

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT & TRANSPORTATION

Call to Order: By CHAIRMAN ED GRADY, on February 7, 1995, at
8:08 a.m.

ROLL CALL

Members Present:

Rep. Edward J. "Ed" Grady, Chairman (R)
Sen. Thomas A. "Tom" Beck, Vice Chairman (R)
Rep. Gary Feland (R)
Sen. Eve Franklin (D)
Rep. Joe Quilici (D)

Members Excused: None

Members Absent: None

Staff Present: Skip Culver, Legislative Fiscal Analyst
Lorene Thorson, Legislative Fiscal Analyst
Terri Perrigo, Legislative Fiscal Analyst
Shirley Benson, Office of Budget & Program
Planning
Dan Gengler, Office of Budget & Program Planning
John Patrick, Office of Budget & Program Planning
Rosa Fields, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: State Auditor
Executive Action: Secretary of State

{Tape: 1; Side: A}

EXECUTIVE HEARING ON SECRETARY OF STATE

Terri Perrigo, Legislative Fiscal Analyst (LFA), reminded the subcommittee that they have already approved the base budget plus present law adjustments and the personal services reduction new proposal for the Secretary of State's office.

NEW PROPOSALS

Doug Mitchell, Chief Deputy, Office of the Secretary of State, presented the Secretary of State's revised new proposal request.

EXHIBIT 1 He said, as presented in the Executive Budget, the new proposals include 7.5 additional FTE, of which 5.5 FTE are already on staff through approved budget amendment. The Secretary of State's revised request reduces the 7.5 FTE request to 4.5 FTE.

SEN. TOM BECK asked if the records capturing staff should be line-itemed because once the records are captured the work is done. **Mr. Mitchell** answered that with an adequate computer system it would be a one-time task, but with the current manual process it is an ongoing system to capture current records.

CHAIRMAN ED GRADY asked what grade these new FTE would be rated. **Mr. Mitchell** answered they would range from grade 6 to grade 16. **CHAIRMAN GRADY** asked about using a computer phone answering system instead of adding customer service representatives. **Mr. Mitchell** provided information on the phone call data. **EXHIBIT 3** When the phone room was started, ISD didn't have the equipment to roll six lines into the room and put calls on hold, so the agency purchased the equipment. That equipment is now shared with several other agencies. The Secretary of State's office does not consider voice mail and the need for touch tone phones to use computer systems to be customer friendly. Even with a computer service there will need to be staff to answer specific questions. This service could be privatized, since all the information is a matter of public record.

SEN. BECK said he'd be more receptive to accept the 4.5 FTE and leave the 1.0 FTE vacancy savings. **Mr. Mitchell** said the proposal offered is the simplest for the agency to manage, but the 1.0 FTE vacancy savings could be managed if it still allows the agency some funds to raise wages.

SEN. BECK asked if the bankruptcy FTE is needed since the Department of Justice is making a similar proposal. **Mr. Mitchell** explained the proposals are very different. The Department of Justice program addresses the legal end of bankruptcy filing, while the Secretary of State proposal is a public information position to help customers before they get to the point of bankruptcy filing. This position will probably be hired at a grade 10, rather than 13, and the savings will be used to raise salaries for some of the grade 6 employees who have been asked to do grade 8 work.

Motion: **REP. JOE QUILICI** moved the acceptance of the adjusted Executive Budget New Proposals as presented by the Secretary of State's office for \$171,268 and \$173,906. **EXHIBIT 2**

{Tape: 1; Side: B}

Discussion: **SEN. BECK** clarified that this would put 4.5 FTE into the base, not 5.5 FTE. **Mr. Mitchell** responded that it doesn't matter if it goes to base or not, as long as the flexibility of management is available.

SEN. BECK said he did not want to dictate how the staffing should be used, but does want to keep the vacancy savings level intact.

SEN. EVE FRANKLIN asked if this proposal would require layoffs. Mr. Mitchell said there would be one FTE that would be laid off.

Ms. Perrigo clarified that this motion would not include the additional vacancy savings as proposed, but would reduced the records capture staff by an additional FTE, so it would be 2 FTE reduced rather than 1 FTE. The bottom line motion would add to the budget \$171,268 with 4.5 FTE and \$173,906 with 4.5 FTE.

Vote: Motion CARRIED 4-1 with REP. GARY FELAND voting no.

{Tape: 1; Side: B; Approx. Count: 336}

EXECUTIVE ACTION ON STATE AUDITOR'S OFFICE

Mark O'Keefe, State Auditor, presented information about the accreditation report for the insurance examination division. EXHIBIT 4 In each of the areas, the scores needed to be 2.0 out of a 2.5. In the "organization and personnel practices" area the score was 2.0, with only 1.5 in training (professional development) because the office can't afford to provide training. Funding is scored 2.0 and if it gets cut that will cause the score to slip below 2.0 which will mean a loss of accreditation. The "sufficient staff of analysts" was scored at 2.125, so a loss of any of the 4 FTE would drop that to below accreditation standards.

CHAIRMAN GRADY asked how accreditation would be jeopardized if programs were cut. Mr. O'Keefe answered agent licensing doesn't play into accreditation. The accreditation program only addresses insurance agencies, not insurance agents. Also the health insurance availability act is not an accreditation measurement.

CENTRAL MANAGEMENT

BUDGET ITEM: Base budget plus present law adjustment

Motion/Vote: REP. QUILICI moved to accept the Executive Budget base budget plus present law adjustment. Motion CARRIED unanimously.

