

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on February 15, 1995, at 7:30 a.m.

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)
Sen. Bill Wilson (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

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

Committee Business Summary:

Hearing: SB 290, SB 326, SB 332
Executive Action: None.

HEARING ON SB 290

Opening Statement by Sponsor:

SEN. LARRY TVEIT, SD 50, Fairview, said SB 290 accomplished two things: (1) Mandatory maternity insurance benefits in all health insurance policies in Montana; (2) Use of gender when assessing risks and assessing corresponding rates. He said automobile, health and life insurance rates were set based on risk, i.e. an attempt to predict the future. He said it was only fair for the policy holder to pay a premium based on risk or loss which he or she represented. **SEN. TVEIT** informed the committee Montana was the only state to have full non-gender insurance.

SEN. TVEIT said it was a fact young men drivers had more accidents than young women drivers; it was also a fact the accidents of the young men were more expensive than those of the young women; it was also a fact women lived longer than men. He related there was also a difference in providing health insurance between men and women; however, **SB 290** would have a relatively small effect on Montana health insurance rates because most of Montana's health insurance was offered by employers to employees.

SEN. TVEIT said **SB 290** allowed insurance companies to take the differences into account when rating the risk of loss. He said opponents to the bill could argue it was a civil rights issue, but it was not. He asked the committee to focus on the issue from a risk-rating perspective and to understand there were legitimate reasons to include gender in the risk-rating formula.

SEN. TVEIT said **SB 290** repealed vehicular insurance, life insurance and mandated moving health insurance coverage to the Commissioner.

Proponents' Testimony:

Greg Van Horssen, State Farm Insurance, said State Farm strongly supported **SB 290** because it would allow Montana's insurers to take into account characteristics which had historically proven to be effective predictors of risk. He reviewed the background of non-gender insurance rating. He said prior to 1983, Montana insurers could use gender and marital status in risk-rating formulas in order to set premiums for their insurance products; however, in 1983, the legislature passed the Non-gender Insurance Law (**49-2-309**) which said insurers could not discriminate, based upon sex or marital status, in the operation of any insurance policy, plan or coverage, or in the operation of pension or retirement plans. He explained the law also said there could be no discrimination or differences of rates or premiums if they were based on gender or marital status. **Mr. Van Horssen** said those two factors were and still are important in predicting losses, i.e. the setting of premiums. The result of the law was premiums which were artificially equalized without regard to certain predictors of risk. Now, about 10 years later, **SB 290** would once again allow premiums to reflect the cost of providing insurance coverage.

Mr. Van Horssen explained the Gray Bill, **EXHIBIT #1**:

Section 1: Removed reference to **49-2-309** as a reason for Commissioner's disapproval of a form.

Sections 2,3,4: Addressed maternity coverage mandates under individual and group disability policies and certificates of insurance or insurance issued by the health service corporation. The amendments, **EXHIBIT #2**, also dealt with mandatory maternity benefits.

Section 5: Repealed non-gender law.

Section 6: Provided applicability date.

Section 7: Provided effective date.

He thanked the committee for the hearing and said State Farm strongly supported **SB 290**. He asked a DO PASS for **SB 290**.

Judy Mentille, State Farm Mutual Automobile Insurance, said State Farm insured about 200,000 automobiles in Montana, and joined with other automobile insurers for support of **SB 290**. She said the unisex repealer in Section 5 would be a significant financial benefit to many Montana women; the enactment of the bill into law would increase equity in automobile insurance pricing and would also increase competition in auto insurance markets in Montana.

Ms. Mentille referred to **EXHIBIT #3A** and said the information was based on a 1990 Ford Escort and showed what State Farm was currently charging in Billings; **EXHIBITS #3B AND #3C** showed average rate changes. She repeated **SEN. TVEIT's** information that cars with unmarried youthful male drivers were involved in a greater number of accidents, and these accidents were more severe and expensive; therefore, more difficult to insure. She supported her information by citing State Farm claims data, other insurance industry claims experience and by statistics collected outside the insurance industry by government and other research organizations. **Ms. Mentille** stressed insurance rates based on gender were based on actual cost differences, explaining **SB 290** would allow prices to more accurately reflect the cost of providing a product.

Ms. Mentille said she came to Montana in 1983 when the legislation was introduced and since that time had seen a great rate increase for young women and young married couples. She said if **SB 290** was enacted, premium changes would occur very soon.

Ms. Mentille said State Farm would continue to grow and prosper in Montana with or without **SB 290**. She said State Farm's interest in **SB 290** was: (1) Offering each customer the lowest price consistent with cost; (2) Current Montana law provided only theoretical, not real, equality which was very costly to young women. She urged the committee to support **SB 290**.

Mary Jane Cleary, American Council of Life Insurance, distributed a pamphlet, **EXHIBIT #4**, and said her agency represented 614 member companies which in turn represented 90% of the life insurance in force in the United States. She said at the same time Montana passed the unisex law, the U.S. Supreme Court ruled employers provide group employee benefits or pensions on a unisex basis; however, it wasn't a true unisex basis because insurance companies considered mortality rates, age, frequency and severity of claims, general industry in which people operate, and number of males and females in the group to come up with a blended rate.

Ms. Cleary said also during that time, the Women's Defense Fund in Montana did a study to prove women were generally better off under the unisex law; the study was used by the Maryland Human Rights Commission to mandate a ruling to use unisex rates in Maryland. She said the ruling was challenged by the Equitable Insurance Company, and explained the Montana study had numerous inconsistencies: (1) The study was conducted by a graduate student in economics at U of M and the information provided by the insurance companies for the study was lost or destroyed; therefore, proof did not exist; (2) The method used was the median method, which was not recognized by the national actuarial boards; however, the insurance company hired a consulting actuary who said the study was flawed because the median figures were not used consistently throughout the study. **Ms. Cleary** distributed copies of Non-Gender Survey, **EXHIBIT #5**, and informed the committee the studies showed women consistently paid higher premiums, except for health insurance, in order to have the benefits of unisex law; whereas, men benefited only slightly.

Ms. Cleary's next reference was the Non-Gender Life Insurance Survey, **EXHIBIT #6**, and she asked the committee why women should pay unfair, undeserved higher rates when statistics showed they were better off in a system which would allow insurance companies to consider gender when determining the rates. She pointed out drivers with good driving records subsidized those who had neither good driving records nor adequate insurance coverage; the good drivers should not be subsidizing the bad just because the goal was equality of women.

Ms. Cleary referred to **EXHIBITS #7 & #8** and said ACLI conducted a study which showed during the last 13 years the in-force life insurance in Montana as compared with national figures, had decreased.

Ms. Cleary asked why insurance companies who were making more money across the board should care about unisex insurance, and she answered by saying: (1) Unisex insurance undid actuarial tables; (2) Companies and agents could lose money because the amount of in-force policies had dropped significantly due to people not being able to afford the prices; (3) Women should not pay more because they did not benefit from a unisex law.

Tom Hopgood, Health Insurance Association of America, said his association represented approximately 300 health companies, many of whom did business in Montana; in fact, his companies had about 50% of Montana's health insurance market and Blue Cross/Blue Shield had the other 50%. He referred to the Gray Bill (**EXHIBIT #1**) and said amendments were added because the original bill removed existing conditions as applied to maternity benefits and pregnancy coverage, which inadvertently expanded the Freedom of Choice Act. He referred to Page 2, Section 2, Subsection 1, and said "individual" should be inserted between "each" and "policy."

Mr. Hopgood said the numbers in the exhibits were convincing and urged the committee to pay close attention to them. He said his agency supported **SB 290** and asked the committee to give it favorable consideration.

Jacqueline Lenmark, American Insurance Association, read her written testimony, **EXHIBIT #9A**, and distributed the Garrity study, **EXHIBIT #9B**, and the Montana Legislative Council study, **EXHIBIT #9C**, to which she referred during her testimony.

SEN. RIC HOLDEN, SD 1, Glendive, said young married couples formerly realized premium discounts in auto insurance but when the benefit was removed, **SEN. HOLDEN** said he and his wife, who were in their mid-20's at the time, realized a \$200 increase in premiums. He said this caused young people to be the uninsured drivers of the highways. He said the unisex law abandoned facts in view of politics; however, now it was desired to return to facts. **SEN. HOLDEN** said women and young married drivers deserved to do so; the social experiment had gone on long enough. He urged repeal of parts of the unisex law by passing **SB 290**.

Debbie Berney, Professional Insurance Agents Association of Montana, said her association viewed **SB 290** as a business issue, rather than a social issue. She urged support for **SB 290**.

Lorna Frank, Montana Farm Bureau, distributed copies of written testimony by **Dave McClure, President, Montana Farm Bureau**, **EXHIBIT #10**.

Arlette Randash, Eagle Forum & Christian Coalition of Montana, said her organizations networked with over 26,000 Montana families who were adversely affected by the unisex insurance laws. She said her organizations believed **SB 290** merited the committee's consideration.

Ward Shanahan, Farmers Insurance Group, expressed support for **SB 290**.

John Bandee, Insurance Adjuster, said it was not sensible for young women drivers to subsidize young male drivers who were increased public risks because of their decisions, increased number of miles driven and increased risks they took. Therefore, he urged support for **SB 290**.

Larry Akey, National Association of Independent Insurers (NAII) and Montana Association of Life Underwriters, distributed **EXHIBIT #11** on behalf of **NAII** and said the Montana Association of Life Underwriters took no position on **SB 290**.

James Kembel, Liberty Northwest Insurance, went on record as supporting **SB 290**.

Sharon Hoff, Montana Catholic Conference, read her written testimony, **EXHIBIT #12**.

David Hemion, Montana Association of Churches, read parts of his written testimony, **EXHIBIT #13**, and said because the Archdiocese were members of his Association, they technically had no position on **SB 290**; however, he reminded the committee of past positions the Association had taken, i.e. Equal Rights for Women.

Connie G. Clarke, Miles City, sent her written testimony, **EXHIBIT #13A**.

{Tape: 1; Side: B}

Opponents' Testimony:

Marcia Youngman, National Clearinghouse for Ending Sex Discrimination in Insurance, read her written testimony, **EXHIBIT #14**.

Barbara Booher, Executive Director for the Montana Nurses' Association, read her written testimony, **EXHIBIT #15**.

Mark O'Keefe, State Auditor and Insurance Commissioner, expressed opposition of **SB 290**. He explained when he was running for the office of Insurance Commissioner, the people who wanted to see him most on the campaign trail were the insurance industry, and they would ask what he thought of the non-gender insurance law. He said he would answer by asking them to show him a good reason to repeal the non-gender insurance law, and he would support the repeal. He said he had yet to be told a good reason to repeal the non-gender insurance law in Montana; in fact, he had been informed by commissioners of other states they could not get such a law passed because of the lobbying of the insurance industry.

Mr. O'Keefe said **SB 290** would repeal Montana's non-gender law and allow insurers to discriminate in the rate setting. He said this was not a partisan issue; rather, one of equity and fairness. He explained Montana had one of the most comprehensive non-gender insurance laws in the country, explaining non-gender health insurance reduced rates charged to women, while auto premiums were reduced for men. **Mr. O'Keefe** maintained the repeal of the non-gender insurance act would result in insurance increases for everyone because **SB 290** did not guarantee lower rates.

Mr. O'Keefe stated neutral gender rate setting was a wash for men and women, and it was an equity and not statistical issue. He said Montana's Constitution was a basis for banning sex discrimination in insurance, explaining the legislator who spoke for the passage of the non-gender insurance law was now Chief Justice Jean Turnage; therefore, **Mr. O'Keefe** took issue with **Ms. Lenmark** who maintained it was an absurd conclusion that legally, non-gender rates were required.

Mr. O'Keefe contended Montana's Constitution said no person, corporation or institution may discriminate against an individual on the basis of gender, and astute observers of the insurance

industry had pointed out non-gender insurance did not have a detrimental effect on the insurance industry. He referred to the Life Underwriters who in the beginning were wholeheartedly against non-gender insurance, but who now were neutral; their position should be self-explanatory.

He said he had been asked why the insurance industry should be the only segment of the nation's economy allowed to discriminate on the basis of gender, and challenged the committee to consider discriminating on the basis of race, which could be substantiated by some statistics. He answered his challenge by saying all states outlawed race discrimination, and gender discrimination was no different. **Mr. O'Keefe** pointed out the trend in the health insurance industry was to disqualify gender as a discriminatory factor in setting rates, and the enactment of **SB 290** would be a move away from a trend of industry reform. He said if **SB 290** passed, virtually every insurance policy issued would have to be refiled, and consumers would pay the cost.

Mr. O'Keefe maintained the non-gender law had been good for Montana; in 1993, the Montana Supreme Court ruled excluding maternity coverage benefits from major medical insurance policies was based on sex, and was illegal under the non-gender law. He said it was his job to enforce that law and he did; therefore, Montana families now had mandatory maternity coverage.

Mr. O'Keefe urged the committee to base its decisions on equity, fairness, and what was good for Montana men, women and families. He maintained repealing the law would hurt Montana consumers and urged DO NOT PASS for **SB 290**.

Maureen Cleary-Schwinden, Women Involved in Farm Economics (WIFE), said WIFE represented 23,000 farm families across Montana. She said one of WIFE's greatest accomplishments was getting the Federal Government to recognize the farm wife as a full partner in the family farm. **Ms. Cleary-Schwinden** said the key issue was equality, i.e. women should not be treated as less than equal, even for insurance rates. She reported WIFE convinced the Federal government that farm women had "person" status and the recognition opened doors for other women dedicated to their work of making agriculture a part of Montana's proud history. She said **SB 290** would not help women; rather, it would be a step backward. She said she did not believe **SEN. TVEIT** talked with the women in his district who belonged to WIFE, because if he had, he would know WIFE was opposed to **SB 290**. **Ms. Cleary-Schwinden** said **SB 290** was a wolf in sheep's clothing and urged DO NOT PASS.

Mike Meloy, Attorney in Helena, said he was interested in constitutional law and told the committee of the Bankers Life case. He explained he had represented women who claimed insurance companies paying for male-related health problems and not maternity coverage violated the Montana unisex law. He said central to that issue was whether or not coverage basic to men

and women was sex discrimination; the Supreme Court ruled it was. **Mr. Meloy** said if the non-gender law was repealed and the gender law enacted, the Supreme Court would strike it down, saying it violated the Montana Constitution.

Mr. Meloy said in 1983, the legislature determined insurance companies should not be able to discriminate on the basis of sex. He said the Insurance Commissioner had made extensive effort, using taxpayer dollars, to ensure the insurance industry complied with that legislative mandate, and if the law was repealed, the tax expenditure would have been wasted and the commissioner would need to change his rules. It was his opinion no insurance company would change its rates in the meantime, because pending court challenge, the rates may have to be refunded. He said repeal of the non-gender insurance law would end up being costly for all concerned.

Sheila Hogan, Executive Director, Career Training Institute, said her organization served AFDC recipients and displaced homemakers in Lewis & Clark, Meagher, Broadwater, Jefferson and Powell Counties. She said health coverage was the main concern for women leaving the welfare system to enter the job market. She said if the non-gender insurance law was repealed, health insurance coverage would be out of reach for many women and their families, as well as potential employers who could hire and opt to provide insurance coverage. **Ms. Hogan** suggested the repeal of the non-gender law could create another road block for women and their families struggling to escape from poverty.

Melanie Cox, Business and Professional Women of Montana, distributed copies of a letter from Norma Boetel, who was unable to attend, **EXHIBIT #16**. **Ms. Cox** read a statement from Sandy Olson, Montana Business and Professional Women, which said she opposed the repeal of the non-gender insurance act and urged the committee to oppose **SB 290**.

J. V. Bennett, Montana Public Interest Research Group, said his group opposed **SB 290** and urged the committee to table it.

Samantha Sanchez, Montana Civil Liberties Union, said her organization believed Constitutional rights were at issue, and the target groups for the repeal legislation were women of childbearing age and senior women. **Ms. Sanchez** said the **SB 290** was anti-family legislation and she urged opposition for it.

Marty Onishuk, League of Women Voters, read her written testimony, **EXHIBIT #17**.

Kay Kocew Fox, Montana Low Income Coalition, expressed opposition for **SB 290** and urged the committee to table legislation which would prohibit low income women from getting off AFDC.

Christine Kaufmann, Executive Director, Human Rights Network, expressed opposition to SB 290 because it allowed one industry to discriminate.

Brad Martin, Director, Montana Democratic Party, said Montana's non-gender insurance laws had enjoyed strong bipartisan support over the last decade; therefore, he urged the tabling of SB 290.

Ed Kaplis, Executive Director, Montana Senior Citizens Association, opposed SB 290 because it would negatively affect the income of older women.

Kate Colova, Montana Womens' Lobby, urged opposition for SB 290, saying the non-gender insurance law had worked for 10 years; therefore, no change was needed. She also submitted three letters, EXHIBITS #18, #19, #20, from individuals who opposed SB 290.

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT asked if other types of insurance were discriminatory based on age, health, etc., to prevent cost shifting. **Mark O'Keefe** said there were underwriting parameters which were legal rate setting mechanisms in different types of coverage. He explained they were not used for cost shifting; rather, to reflect risk.

SEN. BENEDICT said when discrimination was allowed for people who were 65 or 66 years old, it was done to ensure young families didn't ultimately pay increased rates in order to reduce rates for those older persons. He stated he interpreted that as trying to prevent cost-shifting. **Mr. O'Keefe** said the insurance industry was trying to get away from the hard rating mechanisms, i.e. move toward community rating (everyone would pay one rate).

SEN. BENEDICT asked if that concept was socialism. **Mr. O'Keefe** said it could be considered thus, or it could be considered non-discrimination; however, one factor which could be called social underwriting was age because it didn't go away.

SEN. BENEDICT commented we were born male or female, a factor which didn't go away. **Mr. O'Keefe** agreed, but said it should not be a disadvantage, one way or the other; however, age was a constant, regardless of sex.

SEN. BENEDICT asked if cost shifting was fair. **Mr. O'Keefe**

{Tape: 2; Side: A}

said age was not protected by the Constitution as a discriminatory factor, but rate shifting based on sex was not fair.

SEN. GARY FORRESTER asked if State Farm would be willing to add an amendment to **SB 290** which would reduce rates in Montana by a certain percentage. **Judy Mentille** said current Montana law said rates should not be excessive, inadequate or unfairly discriminatory; State Farm would abide by those requirements. She said the rate examples were based on the assumption there was no income level change to the company, i.e. there were no rate increases or decreases; rather, a rate redistribution between men and women based on the cost of providing a product for youthful drivers. **Ms. Mentille** guaranteed prices would be based on the cost of providing the product.

SEN. FORRESTER commented he didn't get a "yes" or "no." **Ms. Mentille** said she'd be glad to work with the committee on the language.

SEN. FORRESTER asked why there was such a rate difference among auto insurance companies for single females. **Ms. Mentille** said the rates were based on the Billings territory and the number of youthful male drivers insured by the company.

SEN. FORRESTER asked who paid for the Garrity decision. **Jacqueline Lenmark** said she didn't know, but would be happy to find out.

SEN. FORRESTER asked how **SB 290** would affect an 18-year-old pregnant female who applied for health insurance; could she obtain it without having a preexisting condition. **Tom Hopgood** said she could, explaining it would prevent the gaming of the insurance policy.

