

MINUTES OF THE MEETING  
BUSINESS & INDUSTRY COMMITTEE  
MONTANA STATE SENATE

March 27, 1985

The forty-seventh meeting of the Business & Industry Committee met on Wednesday, March 27th in Room 410 of the Capitol Building. The meeting was called to order by Chairman Mike Halligan at 10 a.m.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL 721: Representative John Cobb, House District #42, Augusta, is the chief sponsor of this bill which was by request of the Secretary of State's office. It just clarifies certain business and nonprofit corporation laws. He noted the following changes have been made: a person will not have to file the number of directors, the foreign name registration fee is going to be just the actual cost, and articles of dissolution are brought up to date, and it would clarify that the secretary of state will handle involuntary dissolutions instead of the attorney general's office.

PROPOSERS: Larry Akey, from the Secretary of State's office, explained this is mostly a housekeeping measure to clean up language missed in the 1981 legislation. He urged support.

OPPOSERS: There were none.

Questions were called for and there were none.

The hearing was closed on House Bill 721.

DISPOSITION OF HOUSE BILL 721: Senator Goodover MOVED THAT HOUSE BILL 721 BE CONCURRED IN. The motion carried. Senator Thayer will carry the bill on the Senate floor.

CONSIDERATION OF HOUSE BILL 858: Representative Dan Harrington, House District #68, Butte, is the chief sponsor of this measure which establishes local and regional port authorities and provides for a tax levy for the operation. He explained it would set up a port authority similar to that of Seattle and the one in Butte. It would give the authority to set up within that port a commission comprised of 5 members and give the power for any community or region to set up a port if they desire. The local governments would have the authority to assess up to two mills for the revenue necessary to maintain the ports. It would be operated similar to airport authority boards.

PROPOSERS: Richard Monahan, General Manager of the Port Authority in Butte, feels that in order to continue operating this program and in order to aid agriculture and development across the state that other parts of the state should have the authority to establish ports also. He noted the port in Butte has been very successful and the states surrounding us

have had great success also.

Rick Griffiths, Director of the Port of Montana in Butte, explained this port just pulls units together and makes big shippers out of several small shippers and helps decrease the rates for freight as a result.

Gordon Morris, from the Montana Association of Counties, appeared in support of the legislation also.

OPPONENTS: There were none.

Questions were then called for from the committee. Senator Williams wondered how long the port had been in existence and was told since 1972. Rep. Harrington noted this would just give all areas of Montana the opportunity to set up a port if they so desired. Senator Goodover wondered if this would require a vote of the people before they would be able to assess the 2 mills and was told the local governments could decide this for themselves. Senator Weeding asked how they fund themselves now and was told by Richard Monahan they generate their own revenue. Senator Halligan asked about the definition of local government and was told by Rep. Harrington this meant the counties or the city governments.

Senator Thayer wondered if any other cities had applied to be a port. Rep. Harrington stated this would just give a city or county authority to set up a port if they desired. A regional port authority would be two or more counties banning together to form a port. Senator Gage asked if a public hearing would be held before an authority was set up and Rep. Harrington stated he felt one would be held within the local government of that particular county. Senator Weeding noted a technical difference in the way the term local government was worded throughout the bill which might have to be addressed.

Rep. Harrington stated in closing he felt a good spirit of community development needed to be established and felt this was a step in the right direction. The hearing was closed on House Bill 858.

CONSIDERATION OF HOUSE BILL 121: Representative Dennis Nathe, House District #19, Sheridan County, explained this is a bill to direct the Public Service Commission to prescribe a classification for electricity rates in areas where present utility rates have resulted in an adverse economic impact where they lack an alternative to electric heating. He noted some areas of the state do not have natural gas for heating and have had to rely solely on electricity or propane for energy. He noted they had had a flat rate for years and when the "Coyote" plant came on line for Montana Dakota Utilities, a 38% increase in rates was requested. At about the same time a group called "Action In Montana" requested a lifeline rate. The Public

Service Commission put this into effect and the net result was a 99% increase in rates for customers in northeastern Montana. Hearings have been held and they are not back to a flat rate again. He noted the rates are still much higher than many parts of the state however. This measure would ask for a new rate structure for those without natural gas. He noted this bill had been amended in the House and they are now requesting a declining block rate structure for electric service when cost-justified for domestic use in those areas where consumers lack an alternative source of energy.

PROPOSERS: John Alke, representing Montana Dakota Utilities, stated they support the bill if an amendment they propose is adopted. (EXHIBIT 1) He noted that MDU is opposed to any type of subsidized rate. He gave a brief background of the history of the rate increases in Northeastern Montana and how the people were dissatisfied with the subsidized rates. He feels this bill is also a subsidized rate but this time favoring the consumer. He noted his amendment would help clarify what a cost-justified rate actually is which is just a rate justified by the utilities cost of providing the service. He felt in order to comply with federal law the amendments would have to be adopted.

Bob Nelson, Public Service Commission Staff Attorney, stated they support this legislation. He noted there have been some severe problems in the northeastern part of the state and they had no objection to the main concept of the bill but do object to language concerning rate subsidies. They would support the bill if this language was stricken.

OPPOSERS: There were none.

Questions were then called for. Senator Christiaens noted that this bill pertains to electricity rates only but wondered if this might also be true in the future for such things as telephone rates. Rep. Nathe noted this had not been a problem thus far. When Senator Thayer asked Rep. Nathe how he felt about the proposed amendment he stated this would be fine with him. He wanted to see the declining block rate structure left in the bill however.

Senator Williams asked if there were other sources of energy that might be used such as solar. Rep. Nathe felt that solar has not proven to be very practical because of the extremes in temperature in this area. The use of coal would mean a conversion of most heating systems he noted.

John Alke noted that if the declining block rate structure were to go into effect the easiest way to cost justify would be to limit it to home heating.

Senator Goodover wondered if the bill were amended if it would do any good. Rep. Nathe felt that it was a statement of intent anyway. He then closed the hearing on House Bill 121.

DISPOSITION OF HOUSE BILL 121: Senator Boylan then MOVED TO ADOPT THE AMENDMENTS PROPOSED BY MONTANA DAKOTA UTILITIES. The motion carried.

Senator Boylan then MOVED TO CONCURR IN HOUSE BILL 121 AS AMENDED. The motion carried. Senator Smith will carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL 574: Senator Halligan explained had been awaiting an amendment regarding the question of whether or not telephone billing should be included in this backbilling measure. Copies of the proposed amendment were distributed. (EXHIBIT 2)

Senator Gage then MOVED TO ADOPT THE AMENDMENTS EXCLUDING LONG DISTANCE BILLING. It was noted the PSC would rather see telecommunications out of the bill completely. Senator Thayer wondered about third party billing. Joe Thares of Mountain Bell, explained this amendment includes all long distance not just third party billing. Senator Weeding was concerned about large bills that are run up by someone on another phone number and Joe Thares explained this would be considered fraud and was set aside in the bill as fraud. The motion carried.

Senator Goodover then MOVED TO CONCUR IN HOUSE BILL 574 AS AMENDED. The motion carried. Senator Kolstad will carry this bill on the Senate floor.

DISPOSITION OF HOUSE BILL 598: Mary McCue, Legislative Staff Attorney, explained this measure would just change the wording to note that you could change the method of billing more than once a year. Senator Thayer spoke against the measure because he felt the measure was directed toward one refinery and would put them out of business if the measure were to pass. He felt buying temperature compensated would be much better.

Senator Christiaens MOVED THAT HOUSE BILL 598 NOT BE CONCURRED IN. Senator Weeding felt the farms were the ones being short-changed. Senator Gage felt buying temperature compensated product would be the better method. He felt the station owner was the one being shorted. Senator Christiaens felt changing the method of billing more than once a year would not be fair to the wholesaler. The motion TO NOT CONCURR passed. On a roll call vote, Senator Halligan, Senator Boylan, Senator Gage, Senator Kolstad, and Senator Weeding voted no. Senator Gage will carry the adverse report on the Senate floor.

DISPOSITION OF HOUSE BILL 571: This bill deals with the licensing of professional counselors. There had been some discussion of combining the board of social workers with the board of professional counselors. The social workers had not commented on this however. Ted Doney, from the Professional Counselors, had suggested in combining the board that there be three members from the social workers, three members of the professional counselors and one public member. It was noted there are presently four people on the board of social workers whose terms expire in '87. A decision would have to be made as to which of these members would be dropped before the expiration of their term. Shirley Miller from the Bureau of Professional Licensing, stated they were neutral on this particular bill but would not like the three year license renewal that is in the bill presently.

