of the forms, except including but not limited to term insurance, IF THE GROUP POLICY SO PROVIDES, then customarily issued by the insurer at the age and for the amount applied for AT THE AGE AND FOR THE AMOUNT APPLIED FOR and shall offer benefits at least equal to those under the group coverage;

(b) the individual policy shall, at the option of the insured, be in an amount not in excess of the amount of life insurance which ceases because of such termination, less the amount of any life insurance for which such person is or becomes eligible under any other group policy within 31 days after such termination LESS THE AMOUNT OF ANY LIFE INSURANCE FOR WHICH SUCH PERSON IS INSURED UNDER ANY OTHER GROUP POLICY WITHIN 31 DAYS AFTER SUCH TERMINATION, provided that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

(c) the premium on the individual policy shall be at the insurer's then customary rate applicable to the form

1 and amount of the individual policy to the class of risk to  
 2 which such person then belongs and to his age attained on  
 3 the effective date other members of the group and the amount  
 4 form and amount of the individual policy, to the class of  
 5 risk to which such person then belongs, and to his age  
 6 attained on the effective date of the individual policy.

7 (2) With the consent of the employer, a person covered  
 8 under a group life insurance policy issued to an employer or  
 9 to the trustees of a fund established by an employer under  
 10 33-20-1101 may continue his coverage under the group policy  
 11 after termination of his qualifying employment or after  
 12 during his employment notwithstanding reduction of his  
 13 regular work schedule to less than the minimum number of  
 14 hours required for eligibility for membership. The premium  
 15 charged for the continued coverage shall be equal to that  
 16 charged other members of the group. Such person's coverage  
 17 under the group will cease if he subsequently becomes  
 18 eligible and he elects for coverage under another group  
 19 policy because of employment elsewhere."

20 Section 2. Section 33-20-1210, MCA, is amended to  
 21 read:

22 "33-20-1210. Conversion on termination of policy. The  
 23 group life insurance policy shall contain a provision that  
 24 if the group policy terminates or is amended so as to  
 25 terminate the insurance of any class of insured persons,

1 every person insured thereunder at the date of such  
 2 termination whose insurance terminates and who has been so  
 3 insured for at least 5 years 1 year 3 YEARS prior to such  
 4 termination date shall be entitled to have issued to him by  
 5 the insurer an individual policy of life insurance, subject  
 6 to in the same amount of insurance and under SUBJECT TO the  
 7 same conditions and limitations as are provided by  
 8 33-20-1209, except that the group policy may shall MAY  
 9 provide that the amount of such individual policy shall MAY  
 10 not exceed the smaller of: NOT EXCEED THE SMALLER OF:

11 (1) be offered by the insurer in the amount of the  
 12 person's life insurance protection ceasing because of the  
 13 termination or amendment of the group policy; less the  
 14 amount of any life insurance for which he is or becomes  
 15 eligible under any group policy issued or reinstated by the  
 16 same or another insurer within 31 days after such  
 17 termination; and, LESS THE AMOUNT OF ANY LIFE INSURANCE FOR  
 18 WHICH HE IS OR BECOMES ELIGIBLE UNDER ANY GROUP POLICY  
 19 ISSUED OR REINSTATED BY THE SAME OR ANOTHER INSURER WITHIN  
 20 31 DAYS AFTER SUCH TERMINATION; AND  
 21 (2) \$2,000 \$10,000."

22 NEW SECTION. Section 33-20-1210 Conversion on disbanding of  
 23 groups. The group disability insurance policy shall contain  
 24 a provision that if the coverage under the policy ceases  
 25 because of disbanding of the group, each person insured

1 because of his employment in the group shall be entitled to  
 2 have issued to him by the insurer without evidence of  
 3 insurability an individual policy of disability insurance  
 4 covering himself and his dependents or family members  
 5 covered under the group provided  
 6 (1) application for the individual policy is made and  
 7 the first premium tendered to the insurer within 31 days  
 8 after written notice by the insurer to the insured of the  
 9 insured's right to conversion of coverage and of pending  
 10 termination and  
 11 (2) the individual policy shall offer benefits at  
 12 least equal to those under the group coverage terminated by  
 13 the disbanding and  
 14 (3) the premium on the individual policy shall be at  
 15 the insurer's then customary rates applicable to the group's  
 16 existing amount of individual policy and the class of risk  
 17 of the person insured under the group

18 NEW SECTION. Section 3. Continuing group coverage  
 19 after termination. A person covered by a group disability  
 20 insurance policy issued OR RENEWED AFTER OCTOBER 1, 1981  
 21 under 33-22-501(1) may, FOR A PERIOD OF 1 YEAR, with the  
 22 consent of the employer or the trustees, continue coverage  
 23 under group disability policy after terminating his  
 24 qualifying employment or after reducing his regular work  
 25 schedule to less than the minimum time required to qualify

1 for membership in the group, and the premium charged him  
 2 shall be equal to that charged other members of the group of  
 3 the same risk class.