SEN. FORRESTER asked if this pregnant 18-year-old female were to move out of the family home and purchase health insurance, what sort of rate increase could she expect. **Mr. Hopgood** said the amendment placed on **SB 290** would require maternity coverage; therefore, there would be no rate distinction for maternity coverage, even though it would apply to females only.

SEN. FORRESTER asked for further clarification of rate differences between an 18-year-old male and an 18-year-old female. **Tom Hopgood** said based on pregnancy only, if the coverage was mandated in the policy, there would be no rate differential, which was the idea behind all mandated coverage. He said statute stated health insurance companies must provide certain coverage with each policy sold, which was what the amendment said.

SEN. FORRESTER asked for the rate difference in dollars and cents. **Mr. Hopgood** said there was no difference, based on the maternity coverage.

SEN. FORRESTER asked if **SB 290** talked about abortion. **Mr. Hopgood** said he did not believe so; most insurance companies covered abortion as a surgical procedure.

SEN. WILLIAM CRISMORE asked how competition would be increased in the auto insurance market if the unisex law was repealed. **Judy Mentille** said State Farm currently had noncompetitive rates for young women and young married people; they would like to make their rates more competitive to ensure more of that business.

SEN. CRISMORE asked why only lower rates for young women were referred to, and not rates for older women. **Ms. Mentille** said many companies did offer discounts; however, State Farm did not, though they could consider that if the non-gender insurance law was repealed.

SEN. TERRY KLAMPE asked if opponents' testimony was true which implied the industry's actuarial data was unscientific and was driven by economics. **Mark O'Keefe** said no one had proved to him there was a benefit for Montana consumers upon repeal of the non-gender insurance law, i.e. studies from both sides indicated it was a wash.

SEN. KLAMPE asked what the actuarial data said, and was it accurate. **Mr. O'Keefe** said he did not have the studies in front of him; however, he had an article entitled, "Is Gender Neutral Dead?", **EXHIBIT #21**. He said the bottom line seemed to be women paid less for health and more for auto, while for men it was the other way around. **Mr. O'Keefe** related Montana's non-gender auto insurance rates were 45th or 46th in the nation; however, statistics could be used in either direction.

SEN. BENEDICT asked if other states were allowed to use sex as a rating factor. **Mary Jane Cleary** said Montana was the only state which had unisex rates across the board, i.e. sex could not be used as a factor across the lines of insurance.

SEN. BENEDICT asked if insurers could lower rates for women without repeal of the unisex law. **Judy Mentille** said most insurers used miles driven and driving record to the largest extent which was actuarially justified; however, the sex factor was a very important factor which no other factor explained.

SEN. FORRESTER referred to the statement which was made concerning rewriting life insurance policies if **SB 290** passed, and asked if the rates would then be increased or decreased, whatever the case might be. **Mary Jane Cleary** said after the effective date of the law, the policies written thereafter would follow the new law, i.e. until the old policy's renewal came due, it would not be changed to follow the new law. In the meantime, though, the insurance industry would have to refile their forms and make changes; however, that would be a natural matter of course.

SEN. FORRESTER asked if rates for young men and young women would be substantially different, or would they remain basically the same for health insurance, with the inclusion of maternity insurance for young women. **Claudia Clifford** said if **SB 290** were

passed, the non-gender law would be repealed, which would result in different rates for young men and young women. She explained the maternity benefits would be mandatory, which would mean they would be included in young men's policies; however, the insurance company would have the prerogative of not including a rate to reflect those costs.

SEN. FORRESTER commented **Ms. Cleary's** testimony conflicted with **Tom Hopgood's** and wondered if **Ms. Cleary's** office could give any assurance the Commissioner's office would regulate the rates so young women would not be discriminated against if they asked for maternity benefits to be included, i.e. could an insurance company rate a person, with gender removed, who had a greater possibility of complications (resulting from maternity benefits) much differently. **Ms. Clifford** said she was puzzled by **Mr. Hopgood's** testimony as well; she opined he meant insurance policies would not have maternity riders which would entail a separate cost. She explained **SB 290** would repeal the rating aspect; the rate for young men's policies could be different from young women's because of the maternity and newborn care benefit.

SEN. FORRESTER asked for affirmation of his understanding **SB 290** would make the health insurance rates different for young men and young women. **Ms. Clifford** affirmed.

SEN. CASEY EMERSON referred to testimony which stated the passing of **SB 290** would bring lawsuits. He wondered if the meaning was if **SB 290** did not pass, there would no lawsuits. **Mike Meloy** said the Supreme Court had settled the question of whether insurance according to sex was discriminatory; if it was repealed, there would be lawsuits against the Insurance Commissioner and the taxpayers would pay for it.

SEN. EMERSON asked for assurance there would be no lawsuits if the non-gender law remained as it was. **Mike Meloy** gave that assurance.

SEN. BENEDICT asked for response to **Claudia Clifford's** remarks regarding the two different rates. **Tom Hopgood** said his answer had been verified privately to him by **Mark O'Keefe**, which meant there were differing opinions. **Mr. Hopgood** said any type of mandated coverage forced the insurance company to charge the consumer for the benefits in the policy, and mandated coverage removed the consumer's option to choose the areas of desired coverage.

Closing by Sponsor:

SEN. TVEIT said **SB 290** created an option for the insurance company to use important rating factors in rating risk and setting premiums and it did not require the insurer to adopt the gender-specific rating, i.e. the insurer could choose gender or non-gender rates, depending on the demand. **SEN. TVEIT** stated **SB 290** allowed the use of identifiable risk factors in setting rates

and premiums, and he believed the major financial effects of **SB 290** would affect women in auto insurance because the purchase was through individuals, while health insurance was often purchased through their employers.

SEN. TVEIT reminded the committee Montana was the only state which had non-gender insurance across the board, and wondered why other states didn't have it -- perhaps it wasn't such an advantage. **SEN. TVEIT'S** response to **Sharon Hoff** was he himself had sponsored the bill without the urging of insurance companies. He claimed if all women bought all insurance policies through their entire lifetime, the cost would be considerably more; however, they only bought parts along the way. He related how young women paid more for auto insurance when they began driving and when they married young; likewise, they paid more when they bought a term life policy in Montana during middle age. **SEN. TVEIT** refuted the statement gender-based rating was unconstitutional by saying no Montana court had ever upheld gender-based pricing violated Montana's Constitution; in fact, the U.S. Court of Appeals upheld the use of gender-based actuarial tables didn't violate the U.S. Constitution.

SEN. TVEIT alluded to increased rates for women and informed the committee all types of insurance increased for women, according to both industry and Commissioner studies. He said he had spoken with **WIFE** members who wondered why the rates of both their daughters and they themselves continued to rise. He declared rates should be based on cost, not shift patterns.

SEN. TVEIT thanked the committee for a good hearing and asked them to consider women of all ages when deliberating **SB 290**. He asked the committee for a favorable consideration.

{Tape: 3; Side: A}

HEARING ON SB 332

Opening Statement by Sponsor:

SEN. JEFF WELDON, SD 35, Arlee, said **SB 332** opened three parts of the Landlord Tenant Act, and explained the changes which would occur with **SB 332**:

Section 1 dealt with premises and maintenance of premises; he referred to Page 2, Lines 27-30, and explained a trustee was one who held the legal title to property in trust for the benefit of other people (beneficiary) and who carried out specific duties with regard to the property. **SEN. WELDON** stated he was asking mobile home tenants to pay for the maintenance of a common area and the landlord would maintain the common area for the benefit of people who were paying for it.

Section 2 dealt with the transfer of premises by tenant and went with the property interest which mobile home park residents and owners actually had. He asked for language which would say if the potential purchaser had applied for residency within the mobile home park, and was denied by the landlord, the potential purchaser and current homeowner both would be notified of the reason for tenancy denial, and the potential purchaser would be given a chance to correct the problem.

Section 3 asked that road maintenance allow emergency services and vehicles the ability to enter the mobile home park.

SEN. WELDON said **SB 332** contained very few and very conservative changes to the Landlord Tenant Act.

Proponents' Testimony:

Carla Perigole asked favorable consideration for **SB 332**, supporting her position with pictures which showed how the landlord had torn things apart, but had not returned the upheaval to the original condition in her trailer court. She also shared a letter from a trailer park resident who had experienced the landlord tearing up her yard in order to work on it, and not returning the fence to its original condition.

Sean Ocony, Missoula, expressed support for **SB 332** and referred to Page 2, Lines 27-28, as he showed pictures of unmaintained common areas. He explained the mobile home park residents were paying for maintenance but were not getting their money's worth.

Carol Davis, Missoula, expressed support for **SB 332**. She addressed the changes in **Section 70-24-305** and said the request was thought to be reasonable because if there was a potential buyer who was refused, perhaps the reason for refusal would be something the buyer could correct. She said it seemed fair for the seller to leave his or her home in the mobile home park in order to sell it, if the home was safe, in good condition and a reasonably safe lodging. **Ms. Davis** also submitted three letters of written testimony, **EXHIBITS #22, #23, #24** to the secretary.

Jerry Michaud, Missoula, said lack of road maintenance in mobile home parks affected the health and safety of the children, especially when they went to school and returned from school in the dark. He said roads in many mobile home parks were not being plowed, sanded or swept in the spring. **Mr. Michaud** showed pictures of speed bumps which were 7 3/4 inches tall and from 18-32" wide. He presented **EXHIBITS #25, #26, #27** as further evidence in his testimony.

Linda Wolfram, Missoula, said she lived in a mobile home park and owned her mobile home. She expressed support for **SB 332**, and referred to Page 3, Line 26, as she showed photos to support her testimony.

Melissa Case, Montana People's Action, said her agency represented mobile home court residents, who numbered about 110,000 people across Montana. She said the changes addressed in **SB 332** were conservative commonsense changes which dealt with public safety issues. **Ms. Case** specifically mentioned the property rights, explaining if someone was to sell their home, they deserved due process under the law, i.e. know why they were denied access and the right and ability to sell their property when they wished. She expressed support for **SB 332**.

Shelby Branch, Missoula, asked the committee to pass **SB 332**, explaining the landlord of her mobile home park was charging each unit a \$25-per-month common area maintenance fee as well as a rent increase. She said the new landlord had doubled the rent and taken away their rights. She said if they could sell their trailer and leave it in the park, they could receive about \$14,000; if they would have to move it from the park, there would be no place to go.

REP. LINDA MCCULLOCH, HD 70, Missoula, said many of the proponents were her constituents, and she asked the committee to pass **SB 332**.

Opponents' Testimony:

Greg Van Horssen, Montana Housing Providers, said his group of 1,100 were in the business of providing safe and affordable housing for tenants. He asked the committee to keep in mind the people he represented operated businesses for provision of living space, i.e. the ground on which mobile homes were parked. **Mr. Van Horssen** said his group was concerned about the living space and the community situation in the mobile home parks.

Mr. Van Horssen said his group opposed **SB 332** for the following reasons: (1) Page 2, Line 29 -- he said under the Landlord Tenant Act today, all landlords were responsible for all common areas in a rental situation; therefore Subsection 7 was unnecessary. He explained since the above was already law, it would not be wise for the legislature to create more legislation to control people who were not paying attention to the statutes in the first place. **Mr. Van Horssen** suggested action be taken under existing laws against the people causing the problems; (2) Subsection 8 -- this already was the law, and penalties for failure to comply were severe; (3) Section 2, Lines 9-12 -- the authority to decide who should move into the mobile home park should be exclusive to the business owner, i.e. the ownership of the land was his function; (4) Section 3 -- the original language came from the 1993 legislature, and the proposed changes on Lines 25-27 were unnecessary and unworkable. **Mr. Van Horssen** said "safe" on Line 24 included emergency access for vehicles involved with life-concerning missions.

Mr. Van Horssen addressed the issue of speed bumps, saying the common roads must ensure the safety of the children within the

mobile home park; yet, they needed to be passable for emergency vehicles. He asked the committee to remember his group was concerned about keeping living arrangements safe and affordable; on the other hand, he realized there were individual landlords who were causing problems. He contended, the passage of more laws would not help; rather, the current ones should be enforced. He asked the committee to table SB 332.

Dan McLean, Oakland Holding Company, Owner of Mobile Home Park in Bozeman, reiterated more laws were not needed to regulate conduct of mobile home park landlords; rather enforcement of existing laws. He said the efforts of the proponents would be counterproductive; supply of mobile home parks and incentives for investment would decrease. **Mr. McLean** referred to Page 3, Lines 26-27, and said it was unnecessary. He also referred to the trust/trustee relationship between the tenants and landlord with respect to common areas, and explained the trustee owned property for the benefit of someone else; however, the trustee did not have free rein of the property. **Mr. McLean** said the landlord already owned the property and what was good for the landlord was good for the tenants. He also talked about the age and size restrictions of the mobile homes, explaining it had to do with keeping the integrity of the park, i.e. "good conditions" could mean compliance with HUD codes, which would be more onerous than present codes. **Mr. McLean** urged the tabling of SB 332.

Rhonda Carpenter, Chairman, Montana Housing Providers, said she opposed SB 332, explaining a housing provider needed to manage the business in order to make a profit and this legislation would inhibit that ability. She referred to Page 2, Section 1, Subsection 6, and asked for a definition of "original condition." She said this part of the bill referred to grounds as well as all rental property, perhaps even appliances. She said existing laws already required a landlord to keep his property in safe and habitable condition at all times, and suggested the language of SB 332 would invite litigation over "existing condition." **Ms. Carpenter** said mobile home parks were already licensed under the State Department of Health, were inspected yearly under 16-214-Subsection 2, and were required to meet their codes. She addressed the testimony of tenants not being able to sell their older mobile homes and admitted it was a problem in Gallatin and Missoula Counties because of local zoning ordinances which prohibited the creation of new mobile home parks. **Ms. Carpenter** reminded the committee that as a property owner, she had to balance the rights of all her tenants. She informed the committee in Montana, two or more mobile homes were considered a mobile home park, and the passing of SB 332 would require such a park to have two entrances.

Questions From Committee Members and Responses:

SEN. BENEDICT asked what would happen if everything except Section 2, Subsection 2 and Section 2, Subsection 4, were stricken from SB 332. **Greg Van Horssen** said he opined the people

he represented would still oppose **SB 332** because of the infringement upon the business or land owners' control of his or her property.

SEN. BENEDICT commented mobile home parks in Ravalli County had the same problems as in Missoula, and the above two points were strong issues with them. **Mr. Van Horssen** said the real problem in Montana was the lack of availability of space; perhaps the answer was incentives for new development of space.

SEN. SPRAGUE asked why **SB 332** was necessary, since most of the issues were already covered by existing law. **SEN. WELDON** said he had been working with the proponents during the last year and a half. He said they had been conferring with attorneys who suggested the law be clarified; thus, **SB 332**.

SEN. SPRAGUE asked if the problems weren't basically a local zoning or county commissioner problem. **SEN. WELDON** said the basic state act dealt with a relationship between landlords and tenants, i.e. in 1977, the state put the Landlord Tenant Act into statute.

SEN. KLAMPE asked why it was in the landlords' self-interest for emergency vehicles to not have access. **Mr. Van Horssen** said it was already covered by 1993 legislation, "safe condition."

Closing by Sponsor:

SEN. WELDON expressed appreciation for all who testified, both proponents and opponents. He said he would be amenable to defining "original condition", and explained sizeable speed bumps made a "safe condition" for ordinary traffic; however, they were not favorable for emergency vehicles. He said he would like to see language added to **SB 332** which would address that. **SEN. WELDON** stated the property interests were by people who owned their mobile homes but were renting the ground on which they sat, and he was asking a balance be established between the business interests of the landlord and the property rights of the home owners/lot renters, i.e. the language in **70-24-305** recognized the home owners had interest in how their property was sold.

SEN. WELDON said **SB 332** came down to respect for the home owners/land renters and the changes he was requesting were reasonable and cautious. He requested a DO PASS with very few amendments for **SB 332**.

{Tape: 3; Side: B}

HEARING ON SB 326Opening Statement by Sponsor:

SEN. TERRY KLAMPE, SD 31, Florence, said the main thrust of **SB 326** was for the insurance company to send the check to the health care provider, if the patient so requested. He said currently, if a dentist was not part of the Blue Cross/Blue Shield plan, the check would go to the patient. **SEN. KLAMPE** explained if the patient did not use the insurance payment to pay the bill, the physician could put a lien against the check; however, Blue Cross/Blue Shield would make it out to both the dentist and the patient. He referred to a letter from BC/BS which said the lien law was of no concern when a Participating Dentist with BC/BS was used; however, since the patient had used a dentist who was not a participant, the lien law dictated the benefits check be written to both the patient and the dentist. **SEN. KLAMPE** challenged the last statement, explaining it was a way for BC/BS to force dentists to join their agency.

SEN. KLAMPE said the basic issues of **SB 326** were freedom of choice and quality of health care, and said BC/BS was trying to convince the patients the participation of dentists in the BC/BS plan made them the right choice for the patient. He presented a letter from Eddy A. Crowley, DDS, **EXHIBIT #28A**; the BC/BS petition, **EXHIBIT #28B**; and statistical listing, **EXHIBIT #29**.

Proponents' Testimony:

Mary McCue, Legal Counsel and Lobbyist, Montana Dental Association, said within the last several years, BC/BS invited Montana dentists to join their participating provider network, and at that time, if a dentist chose to not become a participant, BC/BS began sending the benefits check to the patient, instead of the dentist. She said that action eliminated the freedom for a patient to choose his or her dentist.

Ms. McCue said the first three sections of **SB 326** amended three provisions in the insurance code which had to do with individual and group policies: (1) Present statute said the insurer could decide to whom the payment should be directed, and the amendment would say the patient could determine to send the payment to the health care provider; not ever to himself or herself; (2) Lien statute would be amended to read that once a health care provider had filed a lien, the insurance company must make the payment directly to the provider; (3) Insurance benefits were part of the employees' compensation packages, and employers had no right to dictate how the dental benefit would be spent.

Ms. McCue said a law similar to **SB 326** had been passed in other states; only dental providers were affected in some states, and in others, the law was general assignment which didn't specify dentistry, but permitted it in all areas. She urged a DO PASS

for **SB 326**, and distributed copies of Montana Dental Association letter, **EXHIBIT #30A**; letter from BC/BS, **EXHIBIT #30B**; and a revised letter from BC/BS, **EXHIBIT #30C**.

John Jost, Pediatric Dentist, said the insured receiving the benefits check was confusing, because the procedure was something fairly new, and an inconvenience, because it was necessary for the insured to write out a check to the dentist in order to pay the bill. **Dr. Jost** said it seemed a large bureaucracy was ignoring the wishes of less powerful individuals (many of whom had insurance provided by employers) who didn't want to "rock the boat" by antagonizing anyone. He urged DO PASS for **SB 326** for individual freedom of choice.

Daniel Hash, Helena Dentist, said he would like the committee to consider: (1) The benefits belonged to the employees and they should have the right to assign the benefits. (2) It should be possible for the insurance check to be sent to the dentist in lieu of the down payment required by the dentist, because it was easier for the patient and ensured quality health care. (3) Montana had freedom of choice legislation which allowed it to be one of the strongest states in the union; however, BC/BS penalized that choice by either providing no option of assignment of benefits, or by reducing the payment by 10% if the provider was not a member. (4) It was not important to Managed Care, but only saved costs to the BC/BS patients; in truth, costs for nonmembers would be increased. He urged DO PASS for **SB 326**.