Senator Thayer MOVED THE FIRST THREE AMENDMENTS BE ADOPTED. (EXHIBIT 3) The motion carried.

A brief discussion of the amendments that had been proposed by Rep. Bergene at the hearing. (EXHIBIT 4) Shirley Miller felt the board should adopt rules to set annual renewal fees. Senator Christiaens felt the language "but not limited to" was just too broad. He felt the bill should specify which areas of counseling are included. Senator Fuller disagreed.

Senator Christiaens MOVED TO ADOPT AMENDMENTS 2 THROUGH 5 WITH THE ANNUAL LICENSE RENEWAL CHANGE. The motion carried.

Senator Fuller asked Jim Pomroy, from the Board of Social Work Examiners, to respond to his thoughts on combining the board. He explained his main concern would be the different factions that would be involved in the makeup of the board. Senator Fuller felt the boards should be smaller. Senator Christiaens felt that if boards become too small there is concern whether or not there is fair representation but he was in favor of smaller boards also.

Senator Weeding MOVED TO ADOPT AMENDMENTS TO HAVE A 7 MEMBER BOARD. (See EXHIBIT 3) This motion carried.

Lengthy amendments to House Bill 571 had been prepared which were mostly housekeeping. Senator Fuller MOVED TO ADOPT THESE AMENDMENTS. (EXHIBIT 5) The motion carried.

Senator Christiaens then MOVED TO CONCUR IN HOUSE BILL 571 AS AMENDED. The motion carried. Senator Keating will carry this on the Senate floor. Senator Neuman voted "no" to concur in the bill as amended.

DISPOSITION OF HOUSE BILL 338: A gray bill for House Bill 338 had been prepared. (EXHIBIT 6) Some of the suggestions proposed by the proponents had been incorporated into the measure. Senator Fuller MOVED TO ADOPT THE GRAY BILL TO HOUSE BILL 338. Senator Christiaens spoke against the bill

Bill Gowan from the American Title Association, stated there have been problems and they are just asking that people who are licensed to do this type of work be tested to see that they are competent and qualified. He felt it would be for the protection of the consumer. Gene Phillips stated there have been some abuses and they are just trying to prevent this from occurring.

A brief discussion of the need for abstracting. In recent years there has been a conversion to title insurance but in certain cases abstracting is still used in the oil and gas business especially and in some rural areas. Senator Christiaens felt he had received most of the complaints from abstract people about this legislation.


The motion to adopt House Bill 338 in gray bill form carried. Senator Christiaens, Senator Gage and Senator Neuman voted "no".

DISPOSITION OF HOUSE BILL 395: This bill was sent out of committee with an adverse report and later rereferred back into committee for further consideration. Senator Thayer stated there is still a question that the insurance companies are denying coverage to barowners but since there has not been litigation he could not understand the reason for raising the rates. He felt we might be making the situation even worse. Senator Gage had talked with Karl England about whether or not anyone had talked with the insurance people and no one had been in contact with them. Senator Halligan had talked to Roger McGlenn after the hearing and he had told him it was just a national trend to raise the rates.

Senator Fuller felt we were just giving some immunity to the social host. Mary McCue noted you cannot immunize yourself against willful misconduct. Senator Halligan felt that you cannot violate public policy in general, if your are negligent you should be held responsible. Senator Gage felt perhaps the only value in the bill would be that it would preclude some of the harrassment type of cases. Senator Neuman could not understand why the insurance rates were going up if nothing had been collected.

Senator Goodover MOVED TO TABLE HOUSE BILL 395. Senator Fuller, Senator Kolstad, Senator Neuman, Senator Williams, and Senator Thayer voted "no". The motion carried.

The meeting was adjourned at 12:10 noon.

  
SENATOR MIKE HALLIGAN, Chairman

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3-27-85

SENATE  
SENT

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NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		
Senator Weeding	X		

Each day attach to minutes.

March 27, 1985

DATE

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
GENE PHILLIPS	PACIFIC POWER & LIGHT	HB 121		X
Rick Griffith	Port of MONTANA	HB 558	X	
Dick Monahan	" " "	" "	X	
Ed Nelson	PSC	HB 121	amend.	

(Please leave prepared statement with Secretary)



AMENDMENTS HOUSE BILL 121

Third Reading Copy

1. Page 1, line 5, following "PRESCRIBE A"  
Strike: the remainder of line 5, lines 6 through 9 in their entirety, and the phrase "HEATING AND ESSENTIAL USEAGE" in line 10.
2. Page 1, line 5, following "PRESCRIBE A"  
Insert: "DECLINING BLOCK RATE STRUCTURE FOR ELECTRIC SERVICE, WHEN COST-JUSTIFIED."
3. Strike: Page 1, line 14 through Page 2, line 21 in its entirety.
4. Page 4, line 4, insert a period after "COST-JUSTIFIED".
5. Strike: Page 4, line 4 beginning with the comma after "COST-JUSTIFIED" through Page 4, line 10.

HB 574, proposed amendments---third reading, blue copy

1. Page 1, line 24.

Following: "customer;"

Strike: "and"

2. Page 2, line 1.

Following: "customer"

Insert: "; and

(v) excludes errors incurred in the billing of long distance services by a telecommunications utility"

Proposed amendments to HB 571

1. Page 5, line 2.

Following: "counselors"

Insert: "which are based on national standards"

2. Page 7, line 18.

Following: "board"

Strike: "or"

Insert: "based on"

3. Page 8, line 14.

Following: "board"

Strike: "or"

Insert: "based on"

4. Page 15, following line 21.

Insert: "Section 18. Section 2-15-1854, MCA, is amended to read:

"2-15-1854. Board of social work examiners and professional counselors. (1) The governor shall appoint a board of social work examiners and professional counselors consisting of ~~five~~ seven members. ~~Four~~ three members must be licensed social workers, and ~~three~~ must be licensed professional counselors.

~~(a) -- one member must be in the private practice of social work;~~

~~----- (b) -- one member must be employed by a state social service agency;~~

~~----- (c) -- one member must be in the medical or social welfare field; and~~

~~----- (d) -- one member must be an educator in the field of social work;~~

(2) One member must be appointed from and represent the general public and may not be engaged in social work.

(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(4) The board is designated a quasi-judicial board. Members are appointed, serve, and are subject to removal in accordance with 2-15-124."

Proposed amendments to HB 571, third reading, blue copy.

1. Page 5, line 9.

Following: "counselor."

Insert: "Particular areas include but are not limited to  
marriage and family therapy."

2. Page 7, line 7.

Following: "before"

Strike: "October 1"

Insert: "December 31"

3. Page 7, line 25.

Following: "after"

Strike: "October 1"

Insert: "December 31"

4. Page 9, lines 13 and 14.

Following: "and" on line 13

Strike: "expires 3 years after that date"

Insert: "must be renewed every 3 years as provided in [section  
10]"

5. Page 9, line 24.

Following: "license."

Insert: "(1) A license may be issued for no longer than 3 years.  
A license expires on December 31, 1987, and every 3 years  
thereafter."

Renumber: subsequent subsections

HB 571, blue copy, third reading

1. Title, line 6 and 7.  
Following: "COUNSELORS;" on line 6  
Strike: "CREATING A STATE BOARD OF PROFESSIONAL  
COUNSELORS;"
2. Title, line 12.  
Following: "SECTIONS"  
Strike: "SECTION"  
Insert: "SECTIONS 2-15-1854,"  
Following: "~~33-30-1017~~,"  
Insert: "37-22-102,"
3. Page 1, line 16 through line 14 on page 2.  
Strike: Section 1 in its entirety  
Renumber: subsequent sections
4. Page 2, line 18.  
Following: "sections"  
Strike: "2"  
Insert: "1"
5. Page 2, line 19.  
Following: "through"  
Strike: "14"  
Insert: "13"