NEW PROPOSALS

BUDGET ITEM: Executive budget new proposals

Motion: SEN. BECK moved to accept the Executive Budget new proposals.

Discussion: Lorene Thorson, LFA, reminded the subcommittee there is a fund switch in the fiscal management and control budget which will need a committee bill to move revenue from state special to proprietary.

Tom Crosser, Administrator, Fiscal Management and Control Department, State Auditor's Office, explained that currently one of the data processing staff in the central management program is partially funded by the bad debt program and the state special revenue account that currently funds the warrant writer program. If the warrant writer switched program funding is changed from a state special to a proprietary account it's just a dollar-for-dollar switch. EXHIBIT 5

If the committee bill is not passed it is recommended the funding be left as is, although this current system does not give agencies any incentive to go with lower cost options.

Vote: Motion CARRIED unanimously.

Motion/Vote: SEN. BECK moved to recommend the committee bill for "An Act to change the stat special revenue account for the warrant writer program to an internal services fund; ..."
EXHIBIT 5 Motion CARRIED 4-1 with CHAIRMAN GRADY voting no.

INSURANCE DIVISION

BUDGET ITEM: Base budget plus present law adjustment

Motion: REP. QUILICI moved to accept the Executive Budget base budget plus present law adjustment.

Discussion: REP. QUILICI said if this motion is accepted it will be necessary to accept the new proposals for the insurance fund switch and the personnel services reductions.

Mr. O'Keefe said the health care availability act funds were not put in the base budget. If the Health Care Small Group Availability Act is repealed, the agency will have to pay \$34,000 for the contract termination clause. If the act remains, although probably with some modifications, the State Auditor's Office is proposing to run the program at half the cost shown in the Executive Budget. EXHIBIT 6

{Tape: 2; Side: A}

CHAIRMAN GRADY said he spoke to REP. TOM NELSON, who is carrying a bill to modify the act. REP. NELSON said there would not need to be any funds for this program in the next biennium. Mr. Crosser responded that doesn't seem accurate, since there is the termination clause if the act is repealed and the cost of operating the program if the act is left in tact, even with modifications.

CHAIRMAN GRADY said one of the biggest concerns he's heard from small businesses is about this insurance act. Some changes need to be made.

SEN. BECK asked for an explanation of the large dollar amount in vacancy savings. **Mr. Crosser** answered this reflected the new programs implemented by the last legislature--accreditation, continuing education, and the small group health care program. These programs added 9.75 FTE in FY94 and 10 FTE in FY95. In FY94, staff hiring was phased in to meet vacancy savings, and one of the highest paid positions, an actuary for the small group health program, was not filled. That position is proposed to be eliminated. \$197,000 of the vacancy savings were reverted to the general fund. These position, except for the actuary in small group, are currently filled.

SEN. BECK asked for an explanation of the \$202,000 for contracted services. **Mr. Crosser** said prior to the last session the contract examination for the insurance companies was off-budget. Insurance companies were billed for the exact costs of the examinations, which were paid to the private sector contract examiners. None of those costs were reflected in the state accounting system. Last biennium the Legislative Auditor determined that money, since it is an on-going item, needed to be on-budget. The reason for the increase in FY96 and the decrease in FY97 is because contracted services are being requested as a line-itemed biennial appropriation since the exams are often spread between fiscal years. In lieu of this on-budget item, there is language proposed allowing these contracted services to go back to an off-budget system, as it had been for the twenty years prior to this biennium. **EXHIBIT 6**

Substitute Motion: **SEN. BECK** moved to accept the Executive Budget base budget plus present law adjustments as follows: personal services; inflation/deflation; fixed costs; supplies; travel; other expenses; equipment; and contracted services for (\$50,887) if FY96 and (\$64,687) in FY97.

Discussion: **REP. QUILICI** said this motion means there will be no money to pay the contract termination if the health insurance act is repealed. This motion will also take the contracted services off the book, which is against the Legislative Auditor's recommendation.

Mr. Crosser explained that the health insurance budget item includes the 1.0 FTE proposed to be removed in the personal services reductions new proposal. If the health insurance budget is not approved, it will effectively remove that 1.0 FTE.

CHAIRMAN GRADY asked if there are 2.0 FTE associated with the health care insurance availability act. **Ms. Thorson** answered there are 2.0 associated with this act, but only one position is filled. The other FTE is the 1.0 FTE reduction in the personal services reduction new proposals. The fund switch in new

proposals is also tied with the health care insurance act. If the subcommittee does not fund the health care insurance act, it should consider ignoring the new proposals for the fund switch and personal services reduction.

CHAIRMAN GRADY asked how the pay plan is going to be funded through vacancy savings if the personal services reductions isn't take. **Mr. Crosser** answered part of the personal services reduction is for the health act FTE and part is for vacancy savings.

REP. QUILICI asked how this motion effects the agency if the small group act is not repealed. **Mr. Crosser** said this would be a problem because there would be no money for the State Auditor's office to do the work required under the act.

{Tape: 2; Side: B}

Vote: Motion **CARRIED** 4-1 with **SEN. FRANKLIN** voting no.

BUDGET ITEM: Executive budget new proposals

CHAIRMAN GRADY said the compliance specialist adds money and FTE. **Mr. Crosser** explained the compliance specialist relates to the Medicaid HMO transition with SRS recipients. There is language requested that allows the agency to request a budget amendment. **EXHIBIT 6**

SEN. FRANKLIN suggested rather than acting on the new proposals at this point, the State Auditor be given the opportunity to determine how the previous motions have effected their budget and what the vacancy savings amount is.