Sandra Barrows, expressed thanks for the opportunity to address the committee and asked support for **SB 326**. She said everyone would agree that without health insurance, health care was unaffordable. She reminded the committee the insurance companies had the option to not send the payment directly to the provider, and as a result the providers have found it necessary to ask for payment "up front", which virtually had the same effect as no health insurance. **Ms. Barrows** reminded the committee **SB 326** was not about the benefit paid to the individual or provider; rather, it addressed whose name was on the check. She encouraged support for **SB 326**.

Denise Melton, Dental Office Manager, said for the past year BC/BS sent the checks to the individuals because her office was not a participating member. She related the cash flow was affected, because in most cases payment was not received until 90-120 days past the date of service; in order to remedy the problem, payment was requested "up front". **Ms. Melton** said that placed a hardship on the patients, because they in turn would wait for their reimbursement from BC/BS. She informed the committee before BC/BS formed the Dental Network in 1994, the assignment of benefit was not an issue; she believed it now was a retaliatory measure to force dentists to become part of their dental network. She urged support for **SB 326** because it allowed the patients to assign the benefits to whomever they wished.

Beda Lovitt, Montana Medical Association, said her organization supported SB 326.

Tom Ebzery, Montana Associated Physicians, said they supported SB 326.

Mike Trevor, Patient, expressed aggravation with BC/BS as it handled payment.

Gloria Hermanson, Montana Psychological Association, stated support for SB 326.

Terrie Casey, Dental Office Manager, expressed favor for SB 326.

Roger Bisson, Dentist, expressed support for SB 326.

John Holcomb, Dentist, expressed support for SB 326, and said he had been planning to testify why he was not a BC/BS provider; however, with the shortage of time, he would not speak to it.

John Petersen, Dentist, submitted his written testimony, EXHIBIT #31.

Gayle Roset, Dentist, submitted his written testimony, EXHIBIT #32.

Gayle Cayton submitted her written testimony, EXHIBIT #33.

Kristie Smith submitted her written testimony, EXHIBIT #34.

Opponents' Testimony:

John Alke, Blue Cross/Blue Shield, said BC/BS was formed, capitalized and run by physicians, until the Federal Trade Commission and Department of Justice pressured Blue plans across the United States to make sure no providers majority controlled their boards. He said from the beginning, doctors recognized they had peers who overcharged; therefore, they developed a good cost containment system, i.e. entered into contracts with physicians who gave BC/BS a voice in determining the reasonableness of a physician's charges.

Mr. Alke explained the contract stipulated the physician not bill the patient for the balance between the levied fee and that paid by BC/BS. He suggested doctors gave BC/BS a voice in determining the reasonableness of the charges because the physicians knew what was important to the profession was direct access to the piggy bank; therefore, the physicians' incentive for participating in the cost containment of BC/BS was direct payment from the insurance company.

Mr. Alke said every Montana hospital was a member hospital and received direct payment from BC/BS; in addition, cost containment was by rate review. He informed the committee of the following

statistics: Out of 1,575 practicing Montana doctors, 1,300 were BC/BS members; of the approximately 500 Montana dentists, 100 had joined BC/BS. **Mr. Alke** said the program generated positive savings for Montana consumers; last year, the savings was \$9.3 million and of that, \$1.3 million was a savings for the state of Montana.

Mr. Alke said **SB 326** would kill the incentive to encourage providers to participate in the allowance of BC/BS have a voice in determining "reasonable charge." He said the direct pay provision was enforced by the prohibition of assignment of benefits by the patient, which was the only way to protect the integrity of the cost containment system.

Mr. Alke said he couldn't understand the problem with both the provider's and subscriber's name on the check; he suspected the providers did not want their patients to know of the liens. He referred to Page 3, Line 12, of **SB 326** and said "the amount of the lien" was invariably for more than insurance benefits payable. **Mr. Alke** expressed opposition to **SB 326** and urged DO NOT PASS.

Steve Turkiewicz, Executive Vice-President, Montana Auto Dealers Association (MADA), said the MADA Insurance Trust provided comprehensive health insurance to Montana's new car and truck dealers, their employees and families, and had served over 4,000 Montanans for nearly 50 years. He said MADA was not an insurance company, but a group of employers and employees purchasing health insurance and health care services, i.e. health care consumers.

Mr. Turkiewicz said the Trust had experienced a dramatic increase in health insurance premiums and benefits paid, and concluded there was a correlation between the premium increase and increased medical costs and health care utilization. He said the conclusion led the Trustees to look for ways to control costs and utilization, and in January, 1994, participated in a provider network on a statewide basis. He said their insurers established agreements with about 80% of Montana doctors, which stipulated direct payment and other benefits of membership in exchange for accepting established allowances for services and not billing plan participants for additional amounts. He said for the first time in six years, the payment of benefits stabilized which meant no premium increase.

Mr. Turkiewicz maintained the MADA Trust realized a savings of 14% because of belonging to the provider network, which was a bit less than the annual premium increase during the past five years. He said **SB 326** would allow the bypassing of cost control mechanisms established by Montana's health care consumers. **Mr. Turkiewicz** urged rejection of **SB 326**.

Joyce Brown, State Employee Benefit Plan, expressed opposition for **SB 326**, explaining BC/BS member agreements were the single most effective tool in controlling health care costs because the

use of member physicians prohibited the surprise of unexpected charges. **Ms. Brown** said at one time, the State Plan allowed 110% of the standard BC/BS allowances to try to protect its members from out-of-pocket costs. She reminded **SB 326** undermined the basis of the BC/BS agreement and asked the committee if they thought it necessary to legislate the direction of payment, especially when member agreements which had been effective in holding down costs would be disrupted.

Jim Crighton, Helena Physician, said he was an independent contractor for BC/BS, and was very aware of billing practices of physicians and to a lesser extent, dentists. He said the 1,300 member physicians could easily live within the allowances by BC/BS. He suggested it would be reactionary to oppose the trends of cooperation in integrated health care and strongly urged the committee to oppose **SB 326**.

Russ Ritter, Washington Corporation, Missoula, said the network provider through BC/BS saved his company of 3,000 employees approximately \$370,000 during the last year.

Larry Akey, Montana Life and Health Association, asked the committee to give **SB 326** DO NOT PASS.

Tom Hopgood, Health Insurance Association of America, expressed support for the position of BC/BS, i.e. opposition to **SB 326**.

Anita Bennett, MLA Services Incorporated, Kalispell, said her company realized a savings of over \$200,000 within an 11-month period.

Edmund Kaplis, Executive Director, Montana Senior Citizens Association, expressed opposition for **SB 326**.

Questions From Committee Members and Responses: None.

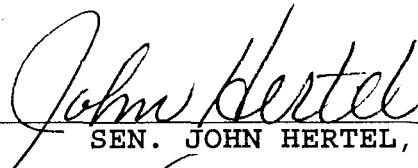
Closing by Sponsor:

SEN. KLAMPE explained the question of the amount of the lien as being the amount charged for the service, by referring to Page 2 of **EXHIBIT #35**. He said BC/BS handled \$193 million worth of health premiums per year, and was one of those "non-profit corporations", and did not pay the taxes on the health premiums which other health insurance companies did.

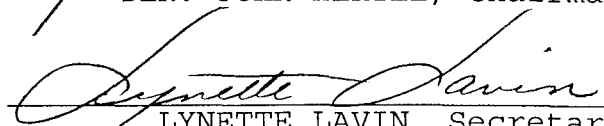
SEN. KLAMPE asked what was anti-competitive about the doctor receiving the insurance check for his services. He said **SB 326** was about freedom of choice for the patient so he or she could ask the insurance company to send the check directly to the doctor.

ADJOURNMENT

Adjournment: The meeting adjourned at 11:55 a.m.



SEN. JOHN HERTEL, Chairman



LYNETTE LAVIN, Secretary

JH/11

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE _____

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SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 2/15/95

BILL NO. SB 290

LCGRAY.290

Senate Bill No. 290

Introduced By Tveit

(Presented by)
Greg VanDerssen

THIS IS A GRAY BILL.

YOU MAY NOT AMEND OR VOTE ON A GRAY BILL!

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE PROHIBITION ON DISCRIMINATION IN INSURANCE BASED ON SEX OR MARITAL STATUS; REQUIRING MATERNITY COVERAGE IN ~~ALL FORMS OF~~ DISABILITY INSURANCE; AMENDING SECTIONS 33-1-502, 33-22-301, 33-22-504, AND 33-30-1001, MCA; REPEALING SECTION 49-2-309, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 33-1-502, MCA, is amended to read:

"33-1-502. **Grounds for disapproval.** The commissioner shall disapprove any form filed under 33-1-501 or withdraw any previous approval thereof of a form only if the form:

(1) is in any respect in violation of or does not comply with this code;

(2) contains or incorporates by reference, ~~where such~~ when ~~the~~ incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions

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which that deceptively affect the risk purported to be assumed in the general coverage of the contract, including a provision in a casualty insurance form permitting defense costs within limits, except as permitted by the commissioner in ~~his~~ the commissioner's discretion;

(3) has any title, heading, or other indication of its provisions ~~which that~~ is misleading; or

(4) is printed or otherwise reproduced in ~~such a~~ manner as ~~to render that renders~~ any provision of the form substantially illegible;

~~(5) contains any provision that violates the provisions of 49-2-309."~~

Section 2. Section 33-22-301, MCA, is amended to read:

"33-22-301. Coverage of maternity care and newborn under disability policy. (1) EACH POLICY OF DISABILITY INSURANCE ISSUED OR ISSUED FOR DELIVERY IN THIS STATE MUST CONTAIN COVERAGE FOR MATERNITY CARE CONSISTING OF PRENATAL AND OBSTETRICAL CARE.

~~(1)(2)~~ Each INDIVIDUAL policy of disability insurance ~~or certificate issued thereunder shall under the policy must~~ contain a provision granting immediate accident and sickness coverage, ~~and~~

~~(a) for maternity care consisting of prenatal and obstetrical care furnished by providers licensed or certified in accordance with the laws of Montana or the state where the services are provided; and~~

~~(b)~~ from and after the moment of birth, to each newborn infant of any insured.

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~~(2)(3)~~ The coverage for newborn infants must be the same as provided by the policy for the other covered persons~~+, provided,~~ however~~, that~~ However, for newborn infants there shall may not be no waiting or elimination periods. A deductible or reduction in benefits applicable to the coverage for newborn infants is not permissible unless it conforms and is consistent with the deductible or reduction in benefits applicable to all other covered persons.

~~(3)(4)~~ ~~No A AN INDIVIDUAL~~ policy ~~or certificate~~ of DISABILITY insurance may not be issued or amended in this state if it contains any disclaimer, waiver, or other limitation of coverage relative to the ~~accident and sickness~~ coverage or insurability of ~~maternity care or of~~ newborn infants of an insured from and after the moment of birth.

~~(4)(5)~~ If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond ~~such~~ the 31-day period.

(6)(a) AS USED IN THIS SECTION, "INDIVIDUAL POLICY OF DISABILITY INSURANCE" MEANS:

(i) A HOSPITAL- OR MEDICAL EXPENSE-INCURRED POLICY OR CERTIFICATE;

(ii) A SUBSCRIBER CONTRACT OR CONTRACT OF INSURANCE PROVIDED BY A HEALTH SERVICE ORGANIZATION; OR

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(iii) A HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER CONTRACT
ISSUED OR ISSUED FOR DELIVERY TO AN INDIVIDUAL.

(b) THE TERM DOES NOT INCLUDE:

(i) ACCIDENT-ONLY INSURANCE;

(ii) SPECIFIED DISEASE INSURANCE;

(iii) SHORT-TERM HOSPITAL OR MEDICAL INSURANCE;

(iv) HOSPITAL CONFINEMENT INDEMNITY INSURANCE;

(v) CREDIT INSURANCE;

(vi) DENTAL INSURANCE;

(vii) VISION INSURANCE;

(viii) MEDICARE SUPPLEMENT INSURANCE;

(ix) LONG-TERM CARE INSURANCE;

(x) DISABILITY INCOME INSURANCE;

(xi) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY COVERAGE;

(xii) WORKERS' COMPENSATION OR SIMILAR INSURANCE; OR

(xiii) AUTOMOBILE MEDICAL PAYMENT INSURANCE."

Section 3. Section 33-22-504, MCA, is amended to read:

"33-22-504. Newborn Maternity care and newborn infant coverage. (1) A GROUP DISABILITY POLICY OR CERTIFICATE OF INSURANCE ISSUED OR ISSUED FOR DELIVERY IN THIS STATE MUST CONTAIN COVERAGE FOR MATERNITY CARE CONSISTING OF PRENATAL AND OBSTETRICAL CARE.

~~(1)~~ (2) ~~No~~ A group disability policy or certificate of insurance ~~which~~ that, in addition to covering persons in the insured group, also covers members of ~~such~~ the person's family may not be issued or amended in this state if it contains any

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SB 290

disclaimer, waiver, or other limitation of coverage relative to the accident and sickness coverage or insurability of:

~~(a) maternity care consisting of prenatal and obstetrical care furnished by providers licensed or certified in accordance with the laws of Montana or the state where the services are provided; or~~

~~(b)~~ newborn infants of persons covered under the policy from and after the moment of birth.

~~(2)~~(3) If the policy or certificate issued thereunder, in addition to covering persons in the insured group, also covers members of such the person's family, it ~~shall~~ must contain an additional provision granting immediate accident and sickness coverage ~~for maternity care and~~, from and after the moment of birth, to each newborn infant of any person covered under the policy.

~~(3)~~(4) The coverage for newborn infants ~~shall~~ must be the same as provided by the policy for other covered persons~~;~~. ~~provided, however~~ However, ~~that~~ for newborn infants, there ~~shall~~ may not be ~~no~~ waiting or elimination periods. A deductible or reduction in benefits applicable to the coverage for newborn infants is not permissible unless it conforms and is consistent with the deductible or reduction in benefits applicable to all other covered persons.

(5) AS USED IN THIS SECTION, "GROUP DISABILITY POLICY OR CERTIFICATE OF INSURANCE" MEANS A GROUP HOSPITAL- OR MEDICAL EXPENSE-INCURRED POLICY OR CERTIFICATE. THE TERM DOES NOT INCLUDE:

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- (a) ACCIDENT-ONLY INSURANCE;
- (b) SPECIFIED DISEASE INSURANCE;
- (c) SHORT-TERM HOSPITAL OR MEDICAL INSURANCE;
- (d) HOSPITAL CONFINEMENT INDEMNITY INSURANCE;
- (e) CREDIT INSURANCE;
- (f) DENTAL INSURANCE;
- (g) VISION INSURANCE;
- (h) MEDICARE SUPPLEMENT INSURANCE;
- (i) LONG-TERM CARE INSURANCE;
- (j) DISABILITY INCOME INSURANCE;
- (k) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY COVERAGE;
- (l) WORKERS' COMPENSATION OR SIMILAR INSURANCE; OR
- (m) AUTOMOBILE MEDICAL PAYMENT INSURANCE."

Section 4. Section 33-30-1001, MCA, is amended to read:

"33-30-1001. Newborn Maternity care and newborn infants covered by insurance by health service corporation. (1) A DISABILITY INSURANCE PLAN OR GROUP DISABILITY INSURANCE PLAN ISSUED OR ISSUED FOR DELIVERY IN THIS STATE BY A HEALTH SERVICE CORPORATION MUST CONTAIN COVERAGE FOR MATERNITY CARE CONSISTING OF PRENATAL AND OBSTETRICAL CARE.

~~(1)~~(2) ~~No~~ A disability insurance plan or group disability insurance plan issued by a health service corporation may not be issued or amended in this state if it contains any disclaimer, waiver, or other limitation of coverage relative to the accident and sickness coverage or insurability of:

~~(a) maternity care consisting of prenatal and obstetrical~~

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~~care furnished by providers licensed or certified in accordance with the laws of Montana or the state where the services are provided; or~~

~~(b)~~ newborn infants of the persons insured from and after the moment of birth. Each ~~such~~ policy shall must contain a provision granting immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant of any insured person.

~~(2)~~(3) If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond ~~such~~ the 31-day period.

(4) AS USED IN THIS SECTION, "DISABILITY INSURANCE PLAN" OR "GROUP DISABILITY INSURANCE PLAN" MEANS A GROUP HOSPITAL- OR MEDICAL EXPENSE-INCURRED POLICY OR CERTIFICATE. THE TERM DOES NOT INCLUDE:

(a) ACCIDENT-ONLY INSURANCE;

(b) SPECIFIED DISEASE INSURANCE;

(c) SHORT-TERM HOSPITAL OR MEDICAL INSURANCE;

(d) HOSPITAL CONFINEMENT INDEMNITY INSURANCE;

(e) CREDIT INSURANCE;

(f) DENTAL INSURANCE;

(g) VISION INSURANCE;

(h) MEDICARE SUPPLEMENT INSURANCE;

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(i) LONG-TERM CARE INSURANCE;

(j) DISABILITY INCOME INSURANCE;

(k) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY COVERAGE;

(l) WORKERS' COMPENSATION OR SIMILAR INSURANCE; OR

(m) AUTOMOBILE MEDICAL PAYMENT INSURANCE."

NEW SECTION. Section 5. {standard} Repealer. Section 49-2-309, MCA, is repealed.

NEW SECTION. Section 6. {Standard} Applicability. [This act] applies to all policies of insurance issued or renewed on or after [the effective date of this act].

NEW SECTION. Section 7. {standard} Effective date. [This act] is effective July 1, 1995.

-END-

{ Connie Erickson
Researcher
Montana Legislative Council
(406) 444-3064 }

Amendments to Senate Bill No. 290
First Reading Copy

*(Presented by
Greg Van Housen)*

Requested by Senator Tveit
For the Senate Committee on Business and Industry

Prepared by Connie Erickson
February 13, 1995

1. Title, lines 5 and 6.
Strike: "ALL FORMS OF"

2. Page 1, line 27.
Following: "policy."
Insert: "(1) Each policy of disability insurance issued or
issued for delivery in this state must contain coverage for
maternity care consisting of prenatal and obstetrical care."
Renumber: subsequent subsections

3. Page 1, line 27.
Following: "Each"
Insert: "individual"

4. Page 1, line 28.
Strike: "or certificate issued ~~thereunder shall~~ under the policy"

5. Page 1, line 29 through page 2, line 2.
Following: "coverage," on line 29
Strike: remainder of line 29 through "(b)" on page 2, line 2

6. Page 2, line 8.
Strike: "A"
Insert: "An individual"
Strike: "or certificate"
Following: "of"
Insert: "disability"

7. Page 2, line 9.
Strike: "the accident and sickness"

8. Page 2, line 10.
Strike: "maternity care or of"

9. Page 2.

Following: line 15

Insert: "(6)(a) As used in this section, "individual policy of disability insurance" means:

(i) a hospital- or medical expense-incurred policy or certificate;

(ii) a subscriber contract or contract of insurance provided by a health service organization; or

(iii) a health maintenance organization subscriber contract issued or issued for delivery to an individual.