6. Page 2, line 21.  
Following: "Sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Insert: "13"

7. Page 2, line 22.  
Following: "section"  
Strike: "4"  
Insert: "3"

8. Page 3, line 3.  
Following: "sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

9. Page 3, line 4.  
Following: "board of"  
Insert: "social work examiners and"

10. Page 3, line 5.  
Following: "under"  
Strike: "[section 1]"  
Insert: "2-15-1854"

11. Page 3, line 7.  
Following: line 6  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

12. Page 4, line 13.  
Following: "sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

13. Page 4, line 16.  
Strike: "14"  
Insert: "13"
  
14. Page 5, line 4.  
Following: "sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"
  
15. Page 5, line 16.  
Following: "sections"  
Strike: "2"  
Insert: "1"
  
16. Page 5, line 17.  
Following: "through"  
Strike: "14"  
Insert: "13"
  
17. Page 7, line 8.  
Following: "sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"
  
18. Page 9, line 10.  
Following: "section"  
Strike: "6"  
Insert: "5"
  
19. Page 9, line 18.  
Following: "section"  
Strike: "7"  
Insert: "6"

20. Page 9, line 23.  
Following: "sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

21. Page 10, line 12.  
Following: "section"  
Strike: "12"  
Insert: "11"

22. Page 12, line 23.  
Following: "sections"  
Strike: "2"  
Insert: "1"

23. Page 12, line 24.  
Strike: "14"  
Insert: "13"

24. Page 13, line 3.  
Following: "sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

25. Page 13, line 4.  
Following: "sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

26. Page 15, line 15.  
Following: "to"  
Strike: "initial"  
Following: "board"  
Insert: "of social work examiners and professional  
counselors"



27. Page 15, line 17 and 18.

Following: "in" on line 17

Strike: "[section 1 (2) (a) and (b)]"

Insert: "2-15-1854"

28. Page 15, line 18.

Following: "the"

Strike: "initial"

29. Page 15, lines 22 through 25.

Strike: section 18 in its entirety

Renumber: subsequent sections

30. Page 15, following line 21.

Insert: "Section 18. Section 2-15-1854, MCA, is amended to read:

"2-15-1854. Board of social work examiners and professional counselors. ~~(1)~~ The governor shall appoint a board of social work examiners and professional counselors consisting of ~~five~~ nine members. (1) Four members must be licensed social workers, and:

(a) one member must be in the private practice of social work;

(b) one member must be employed by a state social service agency;

(c) one member must be in the medical or social welfare field; and

(d) one member must be an educator in the field of social work.

(2) Four members must be licensed professional counselors, and:

(a) three members must be licensed professional counselors engaged primarily in rendering professional counseling services;

(b) one member must be a licensed professional counselor engaged primarily in teaching, training, or research in counseling.

~~(2)~~ (3) One member must be appointed from and represent the general public and may not be engaged in social work or professional counseling.

~~(3)~~ (4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

~~(4)~~(5) The board is designated a quasi-judicial board. Members are appointed, serve, and are subject to removal in accordance with 2-15-124.

Section 19. Section 37-22-102, MCA, is amended to read:

"37-22-102. Definitions. As used in this chapter:

(1) "Board" means the board of social work examiners and professional counselors established under 2-15-1854.

(2) "Department" means the department of commerce.

(3) "Licensee" means a person licensed under this chapter.

(4) "Psychotherapy" means the use of psychosocial methods within a professional relationship to assist a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal processes.

(5) "Social work" means the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge of social resources, human capabilities, and the roles that individual motivation and social influences play in determining behavior and involves the application of social work techniques, including:

(a) counseling and using psychotherapy with individuals, families, or groups;

(b) providing information and referral services;

(c) providing, arranging, or supervising the provision of social services;

(d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups;

(e) helping communities to organize to provide or improve social and health services; and

(f) research or teaching related to social work." "

Renumber: subsequent sections

EXHIBIT 6  
BUSINESS & INDUSTRY  
March 27, 1985

## 1 HOUSE BILL NO. 338

2 INTRODUCED BY ADDY, JONES, C. SMITH, LYNCH, HARP,  
3 PAVLOVICH, MERCER, SCHULTZ, BRADLEY, DANIELS,  
4 QUILICI, D. BROWN, KEATING, STIMATZ  
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
7 LAWS RELATING TO TITLE INSURANCE; PROVIDING FOR THE  
8 LICENSING AND REGULATION OF TITLE INSURANCE AGENTS; ~~THE~~  
9 ~~EXAMINATION OF TITLE INSURANCE PLANTS AND THE ISSUANCE OF~~  
10 ~~CERTIFICATES OF AUTHORITY THEREFOR;~~ AND THE REGULATION OF  
11 CONTROLLED BUSINESS IN THE TITLE INSURANCE INDUSTRY;  
12 AMENDING SECTIONS 33-2-108, 33-2-851, 33-17-212, 33-17-213,  
13 AND 33-17-1101, AND 33-17-1102, MCA; AND REPEALING SECTION  
14 33-25-103, MCA."  
15

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

17 NEW SECTION. Section 1. Short title. [Sections 1  
18 through ~~19~~ 15], 33-25-101, and 33-25-102 may be cited as the  
19 "Montana Title Insurance Act".

20 NEW SECTION. Section 2. Definitions. As used in  
21 [sections 1 through ~~19~~ 15], 33-25-101, and 33-25-102, the  
22 following definitions apply:

23 (1) "Abstract" means a written representation,  
24 provided pursuant to a contract and expected to be relied  
25 upon by the person who has contracted for the receipt of

1 that representation, listing all recorded conveyances,  
2 instruments, or documents which, under the laws of this  
3 state, impart constructive notice regarding the chain of  
4 title to real property described in the abstract. Abstract  
5 includes "abstract of title".

6 (2) "Applicant" means a person, whether or not a  
7 prospective insured, who applies to a title insurer or title  
8 agent for a title insurance policy, but does not include a  
9 title agent.

10 (3) "Approved attorney" means an attorney authorized  
11 to practice law in this state, except an agent or employee  
12 of a title insurer, whose certification as to the status of  
13 the title to real property a title insurer is willing to  
14 accept as the basis for issuance of a title insurance  
15 policy.

16 (4) "Associate" means a:

17 (a) corporation, partnership, or other business entity  
18 organized for profit, of which a producer of title business  
19 is a director, officer, partner, employee, or owner of 5% or  
20 more of its equity or capital;

21 (b) franchisor or franchisee of a producer of title  
22 business;

23 (c) spouse, parent, or child of a producer of title  
24 business;

25 (d) corporation, partnership, or other business entity

1 that controls, is controlled by, or is under common control  
2 with a producer of title business; or

3 (e) person with whom a producer of title business or  
4 an associate has an agreement, arrangement, understanding,  
5 or course of conduct having the purpose or substantial  
6 effect of evading the provisions of this title.

7 (5) "Controlled business" means that portion of the  
8 business of title insurance in this state of a title insurer  
9 or title agent that is referred to it by a producer or  
10 associate having a financial interest in the title insurer  
11 or title agent.

12 (6) "Financial interest" means a legal or beneficial  
13 interest that entitles the holder, directly or indirectly,  
14 to 1% or more of the net profits or net worth of the entity  
15 in which the interest is held.

16 (7) "Preliminary report" means an offer to issue a  
17 title insurance policy subject to any exceptions stated in  
18 the report or other matters that may be incorporated by  
19 reference therein. Preliminary report includes a commitment  
20 or binder.

21 (8) ~~(a)~~ "Producer of title business" or "producer"  
22 means a person, corporation, partnership, or other business  
23 entity, including an officer, director, or owner of 5% or  
24 more of the equity or capital thereof, engaged in this state  
25 in the trade, business, occupation, or profession of:

1           ~~(i)~~(A) buying or selling interests in real property;

2           ~~(ii)~~(B) making loans secured by interests in real  
3 property; or

4           ~~(iii)~~(C) acting as broker, agent, or representative of  
5 a person described in subsection (8)(a)(i) or (8)(a)(ii).

6           ~~(b) -- "Producer of title business" does not include an~~  
7 ~~attorney licensed to practice law in this state.~~

8           (9) "Rate" means fees for:

9           (a) issuing a title insurance policy, including any  
10 service charge or fee for the issuance;

11           (b) abstracting, searching, and examining title to  
12 real property when prepared or issued in contemplation of or  
13 in conjunction with the issuance of a title insurance  
14 policy; and

15           (c) preparing or issuing preliminary reports,  
16 commitments, binders, or similar products prepared or issued  
17 in contemplation of or in conjunction with the issuance of a  
18 title insurance policy.

19           (10) "Refer" means to direct, cause to be directed, or  
20 exercise an influence over the direction of title insurance  
21 business, whether or not the consent or approval of another  
22 person is sought or obtained with respect to the referral.

