

MINUTES OF THE MEETING  
BUSINESS & INDUSTRY COMMITTEE  
MONTANA STATE SENATE

March 26, 1987

The forty-first meeting of the Business and Industry Committee was called to order by Chairman Allen C. Kolstad at 10 a.m. on Thursday, March 26, 1987 in Room 410 of the Capitol.

ROLL CALL: All committee members were present.

Chairman Kolstad announced that HB 372 would be held for a time by request of the sponsor and also HB 586 would be held if there was no objection from the members. There was none.

RECONSIDERATION OF HOUSE BILL NO. 179: Sen. Boylan MOVED that they RECONSIDER their action on HB 179, seconded by Sen. Walker. Discussion revealed that the banking industry had changed their position on the bill since the bill had been heard. Chairman Kolstad called upon Joe Upshaw who replied that the Montana Bankers' Association had asked him to inform the committee that with the amendment the trust company owned by D.A. Davidson could not be grandfathered out. The committee researcher, Mary McCue, explained the amendment. The original amendment would not prohibit continued control of financial institutions that would have been eligible for federal deposit insurance on March 1st so long as the company had been acquired by that date. This would preclude any group from further acquisition.

Sen. Thayer expressed his opposition to reconsidering their past action and said that Congress is debating this issue and he does not like the state to pre-empt what might happen on the national level. He also expressed dislike for MBA's decision at the last minute and he does not like monopoly. Sen. Walker pointed out that there was a distinct reason why there was that separation between the banking industry and the securities companies and that reason brought about the abuse. He felt they were asking to maintain checks and balances and felt it was an important feature and expressed support for the bill.

Sen. Williams asked John Cadby to speak on the amendments. Mr. Cadby said they supported the bill as it came from the House because they were still eligible for insurance from FDIC. The MOTION TO RECONSIDER carried by a majority vote with Sens. Neuman, Thayer and Meyer voting "no".

Sen. Boylan MOVED ADOPTION OF THE AMENDMENTS, seconded by Sen. Walker. Sen. Thayer MADE A SUBSTITUTE MOTION that they adopt the other amendments that were prepared, seconded by Sen. Meyer. He explained that this amendment allows Montana companies to continue to buy, thereby eliminating problems between big banks, K-Mart and groups of that nature. It would give the banks a considerable amount of protection and have them all compete on equal ground. Sen. Meyer expressed opposition because of the separation of powers between banking and securities for the

purpose of consumer protection. This is not the same as giving preference on the other issues.

Sen. Meyer agreed that the Davidson amendment is the best because it leaves the door open and will increase competition. Sen. Williams asked if the banking industry testified against the Davidson amendment and Sen. Thayer responded that they had offered the other amendment. Sen. Boylan felt the original amendments would give a trial period and expressed opposition to Sen. Thayer's substitute motion. Sen. Neuman spoke in favor of the substitute motion because the first set of amendments would grandfather only one firm and felt they should adopt the substitute motion.

Sen. Weeding asked Sen. Thayer if the Davidson amendment was strictly for them and the reply was it was not. Mr. Cadby responded that the MBA thought the bill was fine and needed neither amendment. The question was called on the SUBSTITUTE MOTION; the MOTION FAILED with Sens. Hager, Boylan, Weeding, McLane, Walker and Kolstad voting "no".

Sen. Williams pointed out that Mr. Cadby had said no amendments were needed and asked Sen. Boylan to explain the amendments. He replied that it lets D.A. Davidson have the grandfather clause. The question was called on the ORIGINAL MOTION. The MOTION CARRIED ON A MAJORITY VOTE with Sens. Meyer, Hager and Thayer voting "no".