4 NEW SECTION. Section 5. Conversion on termination of  
 5 group contract. (1) A group hospital or medical service  
 6 plan contract in effect by a health service corporation  
 7 after July 1, 1981, shall contain a provision that if the  
 8 coverage under the contract ceases because of disbanding of  
 9 the group, each person covered because of his employment in  
 10 the group shall be entitled to have issued to him by the  
 11 health service corporation without evidence of  
 12 insurability an individual hospital or medical service plan  
 13 contract covering himself and his dependents or family  
 14 members covered under the group provided application for  
 15 the individual contract is made and the first premium  
 16 tendered to the health service corporation within 31 days  
 17 after written notice by the insurer to the insured of the  
 18 insured's right to conversion

19 (2) The individual contract shall provide benefits  
 20 equal to those under the group contract terminated by the  
 21 disbanding

22 (3) The premium on the individual contract shall be at  
 23 the insurer's then customary rates applicable to the form  
 24 and the amount of the individual contract and the class of  
 25 risk of the person covered but in no case more than 5%

1 ~~greater than the group premium charged for the benefits~~  
2 ~~under the group contract.~~

3 NEW SECTION. SECTION 4. CONVERSION ON TERMINATION OF  
4 ELIGIBILITY. (1) A GROUP DISABILITY INSURANCE POLICY ISSUED  
5 OR RENEWED AFTER OCTOBER 1, 1981, SHALL CONTAIN A PROVISION  
6 THAT IF THE INSURANCE OR ANY PORTION OF IT ON A PERSON, HIS  
7 DEPENDENTS, OR FAMILY MEMBERS COVERED UNDER THE POLICY  
8 CEASES BECAUSE OF TERMINATION OF HIS EMPLOYMENT OR OF HIS  
9 MEMBERSHIP IN THE CLASS OR CLASSES ELIGIBLE FOR COVERAGE  
10 UNDER THE POLICY, OR AS A RESULT OF HIS EMPLOYER  
11 DISCONTINUING HIS BUSINESS, SUCH PERSON SHALL, PROVIDED HE  
12 HAD BEEN INSURED FOR A PERIOD OF 3 MONTHS, BE ENTITLED TO  
13 HAVE ISSUED TO HIM BY THE INSURER, WITHOUT EVIDENCE OF  
14 INSURABILITY, AN INDIVIDUAL POLICY OF HOSPITAL OR MEDICAL  
15 SERVICE INSURANCE ON HIMSELF, HIS DEPENDENTS, OR FAMILY  
16 MEMBERS, PROVIDED APPLICATION FOR THE INDIVIDUAL POLICY  
17 SHALL BE MADE AND THE FIRST PREMIUM TENDERED TO THE INSURER  
18 WITHIN 31 DAYS AFTER THE TERMINATION OF GROUP COVERAGE.

19 (2) THE INDIVIDUAL POLICY, AT THE OPTION OF THE  
20 INSURER INSURED, SHALL BE ON ANY OF THE FORMS THEN  
21 CUSTOMARILY ISSUED BY THE INSURER TO INDIVIDUAL  
22 POLICYHOLDERS WITH THE EXCEPTION OF THOSE POLICIES WHOSE  
23 ELIGIBILITY IS DETERMINED BY AFFILIATION OTHER THAN BY  
24 EMPLOYMENT WITH A COMMON ENTITY.