23           (11) (a) "Title agent" means a person who holds a valid  
24 title agent's license and is authorized in writing by a  
25 title insurer to:

- 1           (i) solicit title insurance business;
- 2           (ii) collect rates;
- 3           (iii) determine insurability in accordance with
- 4 underwriting rules and standards of the insurer; or
- 5           (iv) issue policies of the title insurer.
- 6           (b) "Title agent" does not include an approved
- 7 attorney.
- 8           (12) "Title insurance business" means:
- 9           (a) issuing or offering to issue a title insurance
- 10 policy as an insurer;
- 11           (b) transacting or proposing to transact any of the
- 12 following as a title insurer or title agent, in
- 13 contemplation of or in conjunction with the issuance of a
- 14 title insurance policy:
- 15           (i) soliciting or negotiating the issuance of a title
- 16 insurance policy;
- 17           (ii) guaranteeing, warranting, or otherwise insuring
- 18 the correctness of title searches;
- 19           (iii) handling escrows, settlements, or closings;
- 20           (iv) executing title insurance policies, reports,
- 21 commitments, binders, and endorsements;
- 22           (v) effecting contracts of reinsurance; or
- 23           (vi) abstracting, searching, or examining titles;
- 24           (c) transacting, as a title insurer or agent, matters
- 25 subsequent to the issuance of a title insurance policy and

1 arising out of the policy; or

2 (d) doing or proposing to do business that, in  
3 substance, is equivalent to any of the activities described  
4 in subsections (12)(a) through (12)(c) in a manner designed  
5 to evade the provisions of this title.

6 (13) "Title insurance policy" means a contract by  
7 which, subject to its stated terms and conditions, a title  
8 insurer insures or indemnifies the insured against loss or  
9 damage sustained by reason of:

10 (a) defects in or liens or encumbrances on the title  
11 to the stated property;

12 (b) unmarketability of the title to the stated  
13 property; or

14 (c) invalidity or unenforceability of liens or  
15 encumbrances on the stated property.

16 (14) "Title insurer" means an insurer formed and  
17 authorized under the laws of this state to transact the  
18 business of title insurance in this state or a foreign or  
19 alien insurer so authorized.

20 (15) "Title plant" means a set of privately maintained  
21 records in which entries have been made of documents  
22 imparting constructive notice, under the law, of matters  
23 affecting title to real property, an interest therein, or an  
24 encumbrance thereon, that have been filed or recorded in the  
25 jurisdiction for which the title plant is maintained and



1 from which the ownership of real property within the  
2 jurisdiction can be ascertained and liens, encumbrances,  
3 defects, and clouds on title to the real property can be  
4 determined.

5 NEW SECTION. Section 3. Application. (1) [Sections 1  
6 through ~~19~~ 15], 33-25-101, and 33-25-102 apply to all title  
7 insurers, title insurance rating organizations, title  
8 agents, applicants for title insurance, title insurance  
9 policyholders, and all other persons engaged in title  
10 insurance business in this state.

11 (2) [Sections 1 through ~~19~~ 15], 33-25-101, and  
12 33-25-102 do not authorize the practice of law by a person  
13 who is not licensed to practice law in this state, and  
14 [sections 1 through ~~19~~ 15], 33-25-101, and 33-25-102 do not  
15 authorize the commissioner to regulate the practice of law.

16 NEW SECTION. Section 4. Abstracts of title  
17 distinguished from title insurance policy and preliminary  
18 report. (1) A title insurance policy is not an abstract of  
19 title or representation as to the condition of title to the  
20 stated property.

21 (2) A preliminary report is not an abstract of title.  
22 The rights, duties, and liabilities applicable to the  
23 preparation and issuance of an abstract of title are not  
24 applicable to the issuance of a preliminary report. A  
25 preliminary report does not constitute a representation as

1 to the condition of title to real property, but constitutes  
2 a statement of the terms and conditions upon which the  
3 issuer is willing to issue its title insurance policy.

4 NEW SECTION. Section 5. Limitations on authority. (1)  
5 An insurer that transacts or is licensed to transact a class  
6 or kind of insurance other than title insurance is not  
7 eligible for the issuance or renewal of a license to  
8 transact the business of title insurance in this state and  
9 may not transact, underwrite, or issue title insurance. AN  
10 INSURER AUTHORIZED TO TRANSACT ANY COMBINATION OF KINDS OF  
11 INSURANCE, INCLUDING TITLE INSURANCE, UNDER AN EXISTING  
12 CERTIFICATE OF AUTHORITY MAY CONTINUE TO DO SO UNTIL THE  
13 CERTIFICATE OF AUTHORITY IS RENEWED EFFECTIVE JUNE 1, 1986.

14 (2) A title insurer may not engage in the business of  
15 guaranteeing payment of the principal or interest of bonds  
16 or mortgages.

17 (3) A title insurer may not engage in the business of  
18 guaranteeing the obligations of other persons, except its  
19 title agents or approved attorneys in the normal course of  
20 its business.

21 NEW SECTION. Section 6. Underwriting standards --  
22 record retention. (1) A title insurer may not issue a title  
23 insurance policy unless it, its title agent, or an approved  
24 attorney has conducted a reasonable search and examination  
25 of the title and made a determination of insurability of

1 title in accordance with sound underwriting practices. The  
2 title insurer or title agent must preserve and retain in its  
3 files evidence of the examination of title and determination  
4 of insurability. The title insurer or title agent may keep  
5 original evidence or may establish in the regular course of  
6 business a system of recording, copying, or reproducing  
7 evidence by any process that accurately and legibly  
8 reproduces, or forms a durable medium for reproducing, the  
9 contents of the original.

10 (2) Subsection (1) does not apply to:

11 (a) a title insurer assuming liability through a  
12 contract of reinsurance; or

13 (b) a title insurer acting as coinsurer if one of the  
14 other coinsuring title insurers has complied with subsection  
15 (1).

16 (3) Except as allowed by rules adopted by the  
17 commissioner, no title insurer or title agent may knowingly  
18 issue an owner's title insurance policy or commitment to  
19 insure unless all outstanding enforceable recorded liens or  
20 other interests against the property title to be insured are  
21 shown.

22 (4) An insurer issuing a policy in violation of this  
23 section is estopped, as a matter of law, to deny the  
24 validity of the policy as to any claim or demand of the  
25 insured ~~or assigns~~ arising thereunder.

1           NEW SECTION. Section 7. Escrow, closing, or  
2 settlement services -- title indemnification -- maintenance  
3 of accounts -- rules. (1) A title insurer or title agent may  
4 provide escrow, settlement, or closing services, or any  
5 combination thereof, and may operate as an escrow,  
6 settlement, or closing agent, subject to the provisions of  
7 subsections (2) and (3).

8           (2) A title insurer or title agent shall:

9           (a) deposit funds accepted in connection with an  
10 escrow, settlement, closing, or title indemnification in a  
11 separate fiduciary trust account in a bank or other  
12 financial institution insured by an agency of the federal  
13 government and segregate the funds by escrow, settlement,  
14 closing, or title indemnification in its records. The funds  
15 are the property of the person entitled thereto under the  
16 terms of the escrow, settlement, closing, or title  
17 indemnification and are not subject to debts of the title  
18 insurer or title agent. A title insurer or agent may use  
19 such funds only in accordance with the terms of the  
20 individual escrow, settlement, closing, or title  
21 indemnification under which the funds are accepted.

22           (b) pay ANY interest RECEIVED on funds<sup>7</sup> deposited with  
23 it in connection with an escrow, settlement, closing, or  
24 title indemnification, to the depositing person or as  
25 otherwise provided by the terms thereof;

1 (c) maintain separate records of all receipts and  
2 disbursements of escrow, settlement, closing, or title  
3 indemnification funds; and

4 (d) comply with rules adopted by the commissioner  
5 pertaining to escrow, settlement, closing, or title  
6 indemnification transactions.

7 (3) A title agent must keep books of account, records,  
8 and vouchers pertaining to any escrow, closing, settlement,  
9 or title indemnification business transacted, in such a  
10 manner that the commissioner or his authorized  
11 representative may readily ascertain, under the authority of  
12 33-1-402, whether the title agent has complied with all  
13 applicable provisions of this title.

14 NEW SECTION. Section 8. Disapproval of agency  
15 contracts. (1) The commissioner may disapprove a title  
16 agency contract between a title agent and title insurer,  
17 upon appropriate notice to the parties to the contract, if  
18 he finds that the contract, together with all amendments and  
19 related documents:

20 (a) does not provide for adequate monitoring of the  
21 agent's financial transactions; or

22 (b) provides for inadequate, unreasonable, or  
23 excessive amounts to be paid to or retained by the title  
24 agent. Factors the commissioner may consider in this  
25 determination include but are not limited to the agent's

1 duties under the contract and the general level of amounts  
2 paid to or retained by other title agents in the state  
3 performing or assuming comparable duties.

4 (2) No person may act as a title agent under an agency  
5 contract that has been disapproved by the commissioner.