Sen. Walker moved that HB 179 BE CONCURRED IN AS AMENDED, seconded by Sen. Boylan. The MOTION CARRIED with Sens. Hager, Thayer, Meyer and Neuman voting "no". Sen. Walker will carry the bill.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 43: Rep. Cal Winslow, House District 89, said the regulation called for an interim study requesting insurance to offer long-term care insurance in Montana. One of the fastest growing areas of increases for the human services budget is the cost of long-term care insurance, he said. The elderly population in this country continues to grow, high technology adds cost to care, and longevity causes increased cost. The state has the responsibility for a high percentage of people in nursing homes and he expressed the need for this study.

PROPONENTS: Joe Upshaw, representing the American Association of Retired Persons, explained his written testimony. EXHIBIT 3.

Chuck Butler, Blue Cross/Blue Shield of Montana, announced they are the administrators of Part A and B of the Medicare program for the federal government. He said they process the claims for the medicare people in the state and had significant data to confirm the cost of care. He said the cost of long-term care in this country is over \$500 billion and urged passage of this resolution.

David Evenson, Montana University System, said that the Commission of College Retirement recently did a study on long-term care and devised a program that could be offered for about 1% of payroll or a monthly payment of \$10-20. He said it wouldn't be long before a program such as this will be needed and urged support.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE JOINT RESOLUTION NO. 43: Chairman Kolstad called for questions from the members of the committee.

Sen. McLane asked if this type of insurance was being offered anywhere else and Mr. Evenson replied there were some insurance companies that are beginning to experiment with long-term care policies. Sen. Boylan expressed opposition because he felt it would be compulsory.

Rep. Williams asked if there were other resolutions besides No. 45 with which this resolution would be compatible.

Sen. Thayer asked Rep. Winslow what kind of incentive would be offered to private insurers and Rep. Winslow replied that tax breaks, tax credits for monies paid to offset income taxes and other incentives would be considered.

Sen. McLane asked what the cost would be and Rep. Winslow responded that it might be based on something like an annuity policy. Sen. Walker asked Rep. Winslow to clarify that this is only a study and not a mandate to require persons to acquire this.

Sen. Weeding asked Mr. Upshaw which states were involved and he replied that Colorado offers tax incentives both for the insurer and the insured. Sen. Boylan asked why the insurance companies aren't picking this up now if the market is there. Rep. Winslow answered that up until now they had not seen enough interest.

In closing, Rep. Winslow stated that it is a serious problem because people seem to be relying on the system; as the population continues to age it becomes critical that we encourage people to take responsibility for their own long-term care on a voluntary basis.

DISPOSITION OF HOUSE JOINT RESOLUTION NO. 43: Sen. Hager MOVED HJR 43 BE CONCURRED IN, seconded by Sen. Walker. Sen. Neuman expressed concern that one of the incentives being a possible tax credit could result in more tax credits than taxes. Although he felt it had good intentions he said he would oppose it. Sen. Hager felt it would be beneficial to study this. The MOTION CARRIED with Sen. Boylan voting "no". Sen. Hager will carry the bill.

DISPOSITION OF HOUSE BILL NO. 466: Mary McCue, committee researcher, explained that in the title of the bill the language was amended in to require school districts and vo-tech centers to give a preference in certain instances but that language was not included on page 6 in the definition of a public employer. A single amendment was needed to include this on page 6. (See Standing Committee Report)

Sen. Weeding MOVED ADOPTION OF THE AMENDMENT, seconded by Sen. Thayer. The MOTION CARRIED UNANIMOUSLY.

Sen. Williams MOVED HB 466 BE CONCURRED IN AS AMENDED, seconded by Sen. Boylan. Sen. Neuman spoke against the bill because by adding that preference he felt there was discrimination against women and also because most veterans don't feel they need a preference. Sen. Walker disagreed and Sen. Williams felt the implementation costs would not amount to much as only the Viet Nam veteran would be included and deserves to be. The MOTION CARRIED with Sens. Weeding, Hager and Neuman voting "no".