Mr. O'Keefe explained the effect of the present law adjustment motion. If the health care act is repealed, the State Auditor's office will have to find \$34,000 to pay the contract termination. If the act is not repealed, the State Auditor's office will have to find \$86,095 in FY96 and \$86,772 in FY97 to carry on the program. The State Auditor's office will have to find this money because the legislative bill will require the office to do the work.

Motion: **REP. GARY FELAND** moved to accept personal services reductions in Executive New Proposals.

Discussion: **SEN. FRANKLIN** said the small group availability program is still too new to provide data on how effective it has been. Insurance reform is an issue that is not going to go away. This program should not be eliminated by the subcommittee at this point because it has not had a chance to prove what it can do. She is against this motion.

CHAIRMAN GRADY said all agencies are taking vacancy savings to help fund the pay plan. If this is too big a cut for the State Auditor's office there is still plenty of time in the session to revisit the motion.

Vote: Motion CARRIED 3-2 with SEN. FRANKLIN and REP. QUILICI voting no.

BUDGET ITEM: Elected Official New Proposal for Consumer Insurance Fraud

CHAIRMAN GRADY commented that this is a new program, and since other programs have been eliminated it may not be wise to add something new.

REP. QUILICI said that during testimony the insurance industry indicated they wanted this program and are willing to pick up the costs. While the actual costs will probably be passed on to the consumer, in the long run it will save the consumer millions in insurance fraud.

Motion/Vote: REP. QUILICI moved to accept the consumer insurance fraud program. Motion FAILED 2-3 with SEN. FRANKLIN and REP. QUILICI voting no.

BUDGET ITEM: Requested Language for HB 2

Motion/Vote: SEN. BECK moved to accept language "The State Auditor shall charge companies directly for examinations and abate expenditures." Motion CARRIED unanimously.

Motion/Vote: REP. QUILICI moved to accept language "The State Auditor may request a budget amendment for costs incurred due to medicaid HMO complaints." Motion CARRIED unanimously.

SECURITIES

BUDGET ITEM: Base budget plus present law adjustments

Motion/Vote: REP. QUILICI moved to accept the Executive base budget plus present law adjustments. Motion CARRIED unanimously.

BUDGET ITEM: Executive budget new proposals

Motion/Vote: SEN. BECK moved to accept the personal services reductions. Motion CARRIED unanimously.

FISCAL CONTROL AND MANAGEMENT

BUDGET ITEM: Base budget plus present law adjustments

Motion/Vote: REP. QUILICI moved to accept the Executive base budget plus present law adjustments. Motion **CARRIED** unanimously.

BUDGET ITEM: Executive budget new proposals

Motion/Vote: SEN. BECK moved to accept the Executive Budget new proposals. Motion **CARRIED** unanimously.

ADJOURNMENT

Adjournment: 10:00 a.m.

Ed Grady

ED GRADY, Chairman

P. Barneiman

PAULA CLAWSON, Recording Secretary

for

EG/pc

ADDITIONAL DATA

FY 94 BUDGET AMENDMENT ANALYSIS1995 Budget Amendment Expenditures

Information Capture Records Preservation	\$122,857
ARM Specialist	15,809
Additional Microfilers	35,440
1995 BA Projected Expenditures	\$174,106

1995 Budget Amendment Revenues

From Information Sales	\$125,000
ARM Revenues from PA/sales of sets	9,500
From Microfilming	54,000
From Interest on Prepaid Amounts	6,000
1995 BA Projected Revenues	\$194,500

Net Revenue from Budget Amendments \$ 20,251

1996-1997 INCOME ANALYSISAdditional Revenues from providing new computer information:

Major Financial Organizations (monthly services)	
Dun And Bradstreet	\$ 12,000
CT Corporation	12,000
Thomson and Thomson	12,000
New major Users such as (Moody's, Barrons, Standards & Poors as well as a major brokerage and consulting firms of Big Six)	24,000
Financial Organizations (Quarterly services)	
Corporation Service Corp.	4,000
Prentice Hall	2,000
Estimated new users of quarterly type service as indicated by inquiries and communications with mid range financial service companies	12,000
Financial Organizations (Monthly Services)	
Amerisearch	1,000
Equipment Data Association	1,000
Unisearch	1,000
Peed Corporation	1,000
Trademark Research	1,000
USA Clearing House	500
CCH	1,000
Estimated increase monthly users	10,000
Special Request Users	
News Services (6 current)	3,000
Various Registered Agent Services	3,000
From Prepaid Accounts (over 700 current)	50,000
Total From Computer Information	\$150,500