6 NEW SECTION. Section 9. Report of claims. A title  
7 agent must immediately report every loss claim to the title  
8 insurer that issued the policy against which the claim is  
9 presented.

10 NEW SECTION. Section 10. Refusal, suspension, or  
11 revocation of title agent's license. (1) In addition to the  
12 causes provided in 33-17-1001, the commissioner may refuse  
13 to license a person as a title agent or may suspend or  
14 revoke a title agent's license if, after a hearing held  
15 after notice as required in 33-17-1001, he finds that the  
16 license applicant or licensee has:

17 (a) made a material misstatement in an application for  
18 a title agent license;

19 (b) commingled funds belonging to applicants, escrow  
20 participants, or others;

21 (c) intentionally misrepresented the terms of a title  
22 insurance policy to an applicant or policyholder or has  
23 misrepresented material facts to, concealed material facts  
24 from, or made false statements to a party to an escrow,  
25 settlement, or closing transaction;

1 (d) in the conduct of his affairs under his title  
2 agent's license, used coercive practices or shown himself to  
3 be financially irresponsible;

4 (e) aided, abetted, or assisted another person in  
5 violating the provisions of this title or a rule adopted by  
6 the commissioner.

7 (2) The commissioner may impose any other appropriate  
8 penalty provided for in this title.

9 (3) The commissioner may refuse, suspend, or revoke  
10 the license of a firm, corporation, or other business entity  
11 licensed as a title agent for the actions described in  
12 subsection (1) of any individual designated in the license  
13 to exercise its powers.

14 NEW SECTION. Section 11. Sharing of rate proceeds.  
15 Title insurers and agents may share rate proceeds between or  
16 among themselves in any combination and may exchange  
17 business and share commissions as provided in 33-17-1103,  
18 unless the sharing of rate proceeds is an unlawful rebate or  
19 inducement under this title or is a payment of a forwarding  
20 fee or finders fee.

21 NEW SECTION. Section 12. Prohibited practices --  
22 referrals -- splitting charges -- exemptions. (1) Except as  
23 provided in subsection (2), no person may:

24 (a) give or accept a fee, rebate, or thing of value  
25 pursuant to an agreement or understanding that title

1 insurance business will be referred to a title agent; or

2 (b) give or accept a portion, split, or percentage of  
3 a charge made or received for title insurance business in  
4 connection with a transaction involving real property in  
5 this state, other than for services actually performed.

6 (2) (a) A person may pay a return on an investment,  
7 based on a percentage of an ownership interest in a title  
8 insurance ~~agent-or-franchise-relationship~~ AGENCY, if:

9 (i) at or prior to the time of a referral a disclosure  
10 of the existence of the arrangement is made to the person  
11 being referred and, in connection with the referral, the  
12 person is provided a written estimate of the charge or range  
13 of charges generally made by the title agent to which the  
14 person is referred; and

15 (ii) the person is not required to use a particular  
16 agent.

17 (b) The following arrangements are not a violation of  
18 subsection (2)(a)(ii):

19 (i) an arrangement that requires a buyer, borrower, or  
20 seller to pay for the services of an attorney, credit  
21 reporting agency, or real estate appraiser chosen by a  
22 lender to represent the lender's interest in a real estate  
23 transaction; or

24 (ii) an arrangement by which an attorney or law firm  
25 represents a client in a real estate transaction and issues



1 or arranges for the issuance of a policy of title insurance  
2 in the transaction directly as agent or through a separate  
3 corporate title insurance agency that may be established by  
4 that attorney or law firm and operated as an adjunct to his  
5 or its law practice.

6 (c) Failure to disclose a controlled business  
7 relationship is not a violation of subsection (2)(a)(i) if  
8 the failure was not intentional and resulted from a bona  
9 fide error, proven by a preponderance of the evidence.

10 (3) This section does not prohibit:

11 (a) the payment of a fee to an attorney for services  
12 actually rendered or by a title agent for services actually  
13 performed in the issuance of a title insurance policy; or

14 (b) payment of a bona fide salary, compensation, or  
15 other payment for goods or facilities actually furnished or  
16 for services actually performed.

17 NEW SECTION. Section 13. Prohibited practices --  
18 penalties -- treble damages, court costs, and attorney fees  
19 -- injunction. (1) A person found to have violated the  
20 provisions of [section 12] is jointly and severally liable  
21 to the person charged for the title insurance business  
22 involved in the violation for an amount equal to three times  
23 the amount of the charge paid for the business.

24 (2) In a civil action based on [section 12] and this  
25 section, the court may award to the prevailing party court

1 costs plus reasonable attorney fees.

2 (3) The commissioner may bring a civil action to  
3 enjoin a violation of [section 12].

4 NEW SECTION. Section 14. Prohibited practices --  
5 producer and associates -- prohibition of favored agent or  
6 insurer. No producer or associate may, directly or  
7 indirectly, require as a condition, agreement, or  
8 understanding of providing another person a loan, loan  
9 extension, credit, sale, property, contract, lease, or  
10 service that the other person obtain title insurance of any  
11 kind from a particular title insurer or title agent. No  
12 title insurer or title agent may knowingly participate in a  
13 plan or transaction prohibited by this section.

14 NEW SECTION. Section 15. Notice of issuance of  
15 mortgagee policy. (1) A title insurer or title agent that  
16 issues a mortgagee's policy of title insurance on a loan  
17 made simultaneous to the purchase of all or part of the  
18 property securing the loan, when no owner's policy has been  
19 ordered, must inform the borrower in writing that the  
20 mortgagee's policy is to be issued, that the mortgagee's  
21 policy does not protect the borrower, and that the borrower  
22 may obtain an owner's title insurance policy for his  
23 protection. This notice must be provided, on a form  
24 prescribed by the commissioner, before issuance of the  
25 mortgagee's policy.

1           (2) If the borrower elects not to purchase an owner's  
 2 title insurance policy, the title insurer or title agent  
 3 must obtain from him a statement in writing that the notice  
 4 has been received and that the borrower waives the right to  
 5 purchase an owner's title insurance policy. If the buyer  
 6 refuses to provide the statement and waiver, the title  
 7 insurer or title agent must so note in the file. The  
 8 statement and waiver must be on a form prescribed by the  
 9 commissioner and must be retained by the title insurer or  
 10 title agent for at least 5 years after receipt.

11           ~~NEW-SECTION.---Section-16.---Title-plants-----requirement~~  
 12 ~~---standards----limitations-on-sale----rules:--(1)-No-person~~  
 13 ~~may--act--as--a-title-insurance-agent-and-no-title-insurance~~  
 14 ~~agent-may-transact-the-business-of-title-insurance--in--this~~  
 15 ~~state-unless-the-agent-maintains-a-title-plant-for-which-the~~  
 16 ~~commissioner--has--issued--a--certificate--of-authority-or-a~~  
 17 ~~permit-without-inspection-under-the-provisions--of--{section~~  
 18 ~~17-or-19}:~~

19           ~~(2)--The--commissioner--shall--adopt-rules-establishing~~  
 20 ~~standards-for-operation-of-title-plants-in-this-state.---The~~  
 21 ~~rules--may-include-standards-for-tract-indices,general-name~~  
 22 ~~indices,maps,plats,--and-other-organizing-devices:~~

23           ~~(3)--Nothing-in-this-section-prevents-two-or-more-title~~  
 24 ~~agents-from-owning-and-maintaining-a-title--insurance--plant~~  
 25 ~~together-for-their-joint-use:~~

1           (4)--No--title--agent--may--sell--or--otherwise--transfer--a  
 2 title-plant-unless-the-commissioner-first--inspects--it--and  
 3 determines-it-is-in-compliance-with-this-title-and-the-rules  
 4 of--the--commissioner.---The--commissioner--shall--conduct--a  
 5 compliance-inspection-upon-request.

6           NEW-SECTION.---Section-17.---Title-plants-----certificate  
 7 of--authority-----inspections.---(1)-A-title-agent-may-apply  
 8 for-a-title-plant-certificate-of-authority-on-forms-provided  
 9 by-the-commissioner.

10           (2)--The--commissioner--must--issue---a---title---plant  
 11 certificate---of--authority--to--a--title--agent--if,--after  
 12 inspection-of-the-plant,--the-commissioner--finds--the--title  
 13 plant---in--compliance--with--this--title--and--title--plant  
 14 standards-established-by-the-commissioner.

15           (3)--A-certificate-of-authority-continues-from-the-date  
 16 issued-until-sale-or-other-transfer-of-a-plant-unless-sooner  
 17 revoked-by-the-commissioner-or-relinquished-by--the--holder.