DISPOSITION OF HOUSE BILL NO. 806: Sen. Meyer MOVED ADOPTION OF THE AMENDMENTS, seconded by Sen. Thayer. Les Loble had prepared the amendments. (See Standing Committee Report) The MOTION CARRIED. (See EXHIBITS 4 and 5)

Sen. Meyer moved HB 806 BE CONCURRED IN AS AMENDED, seconded by Sen. McLane. The MOTION CARRIED UNANIMOUSLY. Sen. Meyer will carry HB 806.

RECONSIDERATION OF HOUSE BILL NO. 622: Sen. Thayer MOVED to RECONSIDER PREVIOUS ACTION, seconded by Sen. Meyer. The MOTION CARRIED UNANIMOUSLY. The bill, as amended, had previously been tabled in committee.

Sen. Thayer MOVED HB 622 BE CONCURRED IN AS AMENDED, seconded by Sen. Walker. The MOTION CARRIED with Sens. Kolstad and Boylan voting "no". Sen. Weeding will carry HB 622.

The next business meeting of the Business and Industry Committee will be on March 27th at 10 a.m.

There being no further business, the meeting adjourned at 11:05 a.m.

  
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SEN. ALLEN C. KOLSTAD, CHAIRMAN

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/26/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.



*Tracked*

Amendment to HB 179

Third reading (blue) copy

SENATE B & I

EXHIBIT NO. 1

DATE 3-26-87

BILL NO. HB 179

1. Title, line 6.  
Following: "BY"  
Insert: "CERTAIN"

2. Page 1, line 12.  
Following: "company"  
Insert: ", except a company incorporated under the laws of  
this state that has its principle place of business in this state,"

Mary 3/

SENATE B & I  
EXHIBIT NO. 2  
DATE 3-26-87  
BILL NO. HB 179

Amendments to HB 179      Third reading (blue) copy

1. Page 1, line 10.  
Following: "acquisition"  
Insert: " -- exception"  
Following: "acquisition."  
Insert: "(1)"
  
2. Page 1, following line 19.  
Insert: "(2) Nothing in this section prohibits the continued control of a financial institution eligible for insurance under the Federal Deposit Insurance Act by a company that acquired the financial institution prior to March 1, 1987."



EXHIBIT NO. 3

DATE 3-26-87

BILL NO. HTR 43

MR CHAIRMAN, MEMBERS OF THE COMMITTEE,

FOR THE RECORD, I AM JOE UPSHAW OF HELENA, REPRESENTING THE AARP.

TOOMANY PEOPLE HAVE BEEN <sup>Lead</sup> ~~LEAD~~ TO BELIEVE THAT THE RECENTLY PASSED LEGISLATION IN WASHINGTON THAT ADDRESSES CATASTROPHIC CARE WILL TAKE CARE OF THE CITIZEN WHO GOES TO THE <sup>Long Term</sup> NURSING HOME. THIS IS CERTAINLY NOT TRUE, AS IT IS AN ENTIRELY DIFFERENT ISSUE. MY ORGANIZATION HAS BEEN STUDYING THE NEED FOR SOME TYPE OF INSURANCE THAT A PERSON MIGHT OBTAIN THAT WOULD ASSURE HIM <sup>Long Term</sup> THIS CARE WITHOUT THE TREMENDOUS OUTLAY <sup>OF CASH</sup> THAT IS NOW NEEDED. SEVERAL STATES HAVE PILOTTED THIS AND STUDIES HAVE INCLUDED: <sup>In Home Health Care expansion</sup> CONSUMER PROTECTION SAFEGUARDS, EXPLOITATION BY UNRELIABLE FIRMS, COST COMPARISONS, PRICES, INCREMENT BUYING, SALES INCENTIVES TO COMPANIES, PURCHASE INCENTIVES ( SUCH AS TAX INCENTIVES FOR EITHER THE SELLER OR CONSUMER) TO NAME A FEW. COLORADO AND MASSACHUSETTS HAVE BOTH BEEN ~~PILOT~~ <sup>PILOT</sup> STATES AND ARE NOW OFFERING SOME OF THESE INCENTIVES. ON THE FEDERAL LEVEL, THE AARP AND OTHER ORGANIZATIONS HAVE BEEN WORKING WITH CONGRESSMEN IN AN ATTEMPT TO COME UP WITH A LONG TERM PLAN THAT WOULD PROVIDE A MEANS OF BUYING THE INSURANCE AS <sup>A</sup> ~~PART OF A LONG~~ <sup>mechanism</sup> ~~TERM PLAN~~ WHEREBY THE INDIVIDUAL WOULD PAY DURING HIS PRODUCTIVE YEARS. AS AN EXAMPLE, ONE PLAN UNDER CONSIDERATION WOULD BE SOMETHING ON THE ORDER OF SOCIAL SECURITY, WHEREBY THE EARNER WOULD PAY A SMALL AMOUNT EACH MONTH INTO THE FUND DURING HIS PRODUCTIVE YEARS. THIS, MEMBERS OF THE COMMITTEE, IS AN ISSUE THAT WE SHOULD ADDRESS, AND I FEEL THAT THE TIME IS NOW. I <sup>Personally</sup> KNOW THAT THE ~~THE~~ FEAR OF BEING IN A NURSING HOME IS ~~ONE~~ <sup>OF</sup> THE GREATEST FEARS THAT WE OLDER PEOPLE HAVE DUE TO THE RESULTANT DEVASTATING FINANCIAL PROBLEMS IT WOULD CREATE. I URGE YOUR FAVORABLE CONSIDERATION OF THIS RESOLUTION.