Additional Microfilming Revenues 54,000

From Sale of CDROM 39,000

Total Revenues \$243,500

Secretary of State Proposal Adjusting Executive Budget New Proposals

	Proposal 1	Proposal 2	Proposal 3	Proposal 4	Proposal 5	Proposal 6	Proposal 7	Total
1996 fte	2.00	1.00	0.00	(1.00)	2.00	0.50	3.00	7.50
Reduction Proposal Eliminate 2 Gr. 6 Staff Add 1 Gr. 6 Staff Reduction	-1.00			(1.00)			-1.00	(2.00) (1.00)
Proposed Staffing Changes	-1.00	0.00	0.00	-1.00	0.00	0.00	-1.00	-3.00
Proposed adjusted fte level	1.00	1.00	0.00	-2.00	2.00	0.50	2.00	4.50
	=====							% of original
1996 Proposed Level Ex. Budget	55,942	34,567	30,500	(48,099)	39,422	27,939	114,558	254,829
Reduction Proposal Eliminate 2 Gr. 6 Staff Eliminate Equip. Proposal Add 1 Gr. 6 Staff Reduction	(17,687)		(30,500)	(17,687)			(17,687)	(35,374) (30,500) (17,687)
1996 Proposed Changes	(17,687)	0	(30,500)	(17,687)	0	0	(17,687)	(83,561)
1996 Modified Proposal Total	38,255	34,567	0	(65,786)	39,422	27,939	96,871	171,268
	=====							% of original
								67.21%

EXHIBIT 2
DATE 2/7/95
SB _____

Secretary of State Proposal Adjusting Executive Budget New Proposals

	Proposal 1	Proposal 2	Proposal 3	Proposal 4	Proposal 5	Proposal 6	Proposal 7	Total
Comm./cust.Bankruptcy Equipment Per. Serv. BA3 Add'tl BA4 ARM BA851 Inf. Serv. Rep. CoordinatorDiscretion.Reductions Micro StaffSpecialist Cap/Rec. Pr.								
997 fte	2.00	1.00	0.00	(1.00)	2.00	0.50	3.00	7.50
Eliminate 2 Gr. 6 Staff	-1.00			(1.00)			-1.00	(2.00)
Add 1 Gr. 6 Staff Reduction								(1.00)
Proposed Staffing Changes	-1.00	0.00	0.00	-1.00	0.00	0.00	-1.00	-3.00
Proposed adjusted fte level	1.00	1.00	0.00	-2.00	2.00	0.50	2.00	4.50
								reduction
								-40.00%
								60.00%
								% of original
.997 Proposed Level Ex. Budget	56,724	35,009	50,000	(48,414)	39,961	28,127	115,734	277,141
Reduction Proposal								
Eliminate 2 Gr. 6 Staff	(17,745)		(50,000)				(17,745)	(35,490)
Eliminate Equip. Proposal				(17,745)				(50,000)
Add 1 Gr. 6 Staff Reduction								(17,745)
1997 Proposed Changes	(17,745)	0	(50,000)	(17,745)	0	0	(17,745)	(103,235)
1996 Modified Proposal Total	38,979	35,009	0	(66,159)	39,961	28,127	97,989	173,906
								62.75%
								% of original

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Exhibit 2

This request is truly mission-critical to the services provided to the business community. ^{SB}The Secretary of State believes this office should have as its top priority making it easy for businesses to conduct their affairs with government. After all, they pay the fees already and the faster we get out of their way, the faster they can get to doing business in Montana.

That said, this proposal would add 2.0 FTE to the Agency's Business Services Bureau. These individuals would be assigned to an existing Customer Services operation that handles some 400 to 600 telephone inquiries a day regarding business information. The current staff, using an automatic call distributor which handles six lines at a time has an average "on hold" time of nearly four minutes. If you have ever spent four minutes on hold with Delta Airlines or, even worse, state government, you know how frustrating that can be for the customer. Add to that the fact that these are toll calls for the user and you will quickly understand why Agency management finds this situation to be unacceptable and, hence, has made this proposal.

Again, as in the case of the microfilm staff, if this proposal is not adopted it is not the Agency operation that will be affected, but the operations of the end user, the public, as they try to interact with state government.

Customer Service Representatives

	<u>FY 1996</u>	<u>FY 1997</u>
FTE	2.0	2.0
PROPRIETARY FUNDS	\$55,942	\$56,724

This proposal is recommended to you as this office's **second** priority for inclusion in the 1996-1997 budget of the office of the Secretary of State.

ADDITIONAL DATA

Phone-Room Calls...Week of January 30 - February 3, 1995

	<u>MON</u>	<u>TUE</u>	<u>WED</u>	<u>THU</u>	<u>FRI</u>
TOTAL PHONE CALLS	412	262	262	284	227
PERSONNEL HOURS	16	12	12	12	12
CALLS PER PERSON/HOUR	25.8	21.8	21.8	23.7	18.9

Priority Handling Revenue

1994 Actual = \$73,170

1995 Projected = \$60,000

Montana Accreditation Review
Compliance Report

EXHIBIT 4
DATE 2/7/95
SB _____

A. Laws and Regulations

1. Examination Authority

Section 33-1-401(1) of the Montana Code Annotated allows the Department to conduct an examination of any company as often as the Commissioner deems advisable and requires that every authorized insurer be examined not less frequently than once every five years. Section 33-1-408(2) gives the Department free access to all books, records, accounts, papers and documents relating to the company being examined. Section 33-1-401(4) allows the Commissioner to examine any person if, in the sole discretion of the Commissioner, the examination is necessary or material to the company. In addition, Section 33-2-1115 (Holding Company Act) allows access to the books and records of affiliates, Section 33-1-402 allows access to the books and records of producers and general producers and Section 33-2-1604 (Managing General Agents Act) allows access to the books and records of MGAs. Section 33-1-408(3) allows the Department to examine under oath any person as to any matter pertinent to the examination.