18           (4)--The--commissioner--must-inspect-a-title-plant-when  
 19 required-under-{sections-16-and-19}-and-this--section.---The  
 20 commissioner-may-inspect-a-title-plant-at-any-time-under-the  
 21 authority---of---33-1-402--and--revoke--the--certificate--of  
 22 authority-of-a-title-plant-found-to-be--not--in--compliance,  
 23 after-a-hearing-held-pursuant-to-this-title.

24           (5)--The--commissioner--may--contract--with-a-qualified  
 25 person,--firm,--or--organization--to--conduct--inspections--under

1 this-section.

2 NEW-SECTION.--Section-18.--Costs-of-inspection-of-title  
3 plants-----rules.--A-title-agent-shall-pay-the-commissioner  
4 an--inspection--fee--based--on--the--reasonable---costs---of  
5 inspection,--as-established-by-rule-by-the-commissioner.--In  
6 establishing-an-inspection-fee, the-commissioner-may-include  
7 such--costs--as--travel--expenses,--a---reasonable---expense  
8 allowance,--and--compensation--at--reasonable--rates--of--an  
9 inspector.

10 NEW-SECTION.--Section-19.--Permit--without---inspection  
11 for-existing-title-plants---application.--(1)-A-title-agent  
12 transacting--the--business--of--title--insurance--on--October-17  
13 1985,--may-apply-for-a-title-plant-permit-without--inspection  
14 by--December--31,--1985,--and-may-not-transact-the-business-of  
15 title-insurance-after-July-1,--1986,--unless-he-has-received-a  
16 temporary--permit--or--certificate--of--authority--from--the  
17 commissioner.

18 (2)--A--title-agent-shall-apply-for-a-temporary-permit,  
19 on-forms-provided-by-the-commissioner,--providing-information  
20 reasonably-required-by-the-commissioner-that-shows-that--the  
21 agent--maintains-an-adequate-and-complete-title-plant-in-the  
22 county-where-he-intends-to-do-business.--The--title--insurer  
23 with--whom--the--agent--intends-to-do-business-must-sign-the  
24 application-certifying-that-the-agent-is--known--to--have--a  
25 good--reputation--and-is-worthy-of-public-trust-and-that-the

1 insurer knows of no fact or condition that would disqualify  
2 the agent from receiving the permit.

3 (3) If the commissioner denies an application for a  
4 permit without inspection, the applicant may request an  
5 inspection of his title plant and apply for a certificate of  
6 authority as provided in {section 17}.

7 (4) A title agent who receives a title plant permit  
8 without inspection is not relieved of the requirement of  
9 inspection upon sale or transfer of the title plant or as  
10 required by the commissioner under 33-1-402.

11 (5) A permit without inspection continues from the  
12 date issued until sale or other transfer of a plant, unless  
13 sooner revoked by the commissioner.

14 (6) After inspection, the commissioner may revoke a  
15 permit of a title plant found to be not in compliance, after  
16 a hearing held pursuant to this title.

17 Section 16. Section 33-2-108, MCA, is amended to read:

18 "33-2-108. Combinations of insuring powers. (1) Except  
19 as provided in subsections (2), (3), and (4) and [section  
20 5], an insurer which otherwise qualifies therefor may be  
21 authorized to transact any one kind or combination of kinds  
22 of insurance as defined in 33-1-205 through 33-1-212.

23 (2) A life insurer may also grant annuities but shall  
24 not be authorized to transact any other kind of insurance  
25 other than disability, except that if the insurer is

1 otherwise qualified therefor, the commissioner shall  
 2 continue to so authorize any life insurer which, immediately  
 3 prior to January 1, 1961, was lawfully authorized to  
 4 transact in this state a kind or kinds of insurance in  
 5 addition to life and disability.

6 (3) A reciprocal insurer shall not transact life  
 7 insurance.

8 (4) A title insurer shall be a stock insurer."

9 Section 17. Section 33-2-851, MCA, is amended to read:

10 "33-2-851. Special investments by title insurer. (1)  
 11 In addition to other investments eligible under this part, a  
 12 title insurer may invest and have invested an amount not  
 13 exceeding 50% of its paid-in capital stock in its ~~abstract~~  
 14 title plant, as defined in [section 2], and equipment and,  
 15 with the commissioner's consent, in stock of abstract  
 16 companies and of title agents as defined in [section 2]. ~~If~~  
 17 ~~the--insurer--transacts--kinds--of--insurance--in--addition--to~~  
 18 ~~title--insurance,--for--the--purposes--of--this--section--its~~  
 19 ~~paid-in--capital--stock--shall--be--prorated--between--title~~  
 20 ~~insurance--and--such--other--insurances--upon--the--basis--of--the~~  
 21 ~~reserves--maintained--by--the--insurer--for--the--various--kinds--of~~  
 22 ~~insurance,--but--the--capital--so--assigned--to--title--insurance~~  
 23 ~~shall--in--no--event--be--less--than--\$100,000.~~

24 (2) Investments authorized by this section shall not  
 25 be credited against the insurer's required unearned premium

1 or guaranty fund reserve provided for under 33-2-517.

2 (3) Any such abstract title plant and equipment shall  
3 not be so allowed as an asset in any determination of the  
4 insurer's financial condition at a value greater than actual  
5 cost."

6 Section 18. Section 33-17-212, MCA, is amended to  
7 read:

8 "33-17-212. Examination required. (1) After completion  
9 and filing of the application for license as required under  
10 33-17-211, the commissioner shall subject each applicant for  
11 license as agent or solicitor, unless exempted therefrom  
12 under subsection ~~(5)~~ (6) below, to a personal written  
13 examination as to his competence to act as such agent or  
14 solicitor.

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

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

23 (a) life insurance;

24 (b) disability insurance;

25 (c) property insurance; for the purposes of this



1 provision, "marine" insurance shall be deemed to be included  
 2 in "property" insurance;

- 3 (d) casualty insurance;
- 4 (e) vehicle insurance;
- 5 (f) surety insurance;
- 6 (g) credit life and disability insurance;
- 7 (h) title insurance.

8 (4) Examination of an applicant for a solicitor's  
 9 license shall cover all the kinds of insurance, other than  
 10 life, as to which the appointing agent is licensed.

11 ~~(5) -- THE --- COMMISSIONER --- SHALL --- ASSESS --- A --- FEE --- FOR~~  
 12 ~~ADMINISTERING THE EXAMINATION TO AN APPLICANT -- FOR -- A -- TITLE~~  
 13 ~~INSURANCE -- AGENT'S -- LICENSE -- THAT IS CALCULATED TO COVER THE~~  
 14 ~~COST OF ADMINISTRATION OF THE EXAMINATION.~~

15 ~~(5)(6)(5)~~ This section shall not apply to, and no such  
 16 examination shall be required of:

17 (a) any individual lawfully licensed as an agent or  
 18 solicitor as to the kind or kinds of insurance to be  
 19 transacted as of or immediately prior to January 1, 1961,  
 20 and thereafter continuing to be so licensed;

21 (b) any applicant for license covering the same kind  
 22 or kinds of insurance as to which the applicant was licensed  
 23 in this state, other than under a temporary license, within  
 24 the 12 months next preceding date of application unless such  
 25 previous license was suspended, revoked, or continuation

1 thereof refused by the commissioner, except that the  
 2 provisions of this subsection ~~(5)+(6)~~(5)(b) do not apply to  
 3 title agents, as defined in [section 2];

4 (c) any applicant for license as nonresident agent,  
 5 subject to reciprocal arrangements as provided for in this  
 6 code;

7 (d) all applicants for license as agent for an insurer  
 8 that confines its business in this state substantially to  
 9 the insuring of the property, interests, and risks of  
 10 farmers, if exempted from examination by the commissioner,  
 11 in his discretion, upon written request of the insurer;

12 (e) transportation ticket agents of common carriers  
 13 applying for license to solicit and sell only:

14 (i) accident insurance ticket policies; or

15 (ii) insurance of personal effects while being carried  
 16 as baggage on such common carrier, as incidental to their  
 17 duties as such transportation ticket agents;

18 (f) agents' associations applying for license under  
 19 33-17-205;

20 ~~(g)--title-insurance-agents;~~

21 ~~(h)~~(g) mechanical breakdown insurance agents."

22 Section 19. Section 33-17-213, MCA, is amended to  
 23 read:

24 "33-17-213. Conduct of examinations. (1) The  
 25 commissioner shall make any examination required under

1 33-17-212 available to applicants with reasonable frequency  
2 and at a place in this state reasonably accessible to the  
3 applicants. The commissioner shall make any such examination  
4 available at his offices at Helena, Montana, at times within  
5 his discretion but at least once a month.