*Joe Upshaw*

Amendments to HB 806      Third reading (blue) copy

1. Title, line 7.  
Following: "SECTIONS"  
Insert: "33-10-201,"
  
2. Page 1, following line 12.  
Insert: Section 1. Section 33-10-201, MCA, is amended to read:

**33-10-201. Short title, purpose, scope, and construction.** (1) This part shall be known and may be cited as the "Montana Life and Health Insurance Guaranty Association Act".

(2) The purpose of this part is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts.

(3) To provide this protection:

- (a) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;
- (b) members of the association are subject to assessment to provide funds to carry out the purpose of this part; and
- (c) the association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments.

(4) This part shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons authorized to transact insurance in this state at any time.

(5) This part shall provide coverage for covered policies:  
(a) to persons who are owners of or certificate holders  
under such covered policies, and who:  
(i) are residents, or  
(ii) are not residents, but only under all of the following  
conditions:  
(A) the insurers that issued the policies are domiciled in  
this state;  
(B) the insurers have not held a license or certificate of  
authority in the state in which the persons reside;  
(C) the states have associations similar to the association  
created under this part; and  
(D) the persons are not eligible for coverage by those  
associations;and  
(b) to persons who, regardless of where they reside, except  
for nonresident certificate holders under group policies or  
contracts, are the beneficiaries, assignees, or payees of the  
persons covered under subsection (5)(a).

- (6) ~~(5)~~ This part shall not apply to:  
(a) any such policies or contracts or any part of such policies or contracts under which the risk is borne by the policyholder;  
(b) any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.
- (7) ~~(6)~~ This part shall be liberally construed to effect the purpose under subsections (2) and (3) which shall constitute an aid and guide to interpretation.
- (8) ~~(7)~~ Nothing in this part shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with assessment liability. "