(b) The term does not include:

(i) accident-only insurance;

(ii) specified disease insurance;

(iii) short-term hospital or medical insurance;

(iv) hospital confinement indemnity insurance;

(v) credit insurance;

(vi) dental insurance;

(vii) vision insurance;

(viii) medicare supplement insurance;

(ix) long-term care insurance;

(x) disability income insurance;

(xi) coverage issued as a supplement to liability coverage;

(xii) workers' compensation or similar insurance; or

(xiii) automobile medical payment insurance."

10. Page 2, line 18.

Following: "coverage."

Insert: "(1) A group disability policy or certificate of insurance issued or issued for delivery in this state must contain coverage for maternity care consisting of prenatal and obstetrical care."

Renumber: subsequent subsections

11. Page 2, lines 22 through 25.

Following: "of" on line 22

Strike: remainder of line 22 through "(b)" on line 25

12. Page 2, line 28.

Strike: "for maternity care and"

13. Page 3.

Following: line 4

Insert: "(5) As used in this section, "group disability policy or certificate of insurance" means a group hospital- or medical expense-incurred policy or certificate. The term does not include:

(a) accident-only insurance;

(b) specified disease insurance;

(c) short-term hospital or medical insurance;

(d) hospital confinement indemnity insurance;

(e) credit insurance;
(f) dental insurance;
(g) vision insurance;
(h) medicare supplement insurance;
(i) long-term care insurance;
(j) disability income insurance;
(k) coverage issued as a supplement to liability
coverage;
(l) workers' compensation or similar insurance; or
(m) automobile medical payment insurance."

14. Page 3, line 8.

Following: "corporation."

Insert: "(1) A disability insurance plan or group disability insurance plan issued or issued for delivery in this state by a health service corporation must contain coverage for maternity care consisting of prenatal and obstetrical care."

Renumber: subsequent subsections

15. Page 3, lines 10 through 13.

Following: "insurability of" on line 10

Strike: the remainder of line 10 through "(b)" on line 13

16. Page 3.

Following: line 20

Insert: "(4) As used in this section, "disability insurance plan" or "group disability insurance plan" means a group hospital- or medical expense-incurred policy or certificate.

The term does not include:

(a) accident-only insurance;
(b) specified disease insurance;
(c) short-term hospital or medical insurance;
(d) hospital confinement indemnity insurance;
(e) credit insurance;
(f) dental insurance;
(g) vision insurance;
(h) medicare supplement insurance;
(i) long-term care insurance;
(j) disability income insurance;
(k) coverage issued as a supplement to liability
coverage;
(l) workers' compensation or similar insurance; or
(m) automobile medical payment insurance."

MONTANA -- BILLINGS TERRITORY

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3ADATE 2/15/95BILL NO. SB 290*(Presented by Judy Mentel)*

PRINCIPAL OPERATOR

<u>Marital Status/ Gender</u>	<u>Age</u>	<u>Current Annual Unisex Premium</u>	<u>Estimated Effect of Repealing Unisex</u>	<u>Premium After Unisex Repeal</u>	<u>% Change</u>
Single Female	< 21	\$1,407	-\$289	\$1,118	-20.5%
	21 - 24	942	- 87	855	- 9.2
Married Female	< 21	1,407	- 981	426	-69.7
	21 - 24	942	- 402	540	-42.7
Married Male	< 21	1,407	- 470	937	-33.4
	21 - 24	942	- 155	787	-16.5
Single Male	< 21	1,407	377	1,784	26.8
	21 - 24	942	248	1,190	26.3

OCCASIONAL OPERATORS

Single Female	< 21	1,020	- 202	818	-19.8
	21 - 24	777	- 108	669	-13.9
Single Male	< 21	1,020	191	1,211	18.7
	21 - 24	\$ 777	\$ 93	\$ 870	12.0%

These examples are for a 1990 Ford Escort with the following coverages:

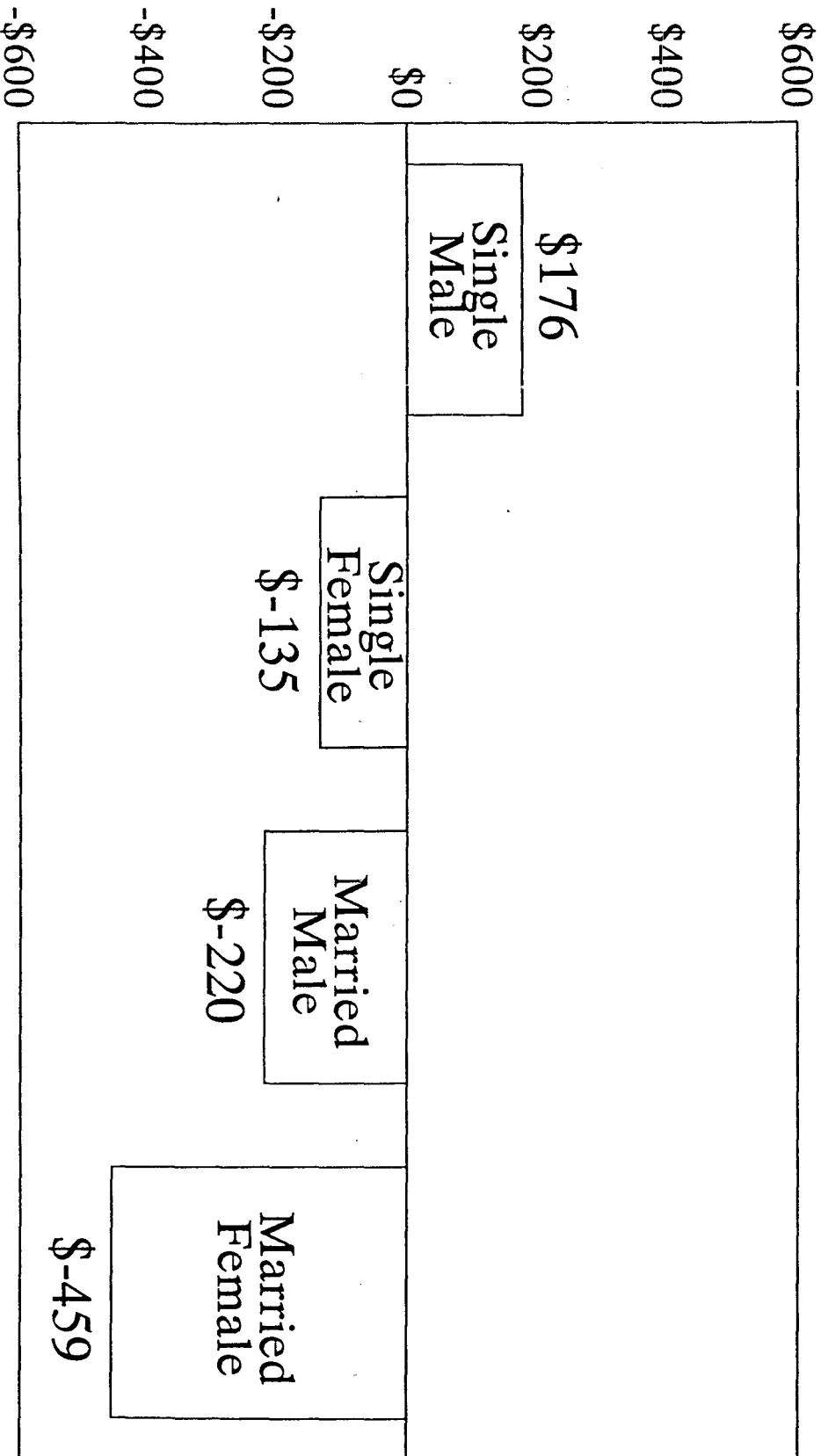
50/100/25 BIPD Liability
 \$5,000 Medical
 \$100 Deductible Comprehensive
 \$250 Deductible Collision
 50/100 Uninsured Motorists

MONTANA

Repeal of Unisex Rating Law

Average Annual Dollar Effect Per Policy

Principal Operator Under Age 21



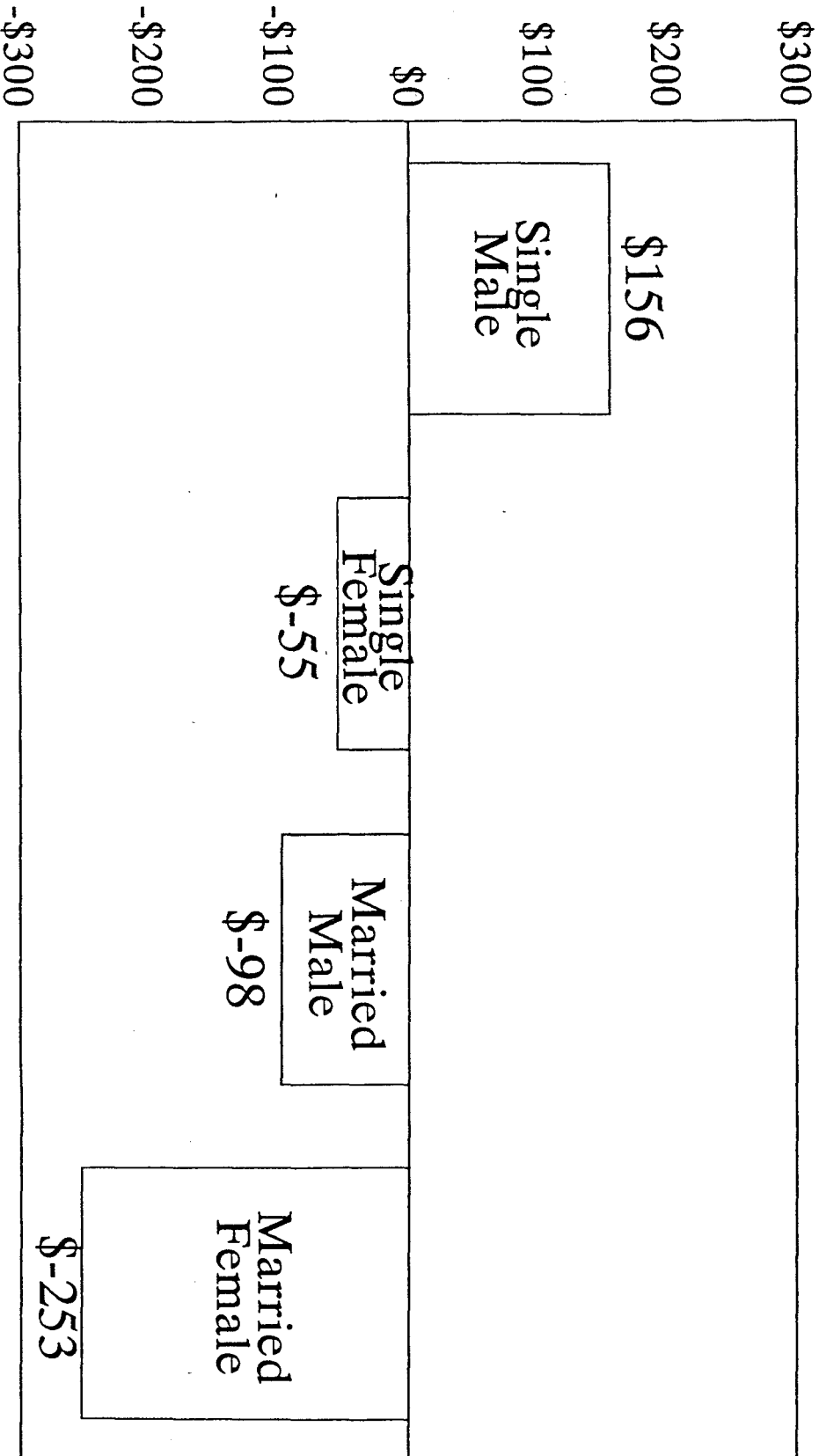
(Presented by Judy Montille)

MONTANA

Repeal of Unisex Rating Law

Average Annual Dollar Effect Per Policy

Principal Operator Age 21-24



SENATE BUSINESS & INDUSTRY

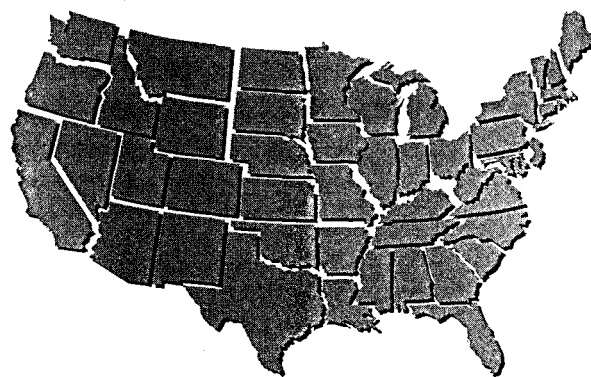
EXHIBIT NO. 4

DATE 2/15/95

BILL NO. SB 290

*Presented by
Mary Jane Cleary*

LIFE
INSURANCE
IN
MONTANA
AND THE
NATION



The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

EXHIBIT NO. 5

NON-GENDER SURVEY

DATE 2/15/95

BILL NO. SA 290

(Presented by Mary Jane Cleary)

The Montana Insurance Department recently conducted a survey to determine the impact of the Non-gender legislation on Montana consumers. In order to obtain an accurate computation, a questionnaire was sent to the Life, Health and Auto insurance companies that write the majority of business in our state. These companies were asked to provide us with information about the rates they charged and the number of products they offered in Montana before and after the Non-gender law went into effect. The following are the results of this survey.

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Non-gender - Life Insurance	pg. 2
Non-gender - Health Insurance	pg. 8
Non-gender - Auto Insurance	pg. 11

NON-GENDER - LIFE INSURANCE

Term Life insurance premiums for a 30-year old female have increased between 1% to 110%. The average rate increase for a 30-year old female was 10%.

Term Life insurance premiums for a 30-year old male have increased between 0% to 47%. The average rate increase for a 30-year old male was 4%.

Whole Life insurance premiums for a 30-year old female have increased between 4% to 34%. The average rate increase for a 30-year old female was 15%.

Whole Life insurance premiums for a 30-year old male have decreased between 0% to 11%. The average rate decrease for a 30-year old male was 3%.

The number of Life Insurance products available in Montana has decreased approximately 37% since the passage of the Non-gender Legislation.

Information on Cash Value Proceeds and Benefit payments was not included in the survey. The main concern expressed by most Montana consumers was the increase in policy premiums. Our survey, therefore, was designed to address this issue.

LIFE INSURANCE RATES: As reported by the various companies.

Bankers Life Company	\$50,000 Annual Renewable Term		\$50,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	77.00	105.00	630.00	690.50
Man age 30	90.00	105.00	699.00	690.50
Woman age 50	289.00	386.50	1413.00	1576.00
Man age 50	356.50	386.50	1600.50	1576.00

Offered 6 Life products in Montana before the Non-gender Legislation.
Offered 6 Life products in Montana after the Non-gender Legislation.

Lincoln National Life Renewable Term	\$50,000 Annual		\$50,000 Whole	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	82.50	92.50	48.00	78.00
Man age 30	92.50	92.50	78.00	78.00
Woman age 50	199.50	320.00	180.00	234.00
Man age 50	320.00	320.00	234.00	234.00

Offered 20 Life products in Montana before the Non-gender Legislation.
Offered 7 Life products in Montana after the Non-gender Legislation.

Northwestern National Life	\$50,000 Annual		\$50,000 Whole	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	105.50	00.00	325.00	369.00
Man age 30	108.00	00.00	398.00	369.00
Woman age 50	207.50	00.00	733.00	933.00
Man age 50	278.50	00.00	1006.00	933.00

Offered 14 Life products in Montana before the Non-gender Legislation.
Offered 4 Life products in Montana after the Non-gender Legislation.

United of Omaha	\$50,000 Annual		\$50,000 Whole	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	122.50	152.50	480.00	553.50
Man age 30	130.50	152.50	533.50	533.50
Woman age 50	298.00	495.00	1175.50	1392.00
Man age 50	387.50	495.00	1392.00	1392.00

Offered 10 Life products in Montana before the Non-gender Legislation.
Offered 8 Life products in Montana after the Non-gender Legislation.

Mutual of New York (MONT)	50,000 Annual Renewable Term		550,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	99.50	101.00	448.50	469.50
Man age 30	101.00	101.00	456.00	468.50
Woman age 50	136.00	149.50	1026.50	1158.50
Man age 50	149.50	149.50	1146.00	1159.50

Offered 18 Life products in Montana before the Non-gender Legislation.
Offered 13 Life products in Montana after the Non-gender Legislation.

Northwestern Mutual Life	50,000 Annual Renewable Term		550,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Women age 30	80.00	86.50	669.50	629.00
Men age 30	87.00	86.50	706.00	628.00
Women age 50	232.00	275.50	1499.50	1419.00
Men age 50	278.00	275.50	1632.00	1419.00

Offered 16 Life products in Montana before the Non-gender Legislation.
Offered 19 Life products in Montana after the Non-gender Legislation.

Western Life	50,000 Annual Renewable Term		550,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	91.50	95.50	143.00	192.50
Man age 30	95.50	95.50	132.00	192.00
Woman age 50	146.00	189.00	448.00	649.00
Man age 50	187.00	137.00	685.00	649.00

Offered 3 Life products in Montana before the Non-gender Legislation.
Offered 4 Life products in Montana after the Non-gender Legislation.

Western States Life	50,000 Annual Renewable Term		\$50,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	40.00	41.00		
Man age 30,	41.00	41.00		
Woman age 50	78.50	103.50		
Man age 50	106.00	103.50		

Offered 5 Life products in Montana before the Non-gender Legislation.
Offered 8 Life products in Montana after the Non-gender Legislation.

Mutual Benefit Life	50,000 Annual Renewable Term		\$50,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	85.00	88.00	545.00	571.00
Man age 30	88.00	88.00	571.00	571.00
Woman age 50	193.50	215.00	1313.50	1443.50
Man age 50	215.00	215.00	1443.50	1443.50

Offered 13 Life products before the Non-gender Legislation.
Offered 13 Life products after the Non-gender Legislation.

Massachusetts Mutual Life	\$50,000 Annual Renewable Term		\$50,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	121.00	123.50	628.00	653.00
Man age 30	123.50	123.50	653.00	653.00
Woman age 50	342.50	375.00	1341.50	1463.00
Man age 50	375.00	375.00	1463.00	1463.00

Offered 12 Life products in Montana before the Non-gender Legislation.
Offered 11 Life products in Montana after the Non-gender Legislation.

Washington National	\$50,000 Annual Renewable Term		\$50,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	140.00	00.00	599.00	657.25
Man age 30	145.00	00.00	681.00	657.25
Woman age 50	313.75	00.00	1233.25	1422.75
Man age 50	417.75	00.00	1503.75	1422.75

Offered 47 Life products in Montana before the Non-gender Legislation.
Offered 5 Life products in Montana after the Non-gender Legislation.

Equitable Life Assurance Society	\$50,000 Annual Renewable Term		\$50,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	102.00	214.00	497.00	619.00
Man age 30	145.00	214.00	631.00	619.00
Woman age 50	249.00	440.00	991.00	1276.00
Man age 50	404.00	440.00	1311.00	1276.00

Offered 22 Life products in Montana before Non-gender Legislation.
Offered 22 Life products in Montana after Non-gender Legislation.

Equitable Variable Life	\$50,000 Annual Renewable Term		\$50,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	80.85	106.50	489.00	652.00
Man age 30	106.50	106.50	621.50	652.00
Woman age 50	205.50	299.55	1174.50	1608.00
Man age 50	299.55	299.55	1578.00	1608.00

Offered 9 Life products in Montana before the Non-gender Legislation.
Offered 10 Life products in Montana after the Non-gender Legislation.