Sections 33-1-401 through 33-1-413 incorporate the key provisions of the NAIC Model Law on Examinations. Section 33-1-401(3) allows the Commissioner to accept examination reports from domestic states in lieu of examining foreign companies, after January 1, 1994, only if: 1) the domestic state department of insurance is accredited or 2) the examination is performed under the supervision of an accredited state department of insurance or with the participation of an examiner employed by an accredited state department of insurance who states under oath that the examination was performed in accordance with the standards and procedures required by that accredited state department of insurance. Section 33-1-409 establishes guidelines for the timing of examination report filing and adoption which are substantially similar to those in the NAIC Model Law. Section 33-1-409(5) allows the Commissioner to disclose the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of any state or country, or to law enforcement officials of any state or agency of the federal government at any time, so long as such agency or office receiving the information agrees in writing to hold it confidential.

2. Capital and Surplus Requirements

Sections 33-2-109 and 33-2-110 establish minimum capital and surplus requirements for all stock and mutual insurers. In addition, Section 6.6.3403 of the Administrative Rules of Montana (Corrective Actions Rule) allows the Commissioner authority to require additional capital and surplus when the circumstances of a particular insurer, including factors based on the type, volume and nature of business being written, require such additional capital and surplus to correct a hazardous condition.

3. NAIC Accounting Practices and Procedures

Section 33-2-701(1) requires each authorized insurer to annually file with the Department a full and true statement of its financial condition, transactions and affairs in the general form and context as is required or not disapproved by the Commissioner, as is in current use for similar reports to states in general with respect to the type of insurer and kinds of insurance to be reported upon, and as supplemented for any additional information required by the Commissioner. Section 33-2-701(1) also requires that the statement be prepared in accordance with the Annual Statement Instructions and the Accounting Practices and Procedures manual of the NAIC.

4. Corrective Action

Subchapter 34 of the Administrative Rules of Montana provides the Department with the authority to take corrective action against insurers deemed to be in a hazardous financial condition. This Subchapter contains provisions which are substantially similar to those in the NAIC Model Regulation to Define Director's Authority for Companies Deemed to be in a Hazardous Financial Condition.

5. Valuation of Investments

Sections 33-2-532 and 33-2-533 contain provisions for the valuation of bonds and other securities. These Sections do not specifically require that securities owned by insurance companies be valued in accordance with standards promulgated by the NAIC's Securities Valuation Office. However, the NAIC Accounting Practices and Procedures manual, which has been adopted pursuant to Section 33-2-701(1), refers to the NAIC SVO's Valuations of Securities Manual for the valuation of securities.

Sections 33-2-534 and 33-2-535 contain provisions for the valuation of property and purchase money mortgages. The valuation methods prescribed in these Sections are substantially similar to those promulgated by the NAIC Financial Condition Subcommittee for these types of assets. Rule 6.6.4001 requires that securities and assets other than those specifically referred to in Sections 33-2-532 through 33-2-535 must be valued in accordance with valuation standards of the NAIC published in its 1990 Accounting Practices and Procedures manual and its 1992 Valuation of Securities manual.

In addition, the NAIC Accounting Practices and Procedures manual, which has been adopted pursuant to Section 33-2-701(1), incorporates procedures promulgated by the NAIC Financial Condition Subcommittee to value other invested assets.

6. Holding Company Systems

Sections 33-2-1101 through 33-2-1125 provide authority for the regulation of insurance holding company systems, including authority with respect to the change in control of a domestic insurer, the requirement for filing of holding company registration statements, limitations regarding investments in affiliates, limitations regarding transactions within a holding company system, injunctive relief available to the Department and the setting of standards with respect to transactions among affiliates. These provisions are substantially similar to comparable provisions of the NAIC Model Holding Company Systems Act. Section 33-2-1114 contains provisions for dividends and other distributions, including those provisions required by the "New Hampshire dividend alternative" approved by the NAIC's Financial Regulation Standards and Accreditation Committee.

Subchapter 37 of the Administrative Rules of Montana sets forth the general requirements for reporting forms similar to those in the NAIC Model Regulation for Form A (Statement Regarding the Acquisition of Control of or Merger With a Domestic Insurer), Form B (Annual Registration Statement), Form C (Summary of Registration Statement), and Form D (Prior Notice of a Transaction).

7. Risk Limitation

Section 33-2-1201 limits the net retained risk on any one subject of insurance to ten percent of an insurer's surplus to policyholders. Life and disability insurance, title insurance, insurance of wet marine and transportation risks, workers' compensation insurance, employers'

liability coverages, sprinklered risks and any policy or type of coverage as to which the maximum possible loss to the insurer is not readily ascertainable on issuance of the policy are exempted from this limitation per Section 33-2-1201(6).

8. Investment Regulations

Sections 33-2-801 through 33-2-852 denote authorized investments for domestic insurance companies. Section 33-2-806 limits an insurer's investment in any one person, except for general obligations of the United States or any state or policy loans, to five percent of the insurer's assets. In addition, Section 33-2-806 provides external limits for most but not all types of investments. However, Section 6.6.3403 of the Administrative Rules of Montana (Corrective Actions Rule) gives the Commissioner authority to require an insurer to limit or withdraw from certain investments or discontinue certain investment practices if the Commissioner determines that the continued operation of the insurer may be hazardous to the policyholders or the general public.

9. Admitted Assets

Section 33-2-501 identifies allowed assets for insurers and Section 33-2-502 lists assets not allowed. In addition, the NAIC Accounting Practices and Procedures manual, adopted pursuant to Section 33-2-701(1), identifies types of admitted assets and also lists examples of nonadmitted assets.