Renumber: subsequent sections

SENATE BUSINESS & INDUSTRY  
EXHIBIT NO. 4  
DATE 3-26-87  
BILL NO. H.B. 806

3. Page 1, lines 22 and 23.  
Strike: "held by a resident of this state"
4. Page 1, line 24.  
Following: "(4)"  
Strike: "and"  
Following: "(5)"  
Insert: ", and (6)"
5. Page 3, line 13.  
Strike: "and such"  
Insert: "but"
6. Page 3, line 15.  
Following: "services"  
Insert: "may not otherwise be compensated by the association for their services. However, any designated representatives of members of the board"
7. Page 3, line 16.  
Strike: "an insurer"  
Insert: "the member insurers that designated them"
8. Page 3, line 17.  
Strike: "as board members"  
Insert: "on the board of directors"
9. Page 3, line 18.  
Strike: "membership"  
Insert: "members of the association"
10. Page 7, lines 11 through 18.  
Strike: subsection (6) in its entirety  
Insert: "(6)(a) If proceeding under 33-10-220, the association may, with respect to life and health insurance policies:
  - (i) assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies of the insolvent insurer, for claims incurred:
    - (A) with respect to group policies, not later than the earlier of the next renewal date under the policy or contract or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to the policies;
    - (B) with respect to individual policies, not later than the earlier of the next renewal date, if any, under the policies or 1 year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to the policies;
  - (ii) make diligent efforts to provide all known insureds, or group policyholders with respect to group policies, 30 days

notice of the termination of the benefits provided; and

(iii) make available substitute coverage on an individual basis in accordance with subsection (6)(b) to each known insured, or owner if other than the insured, of an individual policy, and to any individual formerly insured under a group policy who is not eligible for replacement group coverage, if the insured had a right under law or the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class.

(b)(i) In providing the substitute coverage required under subsection (6)(a)(iii), the association may offer to reissue the terminated coverage or issue an alternative policy.

(ii) Reissued or alternative policies must be offered without requiring evidence of insurability and may not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(iii) The association may reinsure any reissued or alternative policy.

(c)(i) Alternative policies adopted by the association are subject to the approval of the commissioner. The association may adopt policies of various types for future reissuance without regard to any particular impairment or insolvency.

(ii) Alternative policies must contain at least the minimum statutory provisions required in this state and provide benefits that are not unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates that it shall adopt. The premium must reflect the amount of insurance to be provided and the age and class of risk of each insured, but may not reflect any changes in the health of the insured after the original policy was last underwritten.

(iii) Alternative policies issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(d) If the association elects to reissue terminated coverage at a premium different from that charged under the terminated policy, the premium must be set by:

(i) the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the commissioner; or

(ii) a court of competent jurisdiction.

(e) The association's obligation with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy ceases on the date the coverage or policy is replaced by another similar policy by the policyholder, insured, or association."

SENATE BUSINESS & INDU

EXHIBIT NO. 4

DATE 3-26-87

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(This sheet to be used by those testifying on EXHIBIT NO. 1.1) 5)

DATE 3-26-87

BILL NO. HB 806

DATE: 3/26

NAME: Lester W. Lubbe

ADDRESS: Box 176 Helena

PHONE: 442 0070

REPRESENTING WHOM? Am. Council of Life Insurance

APPEARING ON WHICH PROPOSAL: HB 806

DO YOU: SUPPORT? X AMEND? X OPPOSE?       

COMMENT: I support amendments as  
worked out among Rep Parkwick,  
the House sponsor, Sen Meyer, and  
the Commissioner's office and my  
principal.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

# STANDING COMMITTEE REPORT

MARCH 26, 1947

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE JOINT RESOLUTION No. 43

THIRD reading copy ( BLUE )  
color

WINSLOW ( HAGER )

REQUESTING STUDY OF FEASIBILITY OF LONG-TERM CARE INSURANCE

Respectfully report as follows: That HOUSE JOINT RESOLUTION No. 43

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR ALLEN C. KOLSPAD, Chairman.