State Farm Life	\$50,000 Annual Renewable Term		\$50,000 Whole Life Policy	
	Before Non-gender	After Non-gender	Before Non-gender	After Non-gender
Woman age 30	118.50	123.50	630.00	505.50
Man age 30	129.00	123.50	659.00	505.50
Woman age 50	373.50	323.00	1598.50	1454.00
Man age 50	426.00	323.00	1718.00	1454.00

Offered 23 Life products in Montana before the Non-gender Legislation.
Offered 13 Life products in Montana after the Non-gender Legislation.

NOTE: The renewable term and whole life policy premiums contained in this survey are not for identical products. Each companies policy contains a variety of possible options and this accounts in large for the difference in the premiums quoted in the survey.

NON-GENDER HEALTH INSURANCE - MAJOR MEDICAL

Individual Major Medical health insurance premiums for a 25-year old male have increased between 5% to 38%. The average rate increase for a 25-year old male was 22%.

Individual Major Medical health insurance premiums for a 25-year old female have decreased between 8% to 28%. The average rate decrease for a 25-year old female was 16%.

Individual Major Medical health insurance premiums for a 40-year old male have increased between 13% to 45%. The average rate increase for a 40-year old male was 28%.

Individual Major Medical health insurance premiums for a 40-year old female have decreased between 11% to 19%. The average rate decrease for a 40-year old female was 13%.

The above figures were compiled from six companies that write individual Health insurance business in Montana. The top 25 health writers were surveyed but either they do not write individual Major Medical policies in Montana or they are phasing individual Major Medical products out of their book of business.

HEALTH INSURANCE RATES: As reported by the various companies.

Major Medical \$500 deductible		
Mutual of Omaha	Before Non-gender	After Non-gender
Single Man 25	378.00	524.00
Single Woman 25	575.00	524.00
Single Man 40	492.00	715.00
Single Woman 40	809.00	715.00
Hospital		
	Before Non-gender	After Non-gender
Single Man 25	237.00	332.00
Single Woman 25	414.00	332.00
Single Man 40	376.00	495.00
Single Woman 40	613.00	495.00

Aetna Life Insurance Co.

All sales discontinued on October 1, 1985. Sales continue in 49 other states on sex-distinct basis.

Major Medical
\$500 deductible

Federal Home Life	Before Non-gender	After Non-gender
Single Man 25	418.00	517.00
Single Woman 25	585.00	517.00
Single Man 40	671.00	817.00
Single Woman 40	931.00	817.00

Major Medical
\$500 deductible

Bankers Life and Casualty	Before Non-gender	After Non-gender
Single Man 25	504.00	529.00
Single Woman 25	742.00	529.00
Single Man 40	738.00	874.00
Single Woman 40	1,031.00	874.00

Major Medical
\$500 deductible

State Farm Mutual	Before Non-gender	After Non-gender
Single Man 25	279.00	336.00
Single Woman 25	393.00	336.00
Single Man 40	391.00	491.00
Single Woman 40	592.00	491.00

Major Medical
\$500 deductible

Blue Cross of Montana	Before Non-gender	After Non-gender
Single Man 25	31.92	39.48
Single Woman 25	42.63	39.48
Single Man 40	46.20	56.07
Single Woman 40	56.91	56.07

Major Medical
\$500 deductible

Blue Shield of Montana	Before Non-gender	After Non-gender
Single Man 25	37.12	37.12
Single Woman 25	37.12	37.12
Single Man 40	51.12	51.12
Single Woman 40	51.12	51.12

NON-GENDER - AUTO INSURANCE

Individual Auto insurance premiums for a 20-year old male have decreased as much as 47% and increased as much as 20%. The average rate for a 20-year old male decreased 16%.

Individual Auto insurance premiums for a 20-year old female have increased between 4% to 91%. The average rate for a 20-year old female increased 49%.

Auto insurance premiums for a married couple with 16-year old male driver decreased as much as 31% and increased as much as 30%. The average rate for a married couple with a 16-year old male driver decreased 8%.

Auto insurance premiums for a married couple with a 16-year old female driver have decreased as much as 2% and increased as much as 107%. The average rate for a married couple with a 16-year old female driver increased 33%.

Economic factors other than the Non-gender Legislation have caused Auto premiums to decrease as much as 12% and increase as much as 38%. The average rate for Auto insurance has increased 12% due to factors other than Non-gender Legislation.

The people most affected by the Non-gender law were young women, young married couples, and married couples with young female drivers. These people were affected most because Non-gender did away with the standard discount for married couples and because young women overall experienced a substantial increase in their premium rates.

AUTO INSURANCE RATES: As reported by the various companies.

Policy Holder	1984 Ford Tempo - Helena, MT GL Four Door Sedan Standard Liability Limit (25/05/5) \$5000 Medical payment Comprehensive - \$100.00 Deductible Collision - \$100.00 Deductible
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All Nation Insurance Co.	Before Non-gender	After Non-gender
Man age 20	128.00	154.00
Woman age 20	90.00	154.00
Man age 40	80.00	97.00
Woman age 40	80.00	97.00

Man age 65	78.00	97.00
Woman age 65	78.00	97.00

M/F Couple -		
Boy age 16	135.00	166.00

M/F couple -		
Girl age 16	80.00	166.00

Guaranty National Insurance Co.	Before Non-gender	After Non-gender
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Man age 20	2,124.00	2,460.00
Woman age 20	1,544.00	2,460.00

Man age 40	875.00	994.00
Woman age 40	875.00	994.00

Man age 65	875.00	983.00
Woman age 65	875.00	983.00

M/F Couple -		
Boy age 16	2,220.00	2,290.00

M/F Couple -		
Girl age 16	1,620.00	2,290.00

Mountain West Farm Bureau	Before Non-gender	After Non-gender
---------------------------	-------------------	------------------

Man age 20	579.00	637.00
Woman age 20	371.00	637.00

Man age 40	199.00	226.00
Woman age 40	199.00	226.00

Man age 65	199.00	226.00
Woman age 65	199.00	226.00

M/F Couple -		
Boy age 16	488.00	586.00

M/F Couple -		
Girl age 16	307.00	586.00

National Farmers Union	Before Non-gender	After Non-gender
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Man age 20	753.00	527.00
Woman age 20	401.00	527.00

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Man age 40	220.00	221.00
Woman age 40	220.00	221.00
Man age 65	200.00	211.00
Woman age 65	200.00	211.00
M/F Couple - Boy age 16	411.00	327.00
M/F Couple - Girl age 16	291.00	327.00

Aetna Casualty	Before Non-gender	After Non-gender
Man age 20	528.00	519.00
Woman age 20	277.00	519.00
Man age 40	173.00	212.00
Woman age 40	156.00	212.00
Man age 65	138.00	169.00
Woman age 65	138.00	169.00
M/F Couple - Boy age 16	398.00	403.00
M/F Couple - Girl age 16	285.00	403.00

Auto Ins. Co. of Hartford CT	Before Non-gender	After Non-gender
Man age 20	656.00	654.00
Woman age 20	343.00	654.00
Man age 40	215.00	267.00
Woman age 40	194.00	267.00
Man age 65	172.00	213.00
Woman age 65	172.00	213.00
M/F Couple - Boy age 16	495.00	508.00
M/F Couple - Girl age 16	354.00	508.00

State Farm Mutual	Before Non-gender	After Non-gender
Man age 20	614.00	480.00
Woman age 20	331.00	480.00
Man age 40	173.00	188.00
Woman age 40	173.00	188.00
Man age 65	165.00	179.00
Woman age 65	165.00	179.00
M/F Couple - Boy age 16	378.00	351.00
M/F Couple - Girl age 16	259.00	351.00

State Farm Fire & Casualty	Before Non-gender	After Non-gender
Man age 20	805.00	677.00
Woman age 20	488.00	677.00
Man age 40	268.00	292.00
Woman age 40	268.00	292.00
Man age 65	256.00	278.00
Woman age 65	256.00	278.00
M/F Couple - Boy age 16	536.00	517.00
M/F Couple - Girl age 16	402.00	517.00

Mid-Century Insurance Co.	Before Non-gender	After Non-gender
Man age 20	1,014.00	829.00
Woman age 20	591.00	829.00
Man age 40	462.00	502.00
Woman age 40	462.00	502.00
Man age 65	451.00	489.00
Woman age 65	451.00	489.00
M/F Couple - Boy age 16	859.00	758.00

Man age 65	212.00	252.00
Woman age 65	212.00	252.00
M/F Couple -		
Boy age 16	489.00	487.00
M/F Couple -		
Girl age 16	354.00	487.00
Northwestern	Before	After
Natl. Casualty Non-gender	Non-gender	Non-gender
Man age 20	437.00	230.00
Woman age 20	221.00	230.00
Man age 40	168.00	139.00
Woman age 40	152.00	139.00
Man age 65	142.00	111.00
Woman age 65	142.00	111.00
M/F Couple -		
Boy age 16	446.00	306.00
M/F Couple -		
Girl age 16	312.00	306.00

Dairyland Ins.	Before	After
Company	Non-gender	Non-gender
Man age 20	224.00	191.00
Woman age 20	126.00	191.00
Man age 40	101.00	95.00
Woman age 40	101.00	95.00
Man age 65	74.00	81.00
Woman age 65	74.00	81.00
M/F Couple -		
Boy age 16	224.00	191.00
M/F Couple -		
Girl age 16	126.00	191.00

Transamerica Ins.	Before	After
Company	Non-gender	Non-gender
Man age 20	501.00	477.00
Woman age 20	290.00	477.00
Man age 40	156.00	169.00

Woman age 40	156.00	169.00
Man age 65	135.00	146.00
Woman age 65	135.00	146.00
M/F Couple -		
Boy age 16	318.00	323.00
M/F Couple -		
Girl age 16	262.00	323.00

St. Paul Guardian Insurance Co.	Before Non-gender	After Non-gender
Man age 20	709.00	719.00
Woman age 20	544.00	719.00
Man age 40	330.00	369.00
Woman age 40	330.00	369.00
Man age 65	264.00	295.00
Woman age 65	264.00	295.00
M/F Couple -		
Boy age 16	561.00	603.00
M/F Couple -		
Girl age 16	496.00	603.00

Allstate Insurance Co.	Before Non-gender	After Non-gender
Man age 20	1464.00	1232.00
Woman age 20	840.00	1232.00
Man age 40	478.00	485.00
Woman age 40	444.00	486.00
Man age 65	444.00	486.00
Woman age 65	444.00	486.00
M/F Couple -		
Boy age 16	922.00	853.00
M/F Couple -		
Girl age 16	614.00	858.00

M/F Couple -
Girl age 16 617.00 758.00

Safeco Insurance Before After
Co. of America Non-gender Non-gender

Man age 20 792.00 800.00
Woman age 20 616.00 800.00

Man age 40 352.00 400.00
Woman age 40 352.00 400.00

Man age 65 334.00 380.00
Woman age 65 334.00 380.00

M/F Couple -
Boy age 16 792.00 800.00

M/F Couple -
Girl age 16 616.00 800.00

United Services Before After
Auto Assc. Non-gender Non-gender

Man age 20 844.00 621.00
Woman age 20 514.00 621.00

Man age 40 337.00 328.00
Woman age 40 323.00 238.00

Man age 65 296.00 289.00
Woman age 65 296.00 283.00

M/F Couple -
Boy age 16 666.00 563.00

M/F Couple -
Girl age 16 501.00 568.00

Farmers Insurance Before After
Exchange Non-gender Non-gender

Man age 20 657.00 475.00
Woman age 20 324.00 475.00

Man age 40 233.00 231.00
Woman age 40 233.00 231.00

United Pacific Insurance Co.	Before Non-gender	After Non-gender
Man age 20	471.00	512.00
Woman age 20	309.00	512.00
Man age 40	223.00	222.00
Woman age 40	223.00	222.00
Man age 65	212.00	211.00
Woman age 65	212.00	211.00
M/F Couple - Boy age 16	493.00	437.00
M/F Couple - Girl age 16	385.00	437.00

The Home Insurance Co.	Before Non-gender	After Non-gender
Man age 20	911.00	839.00
Woman age 20	400.00	839.00
Man age 40	320.00	390.00
Woman age 40	288.00	390.00
Man age 65	288.00	312.00
Woman age 65	238.00	312.00
M/F Couple - Boy age 16	863.00	858.00
M/F Couple - Girl age 16	559.00	858.00

Horace Mann Insurance Co.	Before Non-gender	After Non-gender
Man age 20	548.00	473.00
Woman age 20	270.00	473.00
Man age 40	147.00	157.00
Woman age 40	147.00	157.00
Man age 65	147.00	157.00
Woman age 65	147.00	157.00
M/F Couple - Boy age 16	376.00	367.00

M/F Couple -
Girl age 16 229.00 367.00

Western Ag Insurance Co.	Before Non-gender	After Non-gender
Man age 20	1,207.00	1,587.00
Woman age 20	693.00	1,587.00
Man age 40	514.00	759.00
Woman age 40	514.00	759.00
Man age 65	402.00	627.00
Woman age 65	402.00	627.00
M/F Couple - Boy age 16	1,207.00	1,587.00
M/F Couple - Girl age 16	693.00	1,587.00

American Economy Insurance Co.	Before Non-gender	After Non-gender
Man age 20	521.00	407.00
Woman age 20	272.00	407.00
Man age 40	182.00	192.00
Woman age 40	182.00	192.00
Man age 65	156.00	154.00
Woman age 65	156.00	154.00
M/F Couple - Boy age 16	521.00	416.00
M/F Couple - Girl age 16	443.00	416.00

Farmers Alliance Mutual Ins. Co.	Before Non-gender	After Non-gender
Man age 20	704.00	563.00
Woman age 20	472.00	563.00
Man age 40	293.00	344.00
Woman age 40	269.00	344.00
Man age 65	204.00	277.00
Woman age 65	204.00	277.00

M/F Couple -
Boy age 16 515.00 579.00

M/F Couple -
Girl age 16 414.00 579.00

NOTE: The Auto Rates provided by the various companies were for Preferred Risks, Standard Risks, and Sub-Standard Risks. This accounts for the large difference in the premiums quoted in this survey. Also, the average Non-gender Auto Insurance premium decrease or increase was obtained from a weighted average with due consideration given to the companies writing the majority of business in Montana.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 6DATE 2/15/95BILL NO. SB 290

NON-GENDER LIFE INSURANCE

1985 - 1988

(Presented by
Mary Jane Cleary)

Survey prepared by the Montana Insurance Department
January 31, 1989

LIFE INSURANCE RATES for a resident of Helena, Montana. The premium information requested was for a \$50,000 annual renewable term and a \$50,000 whole life product. Cash values were requested for the tenth year of the whole life product.

LIFE INSURANCE RATES: As reported by the named companies.

\$50,000 Annual Renewable Term Policy

MASSACHUSETTS MUTUAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$121	\$121	\$121
Female, 25 yrs.	\$118	\$121	\$118
Male, 45 yrs.	\$240	\$240	\$240
Female, 45 yrs.	\$223	\$240	\$223
Male, 65 yrs.	\$1457	\$1457	\$1457
Female, 65 yrs.	\$1299	\$1457	\$1329

\$50,000 Annual Renewable Term Policy

PRINCIPAL MUTUAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$87	\$87	\$87
Female, 25 yrs.	\$74	\$87	\$74
Male, 45 yrs.	\$178	\$178	\$178
Female, 45 yrs.	\$138	\$178	\$138
Male, 65 yrs.	\$1052	\$1052	\$1052
Female, 65 yrs.	\$757	\$1052	\$757

NEW YORK LIFE
INSURANCE CO.

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$112	\$174	\$174
Female, 25 yrs.	\$112	\$174	\$174
Male, 45 yrs.	\$172	\$271	\$276
Female, 45 yrs.	\$172	\$271	\$221
Male, 65 yrs.	\$782	\$1235	\$1278
Female, 65 yrs.	\$782	\$1235	\$852

NORTHWESTERN
NATIONAL LIFE

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$104	NA	\$104
Female, 25 yrs.	\$103	NA	\$103
Male, 45 yrs.	\$193	NA	\$193
Female, 45 yrs.	\$148	NA	\$148
Male, 65 yrs.	\$1022	NA	\$1022
Female, 65 yrs.	\$707	NA	\$707

\$50,000 Annual Renewable Term Policy

METROPOLITAN LIFE
INSURANCE CO.

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$85	\$103	\$105
Female, 25 yrs.	\$85	\$103	\$93
Male, 45 yrs.	\$161	\$159	\$162
Female, 45 yrs.	\$129	\$159	\$144
Male, 65 yrs.	\$1356	\$712	\$765
Female, 65 yrs.	\$1008	\$712	\$501

NORTHWESTERN MUTUAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$87	\$110	\$111
Female, 25 yrs.	\$80	\$110	\$102
Male, 45 yrs.	\$167	\$150	\$152
Female, 45 yrs.	\$143	\$150	\$134
Male, 65 yrs.	\$1170	\$904	\$925
Female, 65 yrs.	\$943	\$904	\$750

STATE FARM LIFE
INSURANCE CO.

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$123	\$114	\$117
Female, 25 yrs.	\$109	\$114	\$107
Male, 45 yrs.	\$275	\$217	\$224
Female, 45 yrs.	\$242	\$217	\$196
Male, 65 yrs.	NA	NA	NA
Female, 65 yrs.	NA	NA	NA

\$50,000 Annual Renewable Term Policy

MUTUAL BENEFIT LIFE
INSURANCE CO.

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$85	\$107	\$113
Female, 25 yrs.	\$82	\$107	\$83
Male, 45 yrs.	\$153	\$186	\$192
Female, 45 yrs.	\$139	\$186	\$163
Male, 65 yrs.	\$817	\$789	\$877
Female, 65 yrs.	\$618	\$789	\$438

KENTUCKY CENTRAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	NA	NA	NA
Female, 25 yrs.	NA	NA	NA
Male, 45 yrs.	NA	NA	NA
Female, 45 yrs.	NA	NA	NA
Male, 65 yrs.	NA	NA	NA
Female, 65 yrs.	NA	NA	NA

UNITED OF OMAHA

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$119	\$114	\$114
Female, 25 yrs.	\$114	\$114	\$109
Male, 45 yrs.	\$243	\$209	\$209
Female, 45 yrs.	\$196	\$209	\$164
Male, 65 yrs.	\$1496	\$1234	\$1234
Female, 65 yrs.	\$1154	\$1234	\$954

\$50,000 Annual Renewable Term Policy

EQUITABLE LIFE
ASSURANCE SOCIETY

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$106	NA	NA
Female, 25 yrs.	\$80	NA	NA
Male, 45 yrs.	\$206	NA	NA
Female 45 yrs.	\$144	NA	NA
Male, 65 yrs.	\$1065	NA	NA
Female, 65 yrs.	\$837	NA	NA

FEDERAL KEMPER
LIFE ASSURANCE

	1985 MT-ID	1988 Montata	1988 Idaho
Male, 25 yrs.	NA	NA	NA
Female, 25 yrs.	NA	NA	NA
Male, 45 yrs.	NA	NA	NA
Female, 45 yrs.	NA	NA	NA
Male, 65 yrs.	NA	NA	NA
Female, 65 yrs.	NA	NA	NA

MINNESOTA MUTUAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$121	\$121	NA
Female, 25 yrs.	\$112	\$121	NA
Male, 45 yrs.	\$162	\$162	NA
Female, 45 yrs.	\$133	\$162	NA
Male, 65 yrs.	\$582	\$582	NA
Female, 65 yrs.	\$444	\$582	NA

\$50,000 Annual Renewable Term Policy

WESTERN LIFE

	1985 MT-ID	1988 Montana	1988 Idaho
Male, 25 yrs.	\$95	\$89	NA
Female, 25 yrs.	\$90	\$89	NA
Male, 45 yrs.	\$146	\$190	NA
Female, 45 yrs.	\$114	\$190	NA
Male, 65 yrs.	\$630	\$741	NA
Female, 65 yrs.	\$408	\$741	NA

LIFE INSURANCE RATES: As reported by the named companies.