6 (2) All the kinds of insurance or classes thereof, as  
7 referred to in 33-17-212(3), which the applicant proposes to  
8 transact under the license applied for shall be included in  
9 the same examination.

10 (3) The commissioner shall give, conduct, and grade  
11 all examinations in a fair and impartial manner and without  
12 unfair discrimination as between individuals examined.

13 (4) The commissioner may require a reasonable waiting  
14 period before reexamination of an applicant who has failed  
15 to pass a previous examination covering the same kind or  
16 kinds of insurance.

17 (5) The examination of a title agent, as defined in  
18 [section 2], must include but is not limited to questions  
19 pertaining to the search and examination of title to real  
20 property, insurance principles relating to title insurance,  
21 and the fiduciary duties and procedures of escrows,  
22 settlements, and closings of real estate transactions."

23 Section 20. Section 33-17-1101, MCA, is amended to  
24 read:

25 "33-17-1101. Place of business -- display of license

1 -- records. (1) Every agent shall have and maintain a place  
 2 of business accessible to the public. Such place of business  
 3 shall be that wherein the licensee principally conducts  
 4 transactions under his license. The address of such place  
 5 shall appear upon the license, and the licensee shall  
 6 promptly notify the commissioner of any change thereof.  
 7 Nothing in this section prohibits maintenance of such place  
 8 of business in the licensee's place of residence.

9 (2) The license of the licensee and the license of  
 10 each solicitor appointed by and representing the licensee  
 11 shall be conspicuously displayed in such place of business  
 12 in a part thereof customarily open to the public.

13 (3) The agent shall keep at his place of business  
 14 complete records pertaining to transactions under his  
 15 license and the licenses of his solicitors, for a period of  
 16 at least 3 years after completion of the respective  
 17 transactions, except that title agents, as defined in  
 18 [section 2], shall retain records as provided in [sections 6  
 19 and 15]."

20 SECTION 21. SECTION 33-17-1102, MCA, IS AMENDED TO  
 21 READ:

22 "33-17-1102. Reporting and accounting for premiums.  
 23 (1) All premiums or return premiums received by an agent or  
 24 solicitor shall be trust funds so received by the licensee  
 25 in a fiduciary capacity, and the agent or solicitor shall in

1 the applicable regular course of business account for and  
2 pay the same to the insured, insurer, or agent entitled  
3 thereto. ~~ff~~ Except for a title agent as defined in [section  
4 2], if the licensee establishes a separate deposit for funds  
5 so belonging to others in order to avoid a commingling of  
6 such fiduciary funds with his own funds, he may deposit and  
7 commingle in the same such separate deposit all such funds  
8 belonging to others so long as the amount of such deposit so  
9 held for each respective other person is reasonably  
10 ascertainable from the records and accounts of the licensee.

11 (2) Any agent or solicitor who, not being lawfully  
12 entitled thereto, diverts or appropriates such funds or any  
13 portion thereof to his own use is, upon conviction, guilty  
14 of theft and shall be punished as provided by law."

15 NEW SECTION. Section 22. Repealer. Section 33-25-103,  
16 MCA, is repealed.

17 NEW SECTION. Section 23. Extension of authority. Any  
18 existing authority of the commissioner of insurance to make  
19 rules on the subject of the provisions of this act is  
20 extended to the provisions of this act.

21 NEW SECTION. Section 24. Codification instruction.  
22 Sections 1 through ~~19~~ 15 are intended to be codified as an  
23 integral part of Title 33, and the provisions of Title 33  
24 apply to sections 1 through ~~19~~ 15.

25 NEW SECTION. Section 25. Severability. If a part of

1 this act is invalid, all valid parts that are severable from  
2 the invalid part remain in effect. If a part of this act is  
3 invalid in one or more of its applications, the part remains  
4 in effect in all valid applications that are severable from  
5 the invalid applications.

-End-

# STANDING COMMITTEE REPORT

MARCH 27

85

19.....

MR. PRESIDENT

We, your committee on..... **BUSINESS & INDUSTRY**

having had under consideration..... **HOUSE BILL** No. **721**

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color

**GENERALLY REVISE AND CLARIFY BUSINESS AND NONPROFIT CORPORATION LAWS  
(Thayer)**

Respectfully report as follows: That..... **HOUSE BILL** No. **721**

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

.....  
**Mike Halligan**

Chairman.

# STANDING COMMITTEE REPORT

MARCH 27

85

19.....

MR. PRESIDENT

## BUSINESS & INDUSTRY

We, your committee on.....

HOUSE BILL

574

having had under consideration.....

No.....

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color

### LETS PUBLIC UTILITIES CORRECT CUSTOMER BILLING ERRORS BY BACKBILLING 6 MOS. (Kolstad)

HOUSE BILL

574

Respectfully report as follows: That.....

No.....

be amended as follows:

1. Page 1, line 24.

Following: "customer;"

Strike: "and"

2. Page 2, line 1.

Following: "customer"

Insert: ";and (v) excludes errors incurred in the billing of  
long distance services by a telecommunications utility"

AND AS AMENDED  
BE CONCURRED IN

~~XXXX~~

DO NOT PASS

~~XXXXXXXXXX~~

DO NOT PASS

Sen. Mike Halligan

Chairman.



# STANDING COMMITTEE REPORT

MARCH 27

19. 85

MR. PRESIDENT

We, your committee on **BUSINESS & INDUSTRY**

having had under consideration..... **HOUSE BILL** No. **598**

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color

**GIVES PETROLEUM WHOLESALE DISTRIBUTORS SEMI-ANNUAL OPTION ON PRODUCT  
MEASURE (Gage)**

Respectfully report as follows: That..... **HOUSE BILL** No. **598**

NOT BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

.....  
**Mike Halligan**

Chairman.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date March 27, 1985 HOUSE Bill No. 598 Time \_\_\_\_\_

NAME	YES	NO
Chairman Mike Halligan		X
V-Chrm. B. F. Christiaens	X	
Senator Paul Boylan		X
Senator David Fuller	X	
Senator Delwyn Gage		X
Senator Pat Goodover	X	
Senator Allen Kolstad		X
Senator Ted Neuman	X	
Senator Gene Thayer	X	
Senator Bob Williams	X	
Senator Cecil Weeding		X

Carol Duval  
Secretary

Mike Halligan  
Chairman

Motion: Motion by Senator Christiaens House Bill 598 Not Be  
Concurred In. Passed 6 to 5. Senator Halligan, Boylan,  
Gage, Kolstad and Weeding voting no.

# STANDING COMMITTEE REPORT

Page 1 of 7

MARCH 27

85

19.....

MR. PRESIDENT

## BUSINESS & INDUSTRY

We, your committee on.....

having had under consideration..... HOUSE BILL No. 571

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color

### MANDATORY LICENSING & REGULATION OF PROFESSIONAL COUNSELORS (Keating)

HOUSE BILL

571

Respectfully report as follows: That..... No.....

#### be amended as follows:

1. Title, line 6 and 7.  
Following: "COUNSELORS;" on line 6  
Strike: "CREATING A STATE BOARD OF PROFESSIONAL  
COUNSELORS;"
2. Title, line 12.  
Following: "SECTIONS"  
Strike: "SECTION"  
Insert: "SECTION 2-15-1854,"  
Following: "33-38-101,"  
Insert: "AND 37-22-102,"
3. Page 1, line 16 through line 14 on page 2.  
Strike: Section 1 in its entirety  
Renumber: subsequent sections
4. Page 2, line 18.  
Following: "[sections"  
Strike: "2"  
Insert: "1"
5. Page 2, line 19.  
Following: "through"  
Strike: "14"  
Insert: "13"

(continued)

~~XXXXXX~~

~~XXXXXX~~  
DO NOT PASS

.....  
Chairman.