10. Liabilities and Reserves

Section 33-2-511 addresses liabilities in general. Sections 33-2-521 through 33-2-529 are the Standard Valuation Law, which prescribes minimum standards for the establishment of life and active life reserves. Active life reserves are further addressed in Section 33-2-514. Minimum standards for the establishment of unearned premium reserves on property, general casualty, surety and marine and transportation business are prescribed in Sections 33-2-512 and 33-2-513. Minimum standards for the establishment of liabilities for claims and losses unpaid and incurred but not reported claims for liability and workers compensation business are prescribed in Section 33-2-515. Section 33-2-516 allows the Commissioner to require an insurer to maintain loss reserves in such increased amount as is needed to make them adequate if loss experience shows that an insurer's loss reserves, however computed or estimated, are inadequate. In addition, the NAIC Accounting Practices and Procedures manual, adopted

pursuant to Section 33-2-701(1), requires unearned premium reserves and liabilities for claims and losses unpaid and incurred but not reported claims for all types of business.

11. Reinsurance Ceded

Sections 33-2-1216 and 33-2-1217 describe those circumstances under which an insurer may take credit for reinsurance ceded. These Sections contain provisions which are substantially similar to those in the NAIC Model Law on Credit for Reinsurance. However, per Section 33-2-1218, Sections 33-2-1216 and 33-2-1217 only apply to sessions after October 1, 1993, under reinsurance agreements that have had an inception, anniversary, or renewal date on or before April 1, 1993. New Rules I and II, adopted by emergency effective February 23, 1994, contain provisions substantially similar to those in the NAIC Model Law on Credit for Reinsurance for all reinsurance agreements, including those that have inception, anniversary, or renewal dates after April 1, 1993.

Subchapter 36 of the Administrative Rules of Montana contains provisions which are substantially similar to those in the NAIC Model Regulation for Life Reinsurance Agreements.

12. CPA Audits

Subchapter 35 of the Administrative Rules of Montana contains provisions which are substantially similar to those in the NAIC Model Rule Requiring Annual Audited Financial Statements.

13. Actuarial Opinions

The NAIC Annual Statement Instructions, which have been adopted pursuant to Section 33-2-701(1), require an opinion by a qualified actuary on life and health policy and claim reserves and property/casualty loss and loss adjustment reserves annually.

14. Receivership

Sections 33-2-1301 through 33-2-1394 set out a receivership scheme for the administration, by the Department, of insurers found to be insolvent. These provisions represent a scheme which is generally similar to the scheme set out in the NAIC Model Law.

15. Guaranty Funds

Sections 33-10-101 through 33-10-117 (property/casualty) and Sections 33-10-201 through 33-10-230 (life and health) establish guaranty fund mechanisms to allow the payment of insolvent insurer policy obligations subject to certain restrictions and limitations. The provisions of these laws are generally similar to the mechanisms set out in the NAIC Guaranty Fund Model Acts.

16. Participation in IRIS

Section 33-2-1502 requires insurers to file with the NAIC and, thus, participate in the NAIC's IRIS.

17. Risk Retention

Sections 33-11-101 through 33-11-125 contain provisions for the regulation of risk retention groups and purchasing groups which are substantially similar to those in the NAIC Model Risk Retention Act.

18. Producer Controlled Property/Casualty Insurer Act

Sections 33-2-1501 and 33-2-1509 through 33-2-1516 contain provisions which are substantially similar to those in the NAIC Model Business Transacted with Producer Controlled Property/Casualty Insurer Act.

19. Managing General Agents Act

Sections 33-2-1501 and 33-2-1601 through 33-2-1605 contain provisions which are substantially similar to those in the NAIC Managing General Agents Model Act.

20. Reinsurance Intermediaries

Sections 33-2-1501 and 33-2-1701 through 33-2-1709 contain provisions which are substantially similar to those in the NAIC Reinsurance Intermediaries Model Act.

B. Regulatory Practices and Procedures

1. Financial Analysis

a. Sufficient Staff of Analysts

The Department's financial analysis staff consists of three examiners, in addition to the Chief Examiner, who are responsible for the review and analysis of 11 domestic companies, including 1 multi-state risk retention group. In addition, 12 farm mutual companies are domiciled in Montana. The Department utilizes the three examiners as analysts during March and April to complete the analysis of the annual statements. This analysis is completed by early May. The Department's goal for 1994 is to complete the annual statement analysis of all domestic companies, including review by the Chief Examiner, by mid-April.

b. Intra-Department Communication and Reporting System

The Department's procedures are designed to assure that relevant information and data received by the Department which may assist in the financial analysis process are directed to the individuals responsible for the financial analysis. The examiners document the results of their review of domestic company annual statements on a financial review form, which focuses on fluctuations in key balance sheet and income statement amounts and hazardous financial condition objective measures. Separate forms have been developed for property/casualty and life/health companies.

Quarterly statements are received from all domestic property/casualty and life/health companies and are reviewed by the examiners primarily for changes from the annual statement and other significant findings. Evidence of this review is contained on a worksheet summarizing the results of the analysis.

Actuarial opinions are reviewed as a part of the annual statement review. The Management's Discussion and Analysis, IRIS ratio results, annual holding company registration statements (Form B) and CPA audits are reviewed by the analyst when received, and significant findings are documented in memos when necessary.