\$50,000 Whole Life Insurance Policy

MASSACHUSETTS MUTUAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$558	\$370	\$3222	\$370	\$3222
Female, 25 yrs.	\$539	\$370	\$3222	\$305	\$2630
Male, 45 yrs.	\$1167	\$970	\$7621	\$970	\$7621
Female, 45 yrs.	\$1076	\$970	\$7621	\$790	\$5996
Male, 65 yrs.	\$3026	\$2690	\$15163	\$2690	\$15163
Female, 65 yrs.	\$2747	\$2690	\$15163	\$2330	\$14394

PRINCIPAL MUTUAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$587	\$491	\$2650	\$497	NA
Female, 25 yrs.	\$530	\$491	\$2650	\$451	NA
Male, 45 yrs.	\$1290	\$1042	\$6900	\$1060	NA
Female, 45 yrs.	\$1147	\$1042	\$6900	\$919	NA
Male, 65 yrs.	\$3352	\$2889	\$14400	\$2961	NA
Female, 65 yrs.	\$2936	\$2889	\$14400	\$2407	NA

NEW YORK LIFE
INSURANCE CO.

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$558	\$736	\$1750	\$762	\$2000
Female, 25 yrs.	\$558	\$736	\$1750	\$698	\$1450
Male, 45 yrs.	\$1231	\$1382	\$5250	\$1472	\$5900
Female, 45 yrs.	\$1231	\$1382	\$5250	\$1248	\$4400
Male, 65 yrs.	\$3384	\$3434	\$12250	\$3659	\$12950
Female, 65 yrs.	\$3384	\$3434	\$12250	\$3095	\$12100

\$50,000 Whole Life Insurance Policy

NORTHWESTERN
NATIONAL LIFE

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$334	\$286	\$2336	\$294	\$2399
Female, 25 yrs.	\$284	\$286	\$2336	\$257	\$2076
Male, 45 yrs.	\$771	\$668	\$6101	\$697	\$6421
Female, 45 yrs.	\$571	\$668	\$6101	\$556	\$4835
Male, 65 yrs.	\$2072	\$1841	\$13980	\$1928	\$14301
Female, 65 yrs.	\$1579	\$1841	\$13980	\$1495	\$12844

METROPOLITAN LIFE
INSURANCE CO.

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$462	\$442	\$3300	\$471	\$3550
Female, 25 yrs.	\$418	\$442	\$3300	\$400	\$2900
Male, 45 yrs.	\$1131	\$994	\$7050	\$1068	\$7700
Female, 45 yrs.	\$972	\$994	\$7050	\$861	\$6200
Male, 65 yrs.	\$3393	\$2818	\$13850	\$3198	\$14500
Female, 65 yrs.	\$2840	\$2818	\$13850	\$2377	\$13700

NORTHWESTERN MUTUAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$592	\$532	\$3714	\$544	\$3810
Female, 25 yrs.	\$562	\$532	\$3714	\$466	\$3200
Male, 45 yrs.	\$1302	\$1139	\$7812	\$1180	\$8000
Female, 45 yrs.	\$1207	\$1139	\$7812	\$957	\$6590
Male, 65 yrs.	\$3499	\$3149	\$15185	\$3330	\$15400
Female, 65 yrs.	\$3497	\$3149	\$15185	\$2503	\$14600

\$50,000 Whole Life Insurance Policy

STATE FARM LIFE
INSURANCE CO.

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$539	\$417	\$2377	\$435	\$2484
Female, 25 yrs.	\$516	\$417	\$2377	\$381	\$1960
Male, 45 yrs.	\$1327	\$1077	\$6273	\$1090	\$6619
Female, 45 yrs.	\$1246	\$1077	\$6273	\$893	\$5034
Male, 65 yrs.	\$3669	\$3373	\$13595	\$3386	\$14025
Female, 65 yrs.	\$3318	\$3373	\$13595	\$2504	\$13113

MUTUAL BENEFIT LIFE
INSURANCE CO.

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$470	\$366	\$2718	\$381	\$2835
Female, 25 yrs.	\$455	\$366	\$2718	\$307	\$2262
Male, 45 yrs.	\$1125	\$920	\$6971	\$967	\$7335
Female, 45 yrs.	\$1025	\$920	\$6971	\$745	\$5656
Male, 65 yrs.	\$3191	\$2586	\$14559	\$2762	\$14987
Female, 65 yrs.	\$2913	\$2586	\$14559	\$2029	\$14170

KENTUCKY CENTRAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$362	\$362	\$2200	\$362	\$2200
Female, 25 yrs.	\$280	\$362	\$2200	\$280	\$1300
Male, 45 yrs.	\$1034	\$1034	\$6800	\$1034	\$6800
Female, 45 yrs.	\$757	\$1034	\$6800	\$757	\$5200
Male, 65 yrs.	\$2794	\$2794	\$13050	\$2794	\$13050
Female, 65 yrs.	\$2067	\$2794	\$13050	\$2067	\$11200

\$50,000 Whole Life Insurance Policy

UNITED OF OMAHA

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$445	\$445	\$2300	\$445	\$2300
Female, 25 yrs.	\$388	\$445	\$2300	\$388	\$2300
Male, 45 yrs.	\$1041	\$1041	\$6950	\$1041	\$6950
Female, 45 yrs.	\$886	\$1041	\$6950	\$886	\$6950
Male, 65 yrs.	\$2956	\$2956	\$13200	\$2956	\$13200
Female, 65 yrs.	\$2435	\$2956	\$13200	\$2435	\$13200

EQUITABLE LIFE
ASSURANCE SOCIETY

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$559	\$562	\$3950	\$563	\$4100
Female, 25 yrs.	\$630	\$562	\$3950	\$487	\$3450
Male, 45 yrs.	\$1034	\$1016	\$8350	\$1018	\$8700
Female, 45 yrs.	\$1220	\$1016	\$8350	\$849	\$7050
Male, 65 yrs.	\$3333	\$2557	\$15800	\$2626	\$16150
Female, 65 yrs.	\$3064	\$2557	\$15800	\$2042	\$15550

FEDERAL KEMPER
LIFE ASSURANCE

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$462	\$462	\$4167	\$462	\$4167
Female, 25 yrs.	\$412	\$462	\$4167	\$412	\$3655
Male, 45 yrs.	\$1110	\$1110	\$8801	\$1110	\$8801
Female, 45 yrs.	\$963	\$1110	\$8801	\$963	\$7981
Male, 65 yrs.	\$3053	\$3053	\$14496	\$3053	\$14496
Female, 65 yrs.	\$2584	\$3053	\$14496	\$2584	\$13750

\$50,000 Whole Life Insurance Policy

MINNESOTA MUTUAL
LIFE INSURANCE CO.

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$644	\$568	\$3706	SNA	NA
Female, 25 yrs.	\$580	\$568	\$3706	SNA	NA
Male, 45 yrs.	\$1541	\$1276	\$7872	SNA	NA
Female, 45 yrs.	\$1350	\$1276	\$7872	SNA	NA
Male, 65 yrs.	\$3761	\$3162	\$14750	SNA	NA
Female, 65 yrs.	\$3170	\$3162	\$14750	SNA	NA

WESTERN LIFE

	1985 MT-ID	1988 Montana	Cash Value	1988 Idaho	Cash Value
Male, 25 yrs.	\$146	\$177	\$1051	SNA	NA
Female, 25 yrs.	\$133	\$177	\$1051	NA	NA
Male, 45 yrs.	\$490	\$532	\$4363	NA	NA
Female, 45 yrs.	\$330	\$532	\$4363	NA	NA
Male, 65 yrs.	\$2019	\$2033	\$14216	NA	NA
Female, 65 yrs.	\$1471	\$2033	\$14216	NA	NA

Note: 1) The renewal term and whole life policy premiums in this survey are not for identical products. Each company's policy contains a variety of possible options. This accounts, in large part, for the premium differences among companies in the survey.

2) Idaho premiums are listed for comparison. The premiums in the other adjacent states, North Dakota, South Dakota and Wyoming are identical to Idaho's.

NON-GENDER TERM LIFE INSURANCE

1985 - 1988

From 1985 to 1988 the average \$50,000 term life insurance premium for both a 25 year old Montana male and a 25 year old Idaho male increased 13%. The average premium for a 25 year old Montana female increased 21% and the average premium for a 25 year old Idaho female increased 11%.

From 1985 to 1988 the average \$50,000 term life insurance premium for a 45 year old Montana male increased 4% and the average premium for a 45 year old Idaho male with the same coverage increased 6%. The average premium for a 45 year old Montana female increased 25% and the average premium for a 45 year old Idaho female increased 7%.

From 1985 to 1988 the average \$50,000 term life insurance premium for a 65 year old Montana male decreased 1% and the average premium for a 65 year old Idaho male with the same coverage increased 1%. The average premium for a 65 year old Montana female increased 26% and the average premium for a 65 year old Idaho female decreased 6%.

CONCLUSION: Montana male term insurance rates have not significantly decreased when compared to sex distinct rates charged men in adjacent states--Montana males pay 2% less for their insurance. Premiums for Montana females have increased. When compared to sex distinct rates charged females in adjacent states, Montana females pay 10% to 32% more for term life insurance.

NON-GENDER WHOLE LIFE INSURANCE

From 1985 to 1988 the average \$50,000 whole life insurance premium for a 25 year old Montana male decreased 6% and the average premium for a 25 year old Idaho male with the same coverage decreased 4%. The average premium for a 25 year old Montana female increased 3% and the average premium for a 25 year old Idaho female decreased 9%.

From 1985 to 1988 the average \$50,000 whole life insurance premium for a 45 year old Montana male decreased 9% and the average premium for a 45 year old Idaho male with the same coverage decreased 6%. The average premium for a 45 year old Montana female increased 3% and the average premium for a 45 year old Idaho female decreased 13%.

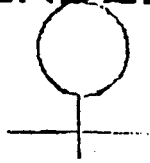
From 1985 to 1988 the average \$50,000 whole life insurance premium for a 65 year old Montana male decreased 9% and the average premium for a 65 year old Idaho male with the same coverage decreased 5%. The average premium for a 65 year old Montana female increased 4% and the average premium for a 65 year old Idaho female decreased 15%.

CONCLUSION: Montana male whole life insurance rates have not significantly decreased when compared to sex distinct rates charged men in our adjacent states. Montana males pay 2% to 4% less for their insurance. Premiums for Montana females have increased significantly when compared to sex distinct rates charged females in adjacent states. Montana females pay 10% to 19% more for their insurance. They also saw an increase in the cash values over the same time period.

*(Presented by
Mary Jane Cleary)*



GENDER-DISTINCT PRICING FACT SHEETS



PREPARED FOR: ADLI

BY: LAUTZENHEISER AND ASSOCIATES

FEBRUARY 28 1995

GENDER-DISTINCT RATES AFFIRMED BY EVERY LEGISLATURE THAT HAS REVIEWED THEM

- o All state legislatures that have addressed the issue have maintained gender-distinct rates--even in:

- oo Montana

- ooo Legislature repealed the gender-neutral law.
 - ooo Governor vetoed the repeal.
 - ooo Governor stated, following study of law's effect, "the evidence is clear and conclusive" that "nongender insurance significantly increased the cost of insurance for many women".

- oo Massachusetts

- ooo Legislature rejected.
 - ooo Implemented by regulation.
 - ooo Effect on life, health and disability not studied.

- o Legislators recognized:

- oo Women now have a \$30,000 economic advantage with current gender distinct rates.
 - oo Gender-neutral rates are available for persons who want them.
 - ooo Chubb Life America has just introduced gender-neutral rates--however, sex-distinct rates are available, except where prohibited by state regulators, at a lower rate for females than males.
 - oo Mandation of gender-neutral rates would eliminate the current choice of gender-neutral or gender-distinct rates.

COST-BASED PRICING IS CRITICAL IN THE INSURANCE INDUSTRY

- 0 Actuarial Standards Board, Standards of Practice states that there are three primary purposes for risk classification:

- 00 Financial Soundness.

EXHIBIT 7

- 00 Fairness.

DATE 2-15-95

- 00 Availability.

SB 290

- 0 Cost-Based Pricing is necessary to Financial Soundness in Insurance.

- 00 Cost-Based Pricing assures predictability.

- 00 Predictability is necessary for financial soundness.

- 00 Gender-Distinct Pricing is Cost-Based Pricing, Gender-neutral pricing is Social-Based Pricing.

- 0 Elimination of Cost-Based Pricing eliminates

- 00 Fairness among policyholders

- 000 Products no longer priced according to persons' own risk.

- 00 Competition among companies, hence, Availability of products.

- 000 Smaller Companies are put at competitive disadvantage.

- 0000 Have less control over the percent of male/female business.

- 0000 Must have smaller percent of female business.

- 0000 Higher Life Insurance Premium for both Males and Females. Example. \$50,000 Term Policy Premium for 45 year old:

Gender-Distinct Company A & B		Gender-Neutral		
Male	Female	Company A Male & Female	Company B Male & Female	% Higher
\$223	\$169	\$217.60	\$201.40	8%
Company B gets Wind-Fall Competitive Advantage with gender-neutral pricing because it has 40% female business and Company A has only 10% female business.				

- 0 Individual Insurance is a voluntary system not a social system.

- 00 Social system

- 000 People cannot choose to buy

- 000 Everyone must pay.

- 00 Voluntary system

- 000 People can choose to buy

- 000 People will not pay more than their fair share.

LIFETIME INSURANCE COSTS ARE CURRENTLY CHEAPER FOR WOMEN

- o Currently the typical woman has a \$30,581 lifetime **ADVANTAGE** under gender-distinct rates.
- o Most women (80-90%) have their health, disability and pensions (annuities) provided by their (or their spouses) employer at equal rates for women and men.
- o Over 60% of women owning life insurance have individual policies at lower costs than men. The balance is provided by employers at equal or lower costs for women.
- o Virtually all auto insurance is individually purchased and available at lower costs for women.
- o Currently women can buy 17%-71% more i.e. \$117,000 to \$171,000 of term life insurance with the same premium it costs a man to buy \$100,000.
- o Term (i.e. insurance only - no cash value) premiums for women are discounted - \$100,000, 5 Year Term

AGE	FEMALE	MALE	% FEMALE DISCOUNT
35	120	140	14
45	185	220	16
55	295	418	29
65	541	926	42

- o Universal Life values for women are greater - \$100,000, Same premium (\$500) for Females and Males

	FEMALE	MALE
CASH VALUE @ 65	265,351.00	237,213.00
DIFFERENCE	28,138.00 more	
MONTHLY INCOME @ 65		
10 YEAR CERTAIN & LIFE	1,927.66	1,903.44
DIFFERENCE	24.22 more	
PRESENT VALUE @ 65 FOR EXPECTED LIFETIME	218,660.00	202,469.00
DIFFERENCE	16,191.00 more	

- o Auto costs are currently available at cheaper rates for women.
- o Health and Disability Income costs are cheaper for senior women than for senior men (over age 55). Gender-neutral rates would cause senior women to pay more so that younger women could pay less.
- o Gender-neutral rates are available through NOW (known as NOWlife) but are 1.5 - 5.5 times more expensive.

\$100,000 @ Age	NOWlife	Gender-Distinct	% Of Times NOWlife is More Expensive
35	198.80	120.00	1.5
45	448.80	185.00	2.5
55	1,414.40	295.00	5.0
65	2,967.20	541.00	5.5

LIFETIME ADVANTAGE OF GENDER-DISTINCT RATES IS REAL AND RELEVANT

Current Advantage Under Gender-Distinct
Valid Analysis for Typical¹ Woman

Auto	2,443 ²
Health	0 ³
Disability Income	0 ⁴
Life	28,138 ⁵
Annuity	<u>0⁶</u>
	30,151

Gender-Neutral Proponents'⁷
Invalid Analysis

Auto	1,443 ⁸
Health	-5,256 ⁹
Disability Income	-7,100 ¹⁰
Life	-2,543 ¹¹
Annuity	<u>-6,720¹²</u>
	-20,176

Only with "mirrors" can women's current \$30,000 benefit be reversed by gender-neutral proponents into a \$20,000 loss.

- 1 What does "typical" mean in insurance? The more typical situation for either men or women is individually purchased life and auto insurance only. Most employers provide life, medical, disability pension coverage. These employer-paid premiums should not be used in calculating the insurance costs for a typical man or woman.
- 2 Virtually all automobile insurance is purchased by individuals. In fact, 35 states and the District of Columbia require registered car owners to obtain minimum levels of coverage as a condition to licensing vehicles. Values are based on the proponents' auto values for ages 16-25 plus the discounts available after age 25 from some companies.
- 3 90 per cent of all health insurance is obtained through the mechanism of gender-neutral group insurance sponsored by employers.
- 4 Over 75 per cent of all disability income coverage is provided by employers on a gender-neutral basis. Further, in the individual policy marketplace, typically, disability income insurance policies are gender-neutral.
- 5 More than one-half of all life insurance is held by individuals, and in 1984, nearly three-fourths (71.7 per cent) of the life insurance protection purchased was acquired through individual policies. Values based on universal life values.
- 6 More than 80 per cent of all annuities and pensions are obtained through the gender-neutral, employer-based group mechanism.
- 7 This analysis assumes that all women individually purchase all forms of insurance. Such is not the case for the vast majority (80-90 per cent) of women. The proponents of nongender rating admit this in their fact sheet

- which says "It is true that few women would carry all types of insurance".
- 8 Error: Ignores discount for women aged 25-64 offered by many insurance companies.
- 9 Error: Ignores the fact that 90 per cent of medical insurance is provided by employers with no difference in employee premiums between the genders.
- 10 Error: Ignores the fact that 75 per cent of disability coverage is provided by employers and that gender-neutral policies are available in the individual market.
- 11 Error: Insufficient data to determine error of calculation, but result is unreasonable since term insurance is cheaper for women of all ages; universal life produces larger cash values for the same premium as men; and whole life policy values must be compared, by law in 38 states, using special indices. These indices show women's costs less than men's.
- 12 More than 80 per cent of all annuities and pensions are obtained through gender-neutral, employer-based group mechanism. Employers often pay the entire cost. If there are employee contributions, they are the same for men and women.

EFFECTS OF NON-GENDER PRICING

MONTANA STUDY

- 0 Montana Insurance Department conducted a survey to determine impact of gender-neutral rates following implementation of these rates.

00 Major Conclusions were:

----- Female Premiums -----			
Term Life	Whole Life	Health	Auto
Up to 110% ↑ Ave. 10% ↑	Up to 34% ↑ Ave. 15% ↑	Up to 20% ↑ Ave. 16% ↓	Up to 91% ↑ * Ave. 49% ↑
* On average, 12% of auto premium increase was not due to non-gender insurance rates.			