25 (3) THE PREMIUM ON THE INDIVIDUAL POLICY SHALL BE AT

1 THE INSURER'S THEN CUSTOMARY RATE APPLICABLE TO THE COVERAGE  
2 OF THE INDIVIDUAL POLICY.

3 NEW SECTION. SECTION 5. Continuing group coverage  
4 after termination. A person covered by a group hospital or  
5 medical service plan contract, issued OR RENEWED by a health  
6 service corporation after duty OCTOBER 1, 1981, may, FOR A  
7 PERIOD OF 1 YEAR with the consent of the employer or the  
8 trustees, continue coverage under the group contract after  
9 terminating his qualifying employment or after reducing his  
10 regular work schedule to less than the minimum time required  
11 to qualify for membership in the group, and the premium  
12 charged him shall be equal to that charged the members of  
13 the group.

14 NEW SECTION. SECTION 6. Conversion on termination of  
15 eligibility. The group hospital or medical service plan  
16 contract in--effect ISSUED OR RENEWED by a health service  
17 corporation after duty OCTOBER 1, 1981, shall contain a  
18 provision that if the insurance or any portion of it on a  
19 person, his dependents, or family members covered under the  
20 policy ceases because of termination of his employment or of  
21 his membership in the class or classes eligible for coverage  
22 under the policy OR AS A RESULT OF AN EMPLOYER DISCONTINUING  
23 HIS BUSINESS, such person shall, PROVIDED HE HAS BEEN  
24 INSURED FOR A PERIOD OF 3 MONTHS, be entitled to have issued  
25 to him by the insurer, without evidence of insurability, an

1 individual policy of hospital or medical service insurance  
 2 on himself, his dependents, or family members, provided  
 3 application for the individual policy shall be made and the  
 4 first premium tendered to the insurer within 31 days after  
 5 written notice by the insurer to the insureds of the  
 6 insured's rights of conversion depending THE termination of  
 7 group coverage.

8 (1) The individual policy shall, at the option of such  
 9 insured, be issued to an individual or the insured shall be  
 10 issued to the insured as an individual policy. THE  
 11 EXCEPTION OF THOSE UNDER EMPLOYMENT IS NOT APPLICABLE TO THIS  
 12 APPLICATION OTHER THAN BY EMPLOYMENT WITH A PARTICULAR  
 13 EMPLOYER (and shall offer benefits at least equal to those  
 14 under the group coverage SUCH INDIVIDUAL POLICIES.)

15 (2) THE INDIVIDUAL POLICY SHALL, AT THE OPTION OF THE  
 16 INSURED, BE IN AN AMOUNT NOT IN EXCESS OF THE AMOUNT OF  
 17 INSURANCE WHICH CEASES BECAUSE OF SUCH TERMINATION

18 (3) (2) The premium on the individual policy shall be  
 19 at the insurer's then customary rate applicable to the other  
 20 members of the group and the coverage of the individual  
 21 policy.

22 Section 7. Severability. If a part of this act is  
 23 invalid, all valid parts that are severable from the invalid  
 24 part remain in effect. If a part of this act is invalid in  
 25 one or more of its applications, the part remains in effect

1 in all valid applications that are severable from the  
 2 invalid applications.

3 Section 8. Codification instruction. (1) Sections 3,  
 4 and 4, AND 5 are intended to be codified as integral parts  
 5 of Title 33, chapter 22, part 5, and provisions of Title 33,  
 6 chapter 22, apply to sections 3, and 4, AND 5.

7 (2) Sections 6 through 6, AND 7 are intended to be  
 8 codified as integral parts of Title 33, chapter 30, part 10,  
 9 and provisions of Title 33, chapter 30, part 10, Title 33,  
 10 chapter 30, part 10, or sections 6 through 6, AND 7.

11 Section 9. Effective date. This act is effective July  
 12 1, 1991.

-End-

HOUSE BUSINESS AND INDUSTRY COMMITTEE

March 31, 1981

SUMMARY FOR -

HJR 59 introduced by Rep. Anderson and others, supports the candidacy of the City of Calgary, Alberta, to host the 1988 Winter Olympics. If the resolution is approved, the Legislature will urge the United States Olympic Committee and the International Olympic Committee to support Calgary's candidacy.

SENATE JOINT RESOLUTION 27 -

SJR 27 introduced by Senator Kolstad and others, requests that the Legislative Audit Committee, in conjunction with its performance audit during the 1981-83 biennium, study the public utility regulatory system to determine if there is avoidable regulatory lag and if proposed alternative procedures have merit. A second objective would be to determine if the Public Service Commission has allowed the utilities to earn sufficient returns and whether alternatives might be employed to balance the interests of consumers and utilities and whether the PSC needs additional funds and staff for prompt disposal of regulatory problems.