Most of the documentation from the analysis process is contained in the company surveillance file. This file includes the completed financial review form, any supporting memos and workpapers, correspondence to/from the company resulting from the financial analysis process and the IRIS ratios. The Management's Discussion and Analysis, actuarial opinion, CPA audit, holding company filings, annual statement and quarterly statements are maintained separately.

Due to the size of the Department and location of Department personnel, communication with other sections is primarily informal. The Chief Examiner is responsible for financial examinations and financial analysis. Personnel from the policyholder services division, the rates and forms bureau and the legal division regularly report to the Chief Examiner complaint data, significant rate changes and copies of administrative actions and legal orders against insurers for timely review and appropriate action if needed. In addition, bureau and division chiefs meet periodically to discuss current issues and problems.

c. Levels of Review and Reporting

The supervisory review of the annual and quarterly statement analysis is evidenced by the Chief Examiner dating and initialling the financial review form and any memos prepared by the analyst. This supervisory review is performed timely after the analysis is completed. The analysis of the Management's Discussion and Analysis, annual holding company registration statement, CPA audit, and actuarial opinion is initially performed by the examiner and reviewed by the Chief Examiner when significant or unusual items are noted during the financial analysis review by the examiner.

d. Priority-Based Analysis

The Department reviews all domestic insurers promptly. Due to the small number of domestic insurers, the Department has not developed a formal prioritization process, but they do perform an informal "quick look" to ensure that potentially troubled companies are analyzed first. Last year, the Department completed the analysis of all domestic companies by early May.

2. Financial Examinations

a. Sufficient Examination Resources

The Department utilizes two full-time contract examiners to perform financial examinations. The Department has also started assigning three in-house examiners to assist with the field examinations on a part-time basis. The Department is in compliance with the statutory requirement to examine all domestic insurers at least once every five years, and generally follows a three-year cycle with regard to domestic insurers.

b. Use of Specialists

The Department uses specialists, as considered necessary, in connection with its examinations. The Department has the ability to contract with specialists in the areas required by the standard. With respect to the key areas:

- i. No computer audit specialists or examiners with training in Easytrieve are currently utilized by the Department. However, the examiners perform substantive testing in order to avoid unwarranted reliance on computer generated data. Examination Jumpstart reports generated from the NAIC database are now also provided to examiners to assist them in the examination.
- ii. Reinsurance expertise can be contracted for with reinsurance specialists when required. However, the Department has not needed to utilize these experts on prior examinations. The two examiners-in-charge (EICs) are Certified Financial Examiners (CFEs) who have a working knowledge of reinsurance. These EICs are the first line reviewers of reinsurance contracts. If they have concerns about a contract, it is discussed with the Chief Examiner or the Department actuary. The reinsurance contracts included in the examination workpapers reviewed appeared to be standard reinsurance agreements which the EIC was able to review without additional assistance.
- iii. The Department has one property/casualty actuary and recently hired a life actuary. Consulting actuaries and/or the Department's actuarial examiner have been used in

the past on the significant life/health examinations to test the adequacy of life and health reserves, and the in-house actuary has been utilized on the risk retention group and on other property/casualty examinations to test the adequacy of loss and loss adjustment expense reserves. The examiners test the adequacy of health reserve liabilities and other reserves on the remaining Montana-only companies.

c. Supervisory Review of Workpapers and Reports

The work of examiners, including the work of the in-house examiners, is reviewed by the EIC. The examination workpapers, including the work of the EIC, and the report, are then reviewed by the Assistant Chief Examiner and/or the Chief Examiner whose findings are discussed and resolved, if necessary, with the examiners.

d. Use of NAIC Examiner's Handbook

The review of examination workpapers for recently completed examinations disclosed that the appropriate provisions of the NAIC Examiner's Handbook (Handbook) were used. Planning for examinations includes the development of time budgets by area, risk analysis and examination programs by account as required by the Handbook. CPA workpapers appear to be used if available and appropriate, although documentation of reperformance and conclusions regarding their use were not always evidenced. The workpapers reviewed for recently completed examinations generally indicated that the underlying data used in actuarial calculations and estimates is being tested for accuracy and completeness by the examiners. Actual time is recorded by examination area and is compared to budget throughout the examination.

e. Scheduling of Examinations

The Department generally follows the procedures set forth in the Handbook in scheduling financial condition examinations. A list of examinations which must be completed in the coming year based on the five year statutory requirement, and those which the Department additionally desires to examine, is developed early in the year. This list of examinations is prioritized after the annual statement review process. In addition to those

examinations scheduled on the list, the Department indicated that it can bring resources to any company when the situation requires. The Department has performed two targeted examinations during the past few years.

f. Presentation of Examination Reports to Commissioner

The Department's practice is to have the draft report prepared by the EIC. The workpapers and the draft report are sent to the Department where the entire report is reviewed by the Assistant Chief Examiner and/or the Chief Examiner prior to adoption. The Chief Examiner then prepares a memorandum summarizing the significant concerns along with the report for review by the Deputy Commissioner and the Commissioner. In addition to this formal process, the examiners, Chief Examiner, Deputy Commissioner, and Commissioner informally discuss problems and adverse findings as they are identified during the course of an examination.

g. Examination Reports

The Department's reports of examination are prepared in accordance with the format (short-form) adopted by the NAIC. The Department mails copies of the examination report to the NAIC and to other states in which the insurer transacts business.