00 Only decrease (16% in health insurance) impacted only 1.6% of Montana's women.

- 0 Montana Women's Lobbyist Fund (Proponents of non-gender pricing) study CONFIRMS insurance department findings.

00 Major Conclusions were:

----- Female Premiums -----			
Term Life	Whole Life	Health	Auto
Ave. 11% ↑	Ave. 8% ↑	Up to 24% ↓	Up to 150% ↑

- 0 Governor who vetoed repeal of non-gender pricing said following study "the evidence is clear and conclusive" that "non-gender insurance ... significantly increased the cost of insurance for many women".
- 0 Following non-gender legislation, life insurance purchases decreased each year in Montana; but increased each year in the balance of U.S..

Montana	7% ↓ in '86	6% ↓ in '87	5% ↓ in '88	12% ↓ in '89
US	3% ↑ in '86	6% ↑ in '87	1% ↑ in '88	3% ↑ in '89

GENDER DISTINCT RATES REFLECT REALITY

DATE 2-15-95

GENDER NEUTRAL RATES DEFY REALITY

1 SB 290

- o Gender-Distinct rates are cost-based reflecting actual experience.
- o Gender is not a proxy for "something else"
 - oo All the "something elses" like smoking, alcohol use, weight, hazardous work and hobbies, medical history and age etc. are also now used in life, health, and disability.
 - ooo For example smoking is used.
 - oooo Women who don't smoke live 3 years longer than women who do.
 - oooo Non-smoker rates are less.
 - oo All the "something elses" like miles driven, driving experience, driving record, type of use and urban vs. rural use etc. are also used in auto insurance.
 - ooo For example mileage and auto use are used.
 - oooo Pleasure use is almost 2 1/2 times more costly than strictly farm use.
 - oooo Driving to work less than 15 miles is around 20% more costly than pleasure.
 - oooo Driving to work more than 15 miles adds about another 10%.
 - oooo Business use adds about another 15%.
 - oooo Result - Business use is 3.6 times farm use.
- o Gender is a basic characteristic
 - oo Mortality differences exist prior to birth (stillborns and deaths in the first week of infancy are 20% higher for males than females).
 - ooo There are 115 baby boys conceived for every 100 baby girls, but only 105 baby boys for each 100 baby girls are born due to prenatal deaths.
 - ooo 85% of all children born with genetic defects are males.
 - ooo Difference is genetic and in entire animal kingdom females outlive males
 - oooo Bird kingdom is reversed since genetic structure is reversed.
 - oo Differences in life expectancy between the genders have widened as socioeconomic conditions have equalized.
 - oo Gender distinctions are not proxies as race is, for socioeconomic conditions.
 - ooo Life expectancy at birth has widened as socioeconomic conditions between the sexes have equalized.

- 0000 The reverse is true for race.
- 000 Life expectancy at birth was
 - 0000 greater for females than males by 1.2 years in 1920, 5.7 years in 1950, 7+ years today (i.e. it widened over time)
 - 0000 greater for white females than black females by 7.3 years in 1970, 5.6 years in 1980, 5.3 years in 1986 (i.e. it narrowed over time)
- 000 Deborah Wingard, an epidemiologist at Berkeley, states "Race is no longer a significant predictor of mortality."
- 000 Race was eliminated as a risk classification because it is a proxy not a basic characteristic.
- 00 Religion is not and was never used as a risk classification because it is a proxy not a basic characteristic.
- 00 Deborah Wingard's study further showed that removal of the socioeconomic impacts on mortality caused the mortality to widen even further between the sexes.
- 00 A study done by Helen Hazuda, an epidemiologist at the University of Texas, shows that women working outside the home live longer than those working inside the home.
- 00 Differences in mortality between females and males occur in all statistics available.
 - 000 In general population
 - 000 In all countries except third world countries during childbearing years where sanitation at child birth is lacking
 - 000 In Sweden for over 200 years
 - 000 In insured data
 - 0000 In life statistics
 - 0000 In annuity statistics.
 - 00000 Experience has shown women (and men) who buy annuities are healthier, e.g. at age 65 life expectancy of females who buy annuities is 17 years while life expectancy of females who buy life insurance is only 17 years.

SENIOR WOMEN BENEFIT UNDER GENDER-DISTINCT RATES

- o Female life expectancy is longer than male life expectancy throughout life.
 - oo At birth, age 0, females are expected to live 7 years longer than males.
 - oo At retirement, age 65, females are expected to live 4 years longer than males.
- o Women's gender-distinct TERM (i.e. insurance only - no cash value) premiums are discounted over men's even more for senior women than for younger women.
 - oo \$100,000, 5 Year Term

AGE	FEMALE	MALE	% FEMALE DISCOUNT
35	120	140	14
45	185	220	16
55	295	418	29
65	541	926	42

- o Gender-distinct Universal Life values for women are greater before and after retirement.
 - oo \$100,000, Same premium (\$500) for Females and Males issue age 16

	FEMALE	MALE
CASH VALUE @ 65	265,351.00	237,213.00
DIFFERENCE	28,138.00 more	
MONTHLY INCOME @ 65		
10 YEAR CERTAIN & LIFE	1,927.66	1,903.44
DIFFERENCE	24.22 more	
EXPECTED LIFETIME PAYMENT PERIOD	19 years	15 years
DIFFERENCE	4 more	
PRESENT VALUE @ 65 FOR EXPECTED LIFETIME	218,660.00	202,469.00
DIFFERENCE	16,191.00 more	

- o Health and Disability Income costs are cheaper for senior women than for senior men (over age 55). Gender-neutral rates would cause senior women to pay more so that younger women could pay less.
- o Medigap premiums are discounted for women over men.

AGE	% OF FEMALE DISCOUNT*
65-69	7-17
70-74	8-20
75-79	9-21
80-84	5-18
85+	9-17

* Range based on discount rates for 7 companies.

Amount of Ordinary*
Life Insurance
Purchased in
Montana as % of U.S.

Amount of Individual
Annuity Considerations,
First-year + Single,
Received in U.S.

*(presented by
Mary Jane Cleary)*

<u>Year</u>		
1980	0.34%	\$ 3,872
1	0.32	7,340
2	0.34	11,632
3	0.37	10,053
4	0.34	11,058
5	0.33	14,485
6	0.29	17,964
7	0.26	24,816
8	0.25	35,928
9	0.21	40,526
1990	0.22	45,179
1	0.22	41,593
2	0.23	48,816
3	0.23	64,030

* All individual life insurance except Industrial, which is negligible in amount (only 0.3% as much in force in the U.S. in 1993 as there was Ordinary in force)

** in millions

STATEMENT OF
AMERICAN INSURANCE ASSOCIATION
BY
JACQUELINE T. LENMARK
RE SENATE BILL 290

Mr. Chairman and members of the committee:

My name is Jacqueline Lenmark. I am a lawyer from Helena and a lobbyist for the American Insurance Association. The American Insurance Association is a national trade association that promotes the economic, legislative, and public standing of its some 250-member property-casualty insurance companies. The Association represents its participating companies before federal and state legislatures on matters of industry concern.

The American Insurance Association supports Senate Bill 290.

Throughout the debate on the nongender requirement presently codified in Montana law, you have heard that the Montana Constitution mandates the present statutory provisions. Montana's Constitution contains the unique provision prohibiting both public and private discrimination "against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas." Art. II, Sec. 4. Governor Schwinden, in fact, while acknowledging the detrimental impact on nongender insurance on women, in 1987 vetoed the bill to amend the present law on an equal protection basis. But equality is exactly what nongender insurance denies to women.

Insurance is a business that operates on the principle of matching a particular risk to a compensatory rate and premium. By

requiring rates to be equal regardless of gender, we are requiring women in many instances to pay higher premiums for lower risk and ultimately subsidizing rates for men. The reverse, men subsidizing woman, also sometimes occurs. That is not equality.

Equality means that you bear the responsibility or enjoy the benefit of the actual risk you present to the industry. If, because as a class, you present a lower casualty risk you should be entitled to pay a lower premium. Likewise, if as a class you live a longer life than men, your life insurance premium should reflect that. But what we are requiring with nongender insurance is one class, women, who present a demonstrably different risk, to subsidize the risk presented by another class. That is not equal protection and in fact denies women their property right in insurance without their constitutionally protected right to due process.

Two legal opinions have been written on this subject. One by Mr. Donald A. Garrity, a Helena attorney, and the other by Mr. Greg Petesch, presently the director of legal services of the Legislative Council. (The opinions are included with this testimony.) Both concluded there was no such constitutional mandate.

Mr. Garrity's opinion is especially important to this issue. Mr. Garrity was hired specifically to provide a legal answer to the question "Does the individual dignities clause, Article II, Section 4, of the Montana Constitution mandate nongender treatment in insurance matters?" If the answer was "Yes," then it would be

useless to mount a time-consuming campaign to repeal or amend Montana's nongender statute. Mr. Garrity was specifically instructed that he was not to write an advocacy brief on the insurance industry's behalf. Rather, he was to research the question and provide an opinion that would guide the industry and others in their decision whether to pursue repeal or amendment of the nongender law. Mr. Garrity concluded that the Montana Constitution permits gender-based classifications in insurance if there is a rational basis for such classifications. (See Mr. Garrity's Opinion at page 12.

Mr. Garrity's opinion was submitted to the Joint Interim Subcommittee No. 3 in 1984. Not content with his opinion, the subcommittee asked Mr. Petesch to determine (1) whether the enactment of the Unisex law was mandatory, and (2) whether the repeal of the Unisex law would make the practice of considering gender in insurance classifications unconstitutional. Again, Mr. Petesch, as Mr. Garrity, concluded that nongender classifications in insurance were not mandatory. Further, Mr. Petesch concluded that the use of gender in setting insurance rates would be permissible if the nongender law were repealed. See Mr. Petesch's opinion at 19, 26.

There is little doubt about the soundness of these two opinions. Additionally, Montana Supreme Court cases are clear. For example, in the case of In the Matter of the Will of Cram, the decedent's will set up a trust for boys only. The Montana court

found that Mr. Cram's scholarship trust indeed discriminated on the basis of sex, but that private discriminatory conduct was permitted.

Another case of importance, and more recent than either Mr. Garrity's or Mr. Petesch's opinions, is Stone v. Belgrade School District No. 44, 217 Mont. 309, 703 P.2d 136 (1984). In that case, the Belgrade School District decided to hire a female counselor. The School District already employed a male counselor. Because female students had indicated that they would not counsel with a male counselor in some situations because of embarrassment or inhibitions, the School District decided it would not consider males for the position. The Plaintiff, Mr. Stone, was excluded from consideration for the position. The Montana court held that an employer could discriminate on the basis of gender when the reasonable demands of the position required sex discrimination. Our supreme court affirmed the district court, which had overruled the Human Rights Commission on the issue.

Subsequent to the veto of the bill that would have amended Montana's prohibition on gender-based classifications, Mr. Ed Zimmerman, of the American Council of Life Insurers, reanalyzed case law from all states. Published in the Journal of Insurance Regulation, Mr. Zimmerman's opinion also concluded that the Montana Constitution, regardless of its unique individual dignities provision, did not mandate "unisex insurance." (Mr. Zimmerman's opinion is attached.)

There is another legal argument that follows something like this: proof of liability insurance when licensing and driving a motor vehicle is mandated by Montana law, therefore it is a constitutional or civil right that such insurance be made available without regard to gender-based classifications. The argument misses several important steps.

Although proof of liability insurance is required to license a vehicle, driving on the highways of this state is a revocable privilege, not a right. Because it is a privilege, no constitutional or civil rights flow from it and there is no civil right to obtain insurance. See State v. Skurdal, 235 Mont. 291, 767 P.2d 304, 307 (1986); State ex rel Majerus v. Carter, 214 Mont. 272, 693 P.2d 501, 505 (1984).

I particularly direct your attention to the human rights statutes presently codified in Title 49. (Copies of 49-2-303 to - 311, and 49-3-103, MCA, are attached to this testimony for your convenience.) These statutes implement Article II, Section 4, of the Montana Constitution. Note that in every situation in which discrimination is addressed by these statutes--employment, public accommodations, housing, finance and credit transactions, education, and state action--distinction based upon the reasonable demands of the position, upon bona fide occupational qualifications, or upon reasonable grounds are permitted. Only the statute pertaining to discrimination in insurance and retirement plans fails to contain such a qualification. It stands as an anomaly in our Code.

If the Montana Constitution mandates nongender insurance and permits no reasonable distinctions based on sex, as has been argued, then all discrimination laws which permit distinctions based upon reasonable demands, reasonable grounds, or occupational qualifications are unconstitutional. The cases discussed in the opinions by Mr. Garrity, Mr. Petesch, and Mr. Zimmerman demonstrate that this absurd conclusion simply is not the case.

Finally, I respectfully call to your attention that the only proper forum to finally determine the constitutionality of any given Montana statute is the Montana Supreme Court--not the newspaper editor's office, not the Governor's office, nor even this body. It is the function of this body to set policy to benefit Montana's citizens. Governor Schwinden, in evaluating the veto of the nongender amendment in the 1987 session carefully examined all of the financial and economic information on this issue. He was unable to say in his veto message what the proponents of unisex insurance hoped he would say: he could not say that unisex insurance benefits women. Governor Schwinden conceded:

The evidence is clear and conclusive--statutory implementation of nongender insurance in 1985 has significantly increased the cost of insurance for many women.

I encourage you to allow women at all times both to bear the responsibilities and to enjoy the privileges of their gender in equality. On behalf of the insurance industry and those consumers

EXHIBIT 9A

DATE 2-15-95

SB 290

of the industry who have been adversely affected by the nongender insurance requirement, I urge you to give this bill a do pass recommendation.

Submitted to Senate Business and Industry Committee for hearing on Senate Bill 290, February 15, 1995.

Respectfully submitted,

Jacqueline T. Lenmark

EXHIBIT NO. 9BDATE 2/15/95BILL NO. SB 290

DONALD A. GARRITY

ATTORNEY AT LAW

33 ELEVENTH AVENUE

HELENA, MONTANA 59601

(406) 442-8711

*(presented by
Jacqueline Denmark)*

To: Mr. Glenn Drake, Mr. Lester Loble, Mr. Bob James and Mr. Pat Melby

From: Donald A. Garrity

Subject: The Validity of Gender Based Insurance Classifications Under Article II, Section 4, of the Montana Constitution

Date: August 29, 1984

The 1983 Montana Legislature enacted legislation providing that: "It is an unlawful discriminatory practice for any financial institution or person to discriminate solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement plan, program, or coverage, including discrimination in regard to rates or premiums and payments of benefits." Chapter 531, Laws of Montana, 1983, codified as Section 49-2-309, MCA.

The validity of this legislation is assumed. You wish to know if such a prohibition is mandated by the provisions of Article II, Section 4, of the Montana Constitution, which states:

Individual Dignity. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the State nor any person, firm, corporation or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.

(Emphasis supplied.)

This provision is unique among the sixteen State Constitutions which prohibit discrimination on the basis of sex in that it is the only one which explicitly prohibits such discrimination by individuals and private associations.¹ Similarly, the proposed Equal Rights Amendment to the Federal Constitution by its terms applies only to government.²

The language of the Montana Individual Dignity provision clearly seems to prohibit sexual discrimination by private persons and associations. But, as former California Chief Justice Traynor has said, "Plain words, like plain people, are not always as plain as they seem."³ Our Supreme Court had the opportunity to construe the reach of Article II, Section 4, in 1980 when it construed the will of a sheep rancher which established a trust for payments to members of the Future Farmers of America or the 4-H Club who were boys between the ages of 14 and 18, Montana residents, and children of American born parents. In the Matter of the Will of Cram, 186 Mont. 37, 606 P.2d 145 (1980).

¹ The other fifteen states are Alaska, Colorado, Connecticut, Hawaii, Illinois, Maryland, Massachusetts, New Hampshire, New Mexico, Pennsylvania, Texas, Utah, Virginia, Washington and Wyoming. The text of the various provisions is set forth in Annotation, Construction and Application of State Equal Rights Amendments Forbidding Determination of Rights Based on Sex, 90 A.L.R.3d, 164-65.

² That proposed amendment reads: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." H.J.Res. 208, 92d Congress, 2d Session (1972).

³ Traynor, No Magic Words Could Do It Justice, 49 Cal. L. Rev. 615, 618 (1961).

A female member of the Future Farmers of America, who was of the age set by the trust, challenged its provisions as unconstitutionally discriminatory on the basis of sex. The Supreme Court held the trust did indeed discriminate on the basis of sex, but that private discriminatory conduct was not prohibited. Unfortunately, in its analysis the Court did not mention Montana's Constitutional provision but discussed only cases involving the Equal Protection Clause of the Fourteenth Amendment to the Federal Constitution. ~~***~~ That clause has consistently been interpreted as prohibiting discrimination only when there is "State action." See, e.g., Moose Lodge No. 107 v. Irvis, 407 U.S. 163 (1972), in which it was held that a private club, even though licensed by the State to serve liquor, could refuse to serve blacks without violating the Equal Protection Clause.

In the many cases involving Article II, Section 4, which the Montana Supreme Court has decided since the adoption of Montana's 1972 Constitution, it has consistently used traditional Federal Equal Protection analysis, allowing discriminatory government action when it is based on a rational

- * However, the briefs filed with the Court did argue Montana's Constitutional provision.

classification.⁴ The only case other than the Cram will case which has squarely presented our Supreme Court with a question of sexual discrimination since the adoption of Article II, Section 4, is State v. Craig, 169 Mont. 150, 545 P.2d 649 (1975). There a male convicted of rape argued that the statute defining the offense violated this Section because it applied only to males having sexual intercourse without consent with females. The Court indicated that because historically and now "the vast majority" of sexual attacks have been by men upon women, the classification was reasonable.

Thus, it appears that the Montana Supreme Court, at least to date, has effectively read out the last sentence of Article II, Section 4, and confined its scope to the traditional equal protection of the laws. The committee report on this provision stated that it was intended to eradicate "public and private

⁴ See, e.g., McMillan v. McKee & Co., 166 Mont. 400, 533 P.2d 1095 (1975) (granting attorneys' fees to successful workers' compensation claimants but not to successful defending insurers does not violate equal protection); State v. Jack, 167 Mont. 456, 539 P.2d 726 (1975) (requiring non-resident hunters to be accompanied by licensed guide invalid because not supported by rational basis); State v. Craig, 169 Mont. 150, 545 P.2d 649 (1976) (statute prohibiting sexual intercourse without consent only by males does not offend Article II, Section 4); State v. Gafford, 172 Mont. 380, 563 P.2d 1129 (1977) (statutory discrimination against ex-felons is reasonable and does not violate Montana's equal protection provisions); Emery v. State, 177 Mont. 73, 580 P.2d 445 (1978) (permissible to deny voting rights to inmates of state prison); McLanathan v. Smith, 186 Mont. 56, 606 P.2d 507 (1979) (difference in treatment of claimants with dependents under workers' compensation law valid because supported by a rational basis); Tipco Corporation v. City of Billings, _____ Mont. _____, 624 P.2d 1074 (1982) (city ordinance prohibiting residential solicitors but exempting local merchants invalid because not supported by rational basis); Oberg v. City of Billings, _____ Mont. _____, 674 P.2d 494 (1983) (statute prohibiting lie detector tests for employees except employees of public law enforcement agencies denies equal protection to law enforcement employees).

discriminations based on race, color, sex, culture, social origin or condition, or political or religious ideas."⁵ It also noted that the proposed Federal Equal Rights Amendment "would not explicitly provide as much protection as this provision."⁶ However, the committee report qualified the language somewhat by noting that it was not their intent that the prohibition against discrimination on the basis of political or religious ideas permit persons who supported the right to work in principle to avoid union membership.⁷

The Convention debate on this provision is more confusing. Delegate Habedank moved to delete the words "any person, firm, corporation, or institution," saying that he was a member of the Sons of Norway which, he feared, would not be able to limit its membership under this provision.⁸

Delegate Dahood responded that the section was only intended to cover discrimination in "matters that are public or matters that tend to be somewhat quasi-public. With respect to a religious organization, with respect to the Sons of Norway or the Sons of Scandinavia, of course, there would necessarily be qualifications that an individual would have to meet before he would be admitted to membership. That type of private organization is certainly not within the intendment of the

⁵ Proceedings of the Montana Constitutional Convention, Vol. II, P. 628.