# STANDING COMMITTEE REPORT

MARCH 26, 1937

MR. PRESIDENT

BUSINESS AND INDUSTRY

We, your committee on

HOUSE BILL

No. 179

having had under consideration

THIRD

reading copy ( BLUE )  
color

BLUE

JONES

( WALKER )

PROMISING ACQUISITION OF INSURED BANKS BY CERTAIN COMPANIES

HOUSE BILL

No. 179

Respectfully report as follows: That

be amended as follows:

1. Title, line 7.

Following: "COMPANIES"

Insert: "; PROVIDING AN EXCEPTION"

2. Page 1, line 10.

Following: "acquisition"

Insert: "-- exception"

before: "Notwithstanding"

Insert: "(1)"

3. Page 1, following line 19.

Insert: "(2) Nothing in this section prohibits the continued control of a financial institution eligible for insurance under the Federal Deposit Insurance Act by a company that acquired the financial institution prior to March 1, 1937."

7085d\c:Jeanne\wp:eg

AND AS AMENDED,

BE CONCURRED IN

XXXXX  
DO PASS

XXXXXXXXX  
DO NOT PASS

SENATOR ALLEN C. KOLSTAD,

Chairman.



# STANDING COMMITTEE REPORT

MARCH 26, 1937

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 466

THIRD reading copy ( BLUE )  
color

BROWN (WILLIAMS )

EXTEND VETERANS' AND HANDICAP PREFERENCE TO COLLEGES AND UNIVERSITIES

Respectfully report as follows: That HOUSE BILL No. 466

be amended as follows:

1. Page 6, line 2.  
Following: "agency,"  
Insert: "school district, postsecondary vocational-technical center or program."

AND AS AMENDED,

BE CONCURRED IN

XXXXXX  
DO NOT PASS

XXXXXXXXXX  
DO NOT PASS

SENATOR ALLEN C. HAGER, Chairman.

# STANDING COMMITTEE REPORT

MARCH 26, 19 37

MR. PRESIDENT

We, your committee on..... **BUSINESS AND INDUSTRY**  
having had under consideration..... **HOUSE BILL** No. **622**  
THIRD reading copy ( BLUE )  
color

**BRANDEWIE ( WEEDING )**

**GENERALLY REVISE FINANCIAL REGULATION OF INSURANCE COMPANIES**

Respectfully report as follows: That..... **HOUSE BILL** No. **622**

be amended as follows:

1. Page 5, line 14.  
Following: "subsection (1)."  
Insert: "Such fine may not exceed a maximum of \$1,000."

AND AS AMENDED,  
BE CONCURRED IN

~~XXXXXXXX~~

~~XXXXXXXXXX~~  
~~DO NOT PASS~~

SENATOR ALLEN C. KOLSTAD, Chairman.

# STANDING COMMITTEE REPORT

MARCH 26, 1987

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 806

THIRD reading copy ( BLUE )  
color

PAVLOVICH ( MEYER )

## REVISING MONTANA LIFE AND HEALTH GUARANTY ACT

HOUSE BILL

806

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

1. Title, line 7.  
Following: "SECTIONS"  
Insert: "33-10-201,"
2. Page 1, following line 12.  
Insert: Section 1. Section 33-10-201, MCA, is amended to read:  
"33-10-201. Short title, purpose, scope, and construction. (1) This part shall be known and may be cited as the "Montana Life and Health Insurance Guaranty Association Act".  
(2) The purpose of this part is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts.  
(3) To provide this protection:  
(a) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;

XXXXXX  
DO PASS

XXXXXXXXXX  
DO NOT PASS

(CONTINUED)

SENATOR ALLEN C. KOLSTAD, Chairman.

MARCH 26, 1987

(b) members of the association are subject to assessment to provide funds to carry out the purpose of this part; and

(c) the association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments.

(4) This part shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons authorized to transact insurance in this state at any time.

(5) This part shall provide coverage for covered policies:

(a) to persons who are owners of or certificate holders under such covered policies, and who:

(i) are residents; or

(ii) are not residents, but only under all of the following conditions:

(A) the insurers that issued the policies are domiciled in this state;

(B) the insurers have not held a license or certificate of authority in the state in which the persons reside;

(C) the states have associations similar to the association created under this part; and

(D) the persons are not eligible for coverage by those associations; and

(b) to persons who, regardless of where they reside, except for nonresident certificate holders under group policies or contracts, are the beneficiaries, assignees, or payees of the persons covered under subsection (5)(a).