3. Troubled Company Procedures

The Department generally follows the procedures set forth in the NAIC's Troubled Insurance Company Handbook regarding domestic insurance companies identified as troubled. Language in the preface of the Troubled Insurance Company Handbook indicates that the guidance is meant to be advisory rather than mandatory. If the Department takes formal action with respect to a domestic insurer, it generally advises the NAIC and the other states of that action. The Department also indicated that it will communicate with other states, when asked, regarding domestic companies which have been identified as troubled or potentially troubled. In addition, the Department indicated that it would usually notify the domestic state if problems or concerns were identified as a result of the review of a foreign company.

C. Organizational and Personnel Practices

1. Professional Development

The Department has a formal policy to pay tuition costs, and partial travel costs when budgets allow, for continuing professional education. Historically, the Department has not paid for all costs associated with continuing education programs. Most of the examiners and contract examiners are certified by the Society of Financial Examiners or the State Board of Accountancy which mandate continuing education requirements in order to retain certification. Staff have attended training seminars and programs presented by the NAIC, the Society of Financial Examiners and other organizations.

2. Organization

All financial regulation and solvency surveillance activities are ultimately the responsibility of the Chief Examiner, who reports to the Deputy Commissioner, who in turn reports directly to the Commissioner.

3. Evaluation of Staff

All Department staff and contract staff are reviewed and evaluated approximately every six months using state evaluation forms. These reviews are discussed with the examiners. In addition, oral and written comments are given to the contract examiners after each examination.

4. Minimum Educational and Experience Requirements

The Department has established criteria outlining minimum educational and/or experience requirements for all staff which are commensurate with the duties and responsibilities of the position. These minimum requirements are outlined in written position descriptions.

5. Pay Structure

The Department's pay structure appears to be adequate to attract and retain qualified financial surveillance staff. In addition, the contract examiners are paid at, or above, NAIC association examiner rates. The Department indicated that turnover has not been a problem in the past.

6. Funding for NAIC Participation

The Department's funding is sufficient to allow for participation at NAIC meetings and selected training sessions. Department personnel including the Commissioner, the Deputy Commissioner and the Chief Examiner generally attend all NAIC national meetings.

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Montana Scoring

Part B

Financial Analysis

- | | |
|---|-------|
| 1) Sufficient Staff of Analysts | 2.125 |
| 2) Intra-Department Communication and Reporting | 1.875 |
| 3) Levels of Review and Reporting | 2.5 |
| 4) Priority-Based Analysis | 2.5 |

2.5
Avg. 2.25

Financial Examinations

- | | |
|---|-----|
| 1) Sufficient Examination Resources | 2 |
| 2) Use of Specialists | 2 |
| 3) Supervisory Review of Workpapers and Reports | 2.5 |
| 4) Use of NAIC Examiner's Handbook | 2 |
| 5) Scheduling of Examinations | 2 |
| 6) Presentation of Exam Reports to Commissioner | 2.5 |
| 7) Examination Reports | 2 |

2
Avg. 2.14

Troubled Company Handbook

2

Part B Avg. 2.17

Part C Organizational and Personnel Practices

- | | |
|--|-------|
| 1) Professional Development | 1.5 |
| 2) Organization | 2.25 |
| 3) Evaluation of Staff | 2.25 |
| 4) Educational and Experience Requirements | 2 |
| 5) Pay Structure | 2.125 |
| 6) Findings | 2 |

2
Avg. 2.02

warrant2

**** Bill No. ****

Introduced By *****

By Request of *****

A Bill for an Act entitled: "An Act to change the state special revenue account for the warrant writer program to an internal service fund; amending section 17-8-305, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-8-305, MCA, is amended to read:

"17-8-305. Cost accounting for warrant. In his discretion it is the duty of the state auditor to establish a cost accounting system to determine the unit cost of issuing and processing warrants and provide for a system of charges for services rendered in issuing and processing warrants for claims submitted by any department or agency of the state. ~~No such charge shall be made for warrants issued against the general fund. Funds collected under this section for budgeted programs shall be deposited to the credit of the general fund.~~ Funds collected for new or unforeseen programs may be operation of the state warrant system shall be deposited to the credit of a state special revenue an internal service fund account and expended for the purposes of paying the processing expenses incurred ~~as a result of the new program~~ of the state warrant system."

{Internal References to 17-8-305: None.}

CD Draft Copy

Printed 3:02 pm on January 9, 1995

NEW SECTION. Section 2. {standard} Effective date. [This
act] is effective July 1, 1995.

-END-

Gary L. Spaeth
Montana State Auditor's Office
406-444-2040}

State Auditor's Office
Requested Language for HB 2

1) The State Auditor may seek reimbursement for investigative costs from court orders and settlements and abate investigative expenditures.

2) If HB 275 is passed and approved the appropriation for warrant writer is reduced by \$8,860 in FY96 and \$8,860 in FY97.

3) If HB 155 is passed and approved the appropriation for insurance is reduced \$86,095 in FY96 and \$86,772 in FY97.

Legislation:

Committee bill to change the fund type to proprietary fund to implement the cost allocation plan proposal.

Priorities:

- 1) Statewide present law adjustments
- 2) Health Insurance Availability act present law adjustments, less the two new proposals which reduce the total to \$86,095 and \$86,772.
- 3) The appropriation for insurance contracted services or language "The State Auditor shall charge companies directly for examinations and abate expenditures."
- 4) The appropriation for the Compliance Specialist or language "The State Auditor may request a budget amendment for costs incurred due to medicaid HMO complaints."

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Gen. Gov and Trans. SUB-COMMITTEE DATE 2-7-95

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