6. Page 2, line 21.  
Following: "[Sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Insert: "13"

7. Page 2, line 22.  
Following: "[section"  
Strike: "4"  
Insert: "3"

8. Page 3, line 3.  
Following: "[sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

9. Page 3, line 4.  
Following: "board of"  
Insert: "social work examiners and"

10. Page 3, line 5.  
Following: "under"  
Strike: "[section 1]"  
Insert: "2-15-1854"

11. Page 3, line 7.  
Following: line 6  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

12. Page 4, line 13.  
Following: "[sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

(continued)

13. Page 4, line 16.

Following: line 15

Strike: "14"

Insert: "13"

14. Page 5, line 2.

Following: "counselors"

Insert: "which are based on national standards"

15. Page 5, line 4.

Following: "{sections"

Strike: "2"

Insert: "1"

Following: "through"

Strike: "14"

Insert: "13"

16. Page 5, line 16.

Following: "{sections"

Strike: "2"

Insert: "1"

17. Page 5, line 17.

Following: "through"

Strike: "14"

Insert: "13"

18. Page 7, line 7.

Following: "before"

Strike: "October 1"

Insert: "December 31"

19. Page 7, line 8.

Following: "{sections"

Strike: "2"

Insert: "1"

Following: "through"

Strike: "14"

Insert: "13"

20. Page 7, line 18.

Following: "board"

Strike: "or"

Insert: "based on"

(continued)

21. Page 7, line 25.  
Following: "after"  
Strike: "October 1"  
Insert: "December 31"

22. Page 8, line 14.  
Following: "board"  
Strike: "or"  
Insert: "based on"

23. Page 9, line 10.  
Following: "[section"  
Strike: "6"  
Insert: "5"

24. Page 9, lines 13 and 14.  
Following: "and" on line 13  
Strike: "expires 3 years after that date"  
Insert: "must be renewed every year as provided in [section 10]"

25. Page 9, line 18.  
Following: "[section"  
Strike: "7"  
Insert: "6"

26. Page 9, line 24.  
Following: "license."  
Insert: "(1) A license may be issued for no longer than 1 year. The board may adopt rules to provide for annual renewal of an existing license."

Renumber: subsequent subsections

27. Page 9, line 23.  
Following: "[sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

(continued)

29. Page 10, line 12.  
Following: "[section"  
Strike: "12"  
Insert: "11"

29. Page 13, line 23.  
Following: "[sections"  
Strike: "2"  
Insert: "1"

30. Page 12, line 24.  
Following: line 23  
Strike: "14"  
Insert: "13"

31. Page 13, line 3.  
Following: "[sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

32. Page 13, line 4.  
Following: "[sections"  
Strike: "2"  
Insert: "1"  
Following: "through"  
Strike: "14"  
Insert: "13"

33. Page 15, line 16.  
Following: "to"  
Strike: "initial"  
Following: "heard"  
Insert: "of social work examiners and professional  
counselors"

34. Page 15, lines 17 and 18.  
Following: "is" on line 17  
Strike: "[section 1 (2) (a) and (b)]"  
Insert: "2-15-1854"

(continued)

35. Page 15, line 18.

Following: "the"

Strike: "initial"

36. Page 15, line 22.

Following: line 21

Insert: "Section 18. Section 2-15-1854, WCA, is amended to read:

"2-15-1854. Board of social work examiners and professional counselors. †† The governor shall appoint a board of social work examiners and professional counselors consisting of five seven members. (1) Four Three members must be licensed social workers, and: three must be licensed professional counselors.

~~†--one member must be in the private practice of social work;~~

~~-----†--one member must be employed by a state social service agency;~~

~~-----†--one member must be in the medical or social welfare field; and~~

~~-----†--one member must be an educator in the field of social work.~~

(2) One member must be appointed from and represent the general public and may not be engaged in social work.

(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(4) The board is designated a quasi-judicial board. Members are appointed, serve, and are subject to removal in accordance with 2-15-124."

(continued)



Section 19. Section 37-22-102, MCA, is amended to read:

"37-22-102. Definitions. As used in this chapter:

(1) "Board" means the board of social work examiners and professional counselors established under 2-15-1854.

(2) "Department" means the department of commerce.

(3) "Licensee" means a person licensed under this chapter.

(4) "Psychotherapy" means the use of psychosocial methods within a professional relationship to assist a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal processes.

(5) "Social work" means the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge of social resources, human capabilities, and the roles that individual motivation and social influences play in determining behavior and involves the application of social work techniques, including:

(a) counseling and using psychotherapy with individuals, families, or groups;

(b) providing information and referral services;

(c) providing, arranging, or supervising the provision of social services;

(d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups;

(e) helping communities to organize to provide or improve social and health services; and

(f) research or teaching related to social work." "

Renumber: subsequent sections

37. Page 15, lines 22 through 25.

Strike: section 19 in its entirety

Renumber: subsequent sections

AND AS AMENDED  
BE CONCURRED IN

# STANDING COMMITTEE REPORT

MARCH 27 19 85

Page 1 of 3

MR. PRESIDENT

## BUSINESS & INDUSTRY

We, your committee on.....

having had under consideration..... HOUSE BILL No. 338

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### GENERALLY REVISE TITLE INSURANCE LAWS (Lynch)

HOUSE BILL 338

Respectfully report as follows: That..... No.....

be amended as follows:

1. Title, line 13.  
Following: line 12  
Strike: "AND"  
Following: "33-17-1101,"  
Insert: "AND 33-17-1102,"
2. Page 3, line 20.  
Following: "(8)"  
Strike: "(a)"
3. Page 3, line 25.  
Following: line 25  
Strike: "(i)"  
Insert: "(a)"
4. Page 4, line 1.  
Following: page 3  
Strike: "(ii)"  
Insert: "(b)"
5. Page 4, line 3.  
Following: line 2  
Strike: "(iii)"  
Insert: "(c)"

(continued)

~~DO NOT PASS~~

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~~DO NOT PASS~~  
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.....  
Chairman.

6. Page 4, lines 5 and 6.  
Strike: subsection (b) in its entirety

7. Page 8, line 8.  
Following: "insurance."  
Insert: "An insurer authorized to transact any combination of kinds of insurance, including title insurance, under an existing certificate of authority may continue to do so until the certificate of authority is renewed effective June 1, 1986."

8. Page 9, line 20.  
Following: "insured"  
Strike: "or assigns"

9. Page 10, line 17.  
Following: "pay"  
Insert: "any"  
Following: "interest"  
Insert: "received"  
Following: "funds"  
Strike: ", "

10. Page 14, line 3.  
Following: "insurance"  
Strike: "agent or franchise relationship"  
Insert: "agency"

11. Page 22, line 7.  
Following: "~~5~~"  
Strike: "(6)"  
Insert: "(5)"

12. Page 23, lines 6 through 9.  
Strike: subsection 5 in its entirety  
Re-number: subsequent subsection

13. Page 23, line 22.  
Following: "~~5~~"  
Strike: "(6)"  
Insert: "(5)"

(continued on page 3)

*M/A*  
.....  
*PR*

14. Page 26, line 15.

Following: line 14

Insert: "Section 21. Section 33-17-1102, MCA, is amended to read:  
"33-17-1102. Reporting and accounting for premiums. (1) All premiums  
or return premiums received by an agent or solicitor shall be trust  
funds so received by the licensee in a fiduciary capacity, and the  
agent or solicitor shall in the applicable regular course of business  
account for and pay the same to the insured, insurer, or agent  
entitled thereto. Except for a title agent as defined in [section 2],  
if the licensee establishes a separate deposit for funds so belonging  
to others in order to avoid a commingling of such fiduciary funds  
with his own funds, he may deposit and commingle in the same such  
separate deposit all such funds belonging to others so long as the  
amount of such deposit so held for each respective other person is  
reasonably ascertainable from the records and accounts of the  
licensee. (2) Any agent or solicitor who, not being lawfully  
entitled thereto, diverts or appropriates such funds or any portion  
thereof to his own use is, upon conviction, guilty of theft and  
shall be punished as provided by law." "

Renumber: subsequent sections

AND AS AMENDED  
BE CONCURRED IN

  
Sen. Mike Halligan

# STANDING COMMITTEE REPORT

MARCH 27

85

19.....

MR. PRESIDENT

## BUSINESS & INDUSTRY

We, your committee on.....

HOUSE BILL

121

having had under consideration.....

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### UTILITY RATE CLASSIFICATION FOR AREAS LACKING AN ALTERNATIVE TO ELECTRICITY (Smith)

Respectfully report as follows: That.....

HOUSE BILL

121

No.....

be amended as follows:

1. Title, lines 5 through 10.

Following: "PRESCRIBE A" on line 5

Strike: remainder of line 5 through "USAGE" on line 10

Insert: "DECLINING BLOCK RATE STRUCTURE FOR ELECTRIC SERVICE WHEN  
COST-JUSTIFIED"

2. Page 1, line 14 through line 21 on page 2.

Strike: line 14 on page 1 through line 21 on page 2 in their entirety

3. Page 4, lines 4 through 10.

Following: "COST-JUSTIFIED," on line 4

Strike: remainder of line 4 through "uses." on line 10

AND AS AMENDED  
BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

.....  
Sen. Mike Halligan

Chairman.