~~(5)(6)~~ This part shall not apply to:

(a) any such policies or contracts or any part of such policies or contracts under which the risk is borne by the policyholder;

(b) any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

~~(6)(7)~~ This part shall be liberally construed to effect the purpose under subsections (2) and (3) which shall constitute an aid and guide to interpretation.

~~(7)(8)~~ Nothing in this part shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with

(CONTINUED)

SENATOR ALLEN C. KOLSTAD,

CHAIRMAN

.....MARCH 26,..... 19.27....

assessment liability.\*\*

Renumber: subsequent sections

3. Page 1, lines 22 and 23.  
Strike: "held by a resident of this state"
4. Page 1, line 24.  
Following: "(4)"  
Strike: "and"  
Insert: ", "  
Following: "(5)"  
Insert: ", and (5)"
5. Page 2, line 10.  
Strike: "(5)"  
Insert: "(4)"
6. Page 3, line 13.  
Strike: "and such"  
Insert: "but"
7. Page 3, line 15.  
Following: "services"  
Insert: "may not otherwise be compensated by the association for their services. However, any designated representatives of members of the board"
8. Page 3, line 16.  
Strike: "an insurer"  
Insert: "the member insurers that designated them"
9. Page 3, line 17.  
Strike: "as board members"  
Insert: "on the board of directors"
10. Page 3, line 18.  
Strike: "membership"  
Insert: "members of the association"
11. Page 7, lines 11 through 19.  
Strike: subsection (6) in its entirety  
Insert: "(6)(a) If proceeding under 33-10-220, the association may, with respect to life and health insurance policies:

(CONTINUED)

.....  
SENATOR ALLEN C. KOLSTAD, CHAIRMAN

MARCH 26, 1937

(i) assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies of the insolvent insurer, for claims incurred:

(A) with respect to group policies, not later than the earlier of the next renewal date under the policy or contract or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to the policies;

(B) with respect to individual policies, not later than the earlier of the next renewal date, if any, under the policies or 1 year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to the policies;

(ii) make diligent efforts to provide all known insureds, or group policyholders with respect to group policies, 30 days notice of the termination of the benefits provided; and

(iii) make available substitute coverage on an individual basis in accordance with subsection (5)(b) to each known insured, or owner if other than the insured, of an individual policy, and to any individual formerly insured under a group policy who is not eligible for replacement group coverage, if the insured had a right under law or the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class.

(b) (i) In providing the substitute coverage required under subsection (5)(a)(iii), the association may offer to reissue the terminated coverage or issue an alternative policy.

(ii) Reissued or alternative policies must be offered without requiring evidence of insurability and may not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(iii) The association may reinsure any reissued or alternative policy.

(c) (i) Alternative policies adopted by the association are subject to the approval of the commissioner. The association may adopt policies of various types for future reissuance without regard to any particular impairment or insolvency.

(CONTINUED)

SENATOR ALLEN C. KOLSTAD, CHAIRMAN

MARCH 26, 1997

(ii) Alternative policies must contain at least the minimum statutory provisions required in this state and provide benefits that are not unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates that it shall adopt. The premium must reflect the amount of insurance to be provided and the age and class of risk of each insured, but may not reflect any changes in the health of the insured after the original policy was last underwritten.

(iii) Alternative policies issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(d) If the association elects to reissue terminated coverage at a premium different from that charged under the terminated policy, the premium must be set by:

(i) the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the commissioner; or

(ii) a court of competent jurisdiction.

(e) The association's obligation with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy ceases on the date the coverage or policy is replaced by another similar policy by the policyholder, insured, or association."

12. Page 13, line 15.  
Strike: "7"  
Insert: "3"

Amendments, HB 806  
7085e/C:JEANNE\WP:jj

AND AS AMENDED,

BE CONCURRED IN