⁶ Ibid.

⁷ Ibid.

⁸ Proceedings of the Montana Constitutional Convention, Vol. V., pp. 1642-43.

committee in submitting Section 4."⁹ He also answered a question from another delegate concerning the right of women to join strictly men's organizations by saying, ". . . no, that is not our intent. There are certain requirements, certain qualifications, certain matters, I suppose, that might fall within the term of legitimate discrimination that are not covered by this particular section. Anything that falls within the realm of common sense--I think you've indicated situations where common sense would have to indicate that the qualifications that would be set for membership are proper, and in those circumstances I would not expect Section 4 to have any effect."¹⁰

The one exchange in the debate which seems to justify the Supreme Court's reading of this provision as a traditional equal protection clause is that between delegates Loendorf and Dahood. Loendorf stated: ". . . it's my understanding that . . . everything you have after the word 'equal protection of the law' would really be subsumed in that first provision and everything you've said after that would really be unnecessary" Dahood replied that Loendorf was correct but defended the additional wording as "the sermon that can be given by the Constitution, as well as the right," ¹²

⁹ Id. at 1643.

¹⁰ Id. at 1644.

¹¹ Id. at 1643.

¹² Ibid.

10

It was after this discussion that the motion to delete the words "any person, firm, corporation or institution" was defeated.¹³

Conceivably, it is this history which the Supreme Court has relied upon to interpret Article II, Section 4, as a simple equal protection clause not applicable to private persons and allowing discrimination based on reasonable classifications.

Had it chosen to fully articulate its reasons for so construing this section of our Constitution, the Montana Supreme Court might also have relied on the principle that a statute or a state constitutional provision must, if possible, be construed in such a manner as to uphold its constitutionality.¹⁴ If Section 4 were literally interpreted, a religious body could not limit its priesthood or ministry to males, Democrats could not bar Republicans from participating in their caucuses, atheists would be entitled to participate in private religious services and the Sons of Norway, Daughters of the American Revolution, et al., would cease to exist as

¹³ Id. at 1645-46.

¹⁴ North Central Services, Inc., v. Hafdahl, ___ Mont. ___, 625 P.2d 56 (1981); Harrison v. City of Missoula, 146 Mont. 420, 407 P.2d 703 (1965); City of Philipsburg v. Porter, 121 Mont. 88, 190 P.2d 676 (1948). The same rules of construction apply to constitutional provisions as apply to statutes. Keller v. Smith, 170 Mont. 399, 553 P.2d 1002 (1976).

distinctive organizations. At least some of these results would clearly violate the United States Constitution.¹⁵

Another alternative rationale for our Supreme Court's interpretation of Section 4 would be a restrictive interpretation of the words "civil or political rights." In the debate on this section, it was stated that civil rights are "things that the Legislature has to deal with"¹⁶ and that "at this time in American we [do not] have an all-inclusive definition of civil rights."¹⁷

Montana's Supreme Court has defined "right" as "any power or privilege vested in a person by law."¹⁸ There are rights vested by the constitution, such as freedom of religion, due process, bail, trial by jury, and the right to vote, to name a few. Section 4 of Article II, like the Equal Protection Clause of the Federal Constitution, merely provides that the rights of all persons must rest upon the same rule under similar circumstances,¹⁹ but it does not require things which are different in fact to be treated in law as though they were the same.²⁰

¹⁵ See, e.g., Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696 (1976) holding that churches are free to establish their own rules for internal government and the State may not interfere.

¹⁶ Proceedings of the Montana Constitutional Convention, Vol. V, P. 1644.

¹⁷ Ibid.

¹⁸ Waddell v. School District No. 3, 79 Mont. 432, 257 P. 278 (1927).

¹⁹ Louisville Gas & Electric Co. v. Coleman, 277 U.S. 32 (1928).

²⁰ Norvell v. Illinois, 373 U.S. 420 (1963).

As I stated at the outset of this paper, I assume Section 49-2-309, MCA, which prohibits different insurance rates based on sex, was within the power of the legislature to enact. But the differences in life expectancy between the sexes are real ones.²¹ There is also apparently a real difference between the automobile accident records of young (under 25) male and female drivers, as well as between married persons under 25 and young single persons.²² These differences constitute a rational basis for classification by sex and marital status and thus are not prohibited by Article II, Section 4, of the Montana Constitution. Similarly, they would not offend the statutory prohibition against "unfair discrimination between individuals or risks of the same class" contained in Section 33-18-210, MCA.²³

In summary, it is my opinion that Article II, Section 4, of the Montana Constitution applies only to "state action," not purely private discrimination, and that classifications based on sex are not prohibited thereby if there is a rational basis for such classifications. While I do not believe the

²¹ The average white male born in 1980 had a life expectancy of 70.7 years while the average white female born in that year had a life expectancy of 78.1 years. A white male who was 35 in 1980 had a life expectancy of an additional 38.6 years while a 35 year old white female could expect an additional 44.9 years of life. 1984 Statistical Abstract of the United States. See also: Note, Sex Discrimination and Sex Based Mortality Tables, 53 Boston University Law Review 624 (1973).

²² Florida Dep't of Insurance v. Insurance Services Office, 434 So.2d 908 (Fla. 1983); Insurance Services Office v. Commissioner of Insurance, 381 So.2d 515 (La. 1979).

²³ Ibid.

regulation of insurance companies by the State converts their discriminatory acts into "state action,"²⁴ resolution of that question is unnecessary since the State itself is free to make such classifications on a rational basis. ²⁵

In answer to your question, it is my opinion that the provisions of Chapter 531, Laws of Montana, 1983, are not required by Article II, Section 4, of the Montana Constitution.

²⁴ Life Insurance Co. of North America v. Reichardt, 591 F.2d 499 (9th Cir. 1979) and Murphy v. Harleysville Mutual Insurance Co., 282 Pa. Super. 244, 422 A.2d 1097 (1981) so hold.

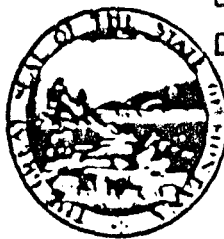
²⁵ As an employer subject to the Federal Equal Employment Opportunities Act, Montana may not discriminate in the terms of pension plans for its employees on the basis of sex, in spite of the difference in longevity between men and women. 42 U.S.C. §2000e-2; Los Angeles Dep't. of Water and Power v. Manhart, 435 U.S. 702 (1978); Arizona Governing Committee v. Norris, ____ U.S. ____, 77 L.Ed.2d 1236, 103 S. Ct. 3492 (1983).

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EXHIBIT 9B
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SB 290

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October 29, 1984

TO: Joint Interim Subcommittee No. 3

FROM: Greg Petesch, Staff Attorney *GP*

RE: Gender-Based Insurance Classifications

Section 49-2-309, MCA, enacted by Chapter 531, Laws of 1983, provides:

49-2-309. Discrimination in insurance and retirement plans. (1) It is an unlawful discriminatory practice for any financial institution or person to discriminate solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement plan, program, or coverage, including discrimination in regard to rates or premiums and payments or benefits.

(2) This section does not apply to any insurance policy, plan, coverage, or any pension or retirement plan, program, or coverage in effect prior to October 1, 1985.

You have asked me to investigate two issues: (1) whether enactment of this legislation was mandatory in light of Article II, section 4, of the Montana Constitution; and (2) whether repeal of this legislation would make the current practice of

considering gender in insurance classifications unconstitutional.

Article II, section 4, of the Montana Constitution provides:

Section 4. Individual dignity. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.

Montana's is the only equal rights amendment which specifically prohibits discrimination by any person, firm, corporation, or institution, i.e., private discrimination.¹

The Bill of Rights Committee of the Constitutional Convention stated in its committee report the following:

COMMENTS

The committee unanimously adopted this section with the intent of providing a Constitutional impetus for the eradication of public and private discriminations based on race, color, sex, culture, social origin or condition, or political or religious ideas. The provision, quite similar to that of the Puerto Rico declaration of rights is aimed at prohibiting private as well as public discriminations in civil and political rights.

¹Construction and Application of State Equal Rights Amendments Forbidding Determination of Rights Based on Sex, 90 A.L.R. 3d, 164-65.

Considerable testimony was heard concerning the need to include sex in any equal protection or freedom from discrimination provisions. The committee felt that such inclusion was eminently proper and saw no reason for the state to wait for the adoption of the federal Equal Rights Amendment, an amendment which would not explicitly provide as much protection as this provision.

The word culture was incorporated specifically to cover groups whose cultural base is distinct from mainstream Montana, especially the American Indians. "Social origin or condition" was included to cover discriminations based on status of income and standard of living.

Some fears were expressed that the wording "political or religious ideas" would permit persons who supported right to work in principle to avoid union membership. Such is certainly not the intent of the committee. The wording was incorporated to prohibit public and private concerns discriminating against persons because of their political or religious beliefs.

The wording of this section was derived almost verbatim from Delegate Proposal No. 61. The committee felt that this proposal incorporated all the features of all the Delegate Proposals (No.'s 10, 32, 50 and 51) on the subjects of equal protection of the laws and the freedom from discrimination. The committee is well aware that any broad proposal on these subjects will require considerable statutory embellishment. It is hoped that the legislature will enact statutes to promote effective eradication of the discriminations prohibited by this section. The considerable support for and lack of opposition to this provision indicates its import and advisability. (emphasis supplied)²

²Proceedings of the Montana Constitutional Convention, Vol. II, p. 628.

As pointed out by Mr. Garrity, the convention debate on Article II, section 4, is confusing.³ Delegate Harper did ask, "Aren't civil rights things that the Legislature has to deal with?"⁴ Delegate Dahood responded that basically that was correct.⁵ At the time the Constitution was adopted, section 64-301, R.C.M. 1947, provided:

64-301. Freedom from discrimination as civil right -- employment -- public accommodations. The right to be free from discrimination because of race, creed, color, sex, or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(1) The right to obtain and hold employment without discrimination.

(2) The right to the full enjoyment of any of the accommodation facilities or privileges of any place of public resort, accommodation, assemblage or amusement.

That section is now codified as 49-1-102, MCA.

This section points out that the issue of sex discrimination was addressed by the Legislature even prior to the adoption of Article II, section 4.

With this background, it appears that the Constitutional Convention delegates intended that the Legislature embellish Article II, section 4, with statutory enactments. The question presented, however,

³Garrity, pp. 5-6; Proceedings of the Montana Constitutional Convention, Vol. V, pp. 1642-1646.

⁴Ibid., p. 1644.

⁵Ibid.

is whether the Legislature is required to enact legislation regarding this area.

It has long been recognized that the Constitution does not grant power to the Legislature but merely limits the Legislature's exercise of its power. In St. ex rel. DuFresne v. Leslie, 100 M 449, 453, 50 P.2d 959 (1935), the Montana Supreme Court stated:

It is very clear that, except for the limitations placed upon the power of the legislature, first by the Constitution of the United States, and second by the Constitution of the state, the will of the legislative body may be freely exercised in all legislative matters unrestricted.⁶

It is inherent in the concept of the separation of powers provision of the state Constitution, Article III, section 1, that if a power is reposed in one department, the other two may not encroach upon or exercise that power, except as expressly directed or permitted in the Constitution. Mills v. Porter, 69 M 325, 222 P. 428 (1924). The courts have no power to compel the Legislature to pass an act, even though the Constitution expressly commands it, nor restrain it from passing an act, even though the Constitution expressly forbids it.⁷

⁶See also Board of Regents v. Judge, 168 M 433, 543 P.2d 1323 (1975); Hilger v. Moore, 56 M 146, 182 P. 477 (1919); St. ex rel. Evans v. Stewart, 53 M 18, 161 P. 309 (1916); and St. ex rel. Toi v. French, 17 M 54 (1895).

⁷See cases cited in Annotation, Power and duty of court where legislature renders constitutional mandate ineffectual by failing to enact statute necessary to make it effective or by repealing or amending statute previously passed for that purpose, 153 A.L.R. 522-528.

The lawmaking body may or may not, as it chooses, pass laws putting into effect a constitutional provision, and if, in its efforts to give effect to a constitutional provision, the statute is not broad and comprehensive enough to cover all subjects that it might, we know of no reason why it should not be valid as far as it goes.

It is apparent that the Legislature is never required to enact a statute or particular piece of legislation. Therefore, in answer to the first question presented, the enactment of Chapter 531, Laws of 1983, was not mandatory. I am unaware of any method of compelling a legislative enactment, other than that used to gain passage of Chapters 2 and 3, Ex. Laws of 1903.

49-2-309 }

The second question presented is whether the repeal of Chapter 531, Laws of 1983, would render the use of gender in classifying individuals for insurance purposes unconstitutional.

The courts generally recognize the power of the Legislature to repeal a statute enacted in compliance with a provision of the Constitution even where the Constitution makes it the duty of the Legislature to enact such a law to effectuate the constitutional provision, and the repealer would result in frustrating the purpose evidenced by the Constitution.⁹

If the framers of the Constitution do not feel that the Legislature will carry out a constitutional mandate,

⁸ Arizona Eastern R. Co. v. Matthews, 180 P. 159 (Az. 1919).

⁹ See Myers v. English, 9 Cal. 342 (1858) and 153 A.L.R. supra at 525.

they may make the constitutional provision self-executing. As stated in St. ex rel. Stafford v. Fox-Great Falls Theatre Corp., 114 M 52, 74, 132 P.2d 689 (1942):

A provision is self-executing when it can be given effect without the aid of legislation and there is nothing to indicate that legislation is contemplated in order to render it operative; * * * constitutional provisions are self-executing when there is a manifest intention that they should go into immediate effect, and no ancillary legislation is necessary to the enjoyment of a right given, or the enforcement of a duty imposed.

The court went on to point out that the test for determining whether a provision is self-executing is whether it is directed to the courts or the Legislature.

During the debate on Article II, section 4, Delegate Robinson asked whether the provision would be nonself-executing and would require complete legislative implementation to make it effective. Delegate Dahood responded that in his judgment that was not true.¹⁰ But also note that the committee report states that "The committee is well aware that any broad proposal on these subjects will require considerable statutory embellishment."¹¹ Unfortunately, conflicting conclusions as to the self-executing nature of Article II, section 4, can be reached from these remarks.

In Keller v. Smith, 170 M 399, 409, 553 P.2d 1002 (1976), the Supreme Court stated that "... the

¹⁰Transcripts, supra at 1644-1645.

¹¹Supra, Note 2.

collective intent of the delegates can best be determined by application of the preceding rules of construction [i.e., general rules of statutory construction] to the ambiguous language used". The court pointed out that it had specifically refrained from using the Convention proceedings to determine intent as they could be used to support either position.

The problem then becomes one of predicting how the Montana Supreme Court would interpret a case brought challenging the use of gender classifications in setting insurance rates. As pointed out by Mr. Garrity, a challenge based on private sex discrimination under the alleged reach of Article II, section 4, was brought before the court in In the Matter of the Will of Cram, 186 M 37, 606 P.2d 145 (1980). The court did not mention Article II, section 4, but upheld the private discriminatory trust based upon a lack of "state action". The requirement of "state action" for discrimination to be prohibited is taken from cases interpreting the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.¹²

The Montana Supreme Court has consistently applied federal Equal Protection analysis to cases involving Article II, section 4.

¹²See Moose Lodge No. 107 v. Irvis, 407 U.S. 163, 173, 92 S.Ct. 1965, 32 L.Ed.2d 627 (1972), wherein it is stated that "where the impetus for discrimination is private, the State must have 'significantly involved itself with invidious discriminations', in order for the discriminatory action to fall within the ambit of the constitutional prohibition".

Federal analysis, at least in the areas of economic and social legislation, allows governmental classification when it has a rational basis, i.e., it is not arbitrary.¹³ The federal analysis applies a "strict scrutiny" test to so-called suspect classifications such as race.¹⁴ In those areas a state must show a "compelling interest" in the classification.¹⁵ The U.S. Supreme Court has recently adopted a so-called "middle test" in areas involving gender classifications. In Mississippi University for Women v. Hogan, 458 U.S. 710, 724 (1982), the court said:

The party seeking to uphold a statute that classifies individuals on the basis of gender must carry the "exceedingly persuasive justification" for the classification. The burden is met only by showing at least that the classification serves "important governmental objectives and that the discriminatory means employed" are "substantially related" to the achievement of those objectives.¹⁶

¹³ See Royster Guano Co. v. Virginia, 253 U.S. 412, 40 S.Ct. 560, 64 L.Ed. 989 (1920). This test was applied in St. v. Craig, 169 M 150, 545 P.2d 649 (1975).

¹⁴ Loving v. Virginia, 388 U.S. 1, 87 S.Ct. 1817 (1967).

¹⁵ See San Antonio Independent School Dist. v. Rodriguez, 411 U.S. 1, 36 L.Ed.2d 16, 93 S.Ct. 1278, reh. den., 411 U.S. 959 (1973). This strict scrutiny test requiring the showing of a compelling state interest was applied in White v. St., ___ M ___, 661 P.2d 495 (1983).

¹⁶ This middle test was first articulated in Craig v. Boren, 429 U.S. 190 (1976), involving an Oklahoma statute providing differing legal drinking ages for males and females. The U.S. Supreme Court struck down the law saying the state was using maleness as a proxy for the regulation of drinking and driving. A quote from this case that may be of particular interest to this committee is found on page 204. "It is

The Montana Supreme Court has only been squarely presented with two sexual discrimination cases: Cram, involving private discrimination, and St. v. Craig, 169 M 150, 545 P.2d 649 (1975), where the court held that there was a rational basis for classifying by sex under the sexual intercourse without consent statute. In a case involving a dissolution of marriage, Vance v. Vance, ____ M ____, 664 P.2d 907, 40 St.Rep. 836 (1983), the court stated that the trial court's recognition of the present relative economic status of men and women with respect to income earning potential and the distribution of marital assets accordingly did not violate a former husband's constitutional right of equal protection.

It is interesting to note that Article II, section 4, has been referred to in an Alaska decision. In U.S. Jaycees v. Richardet, 666 P.2d 1008 (Alaska 1983), Richardet argued that the prohibition against sex discrimination in Article I, section 3, of the Alaska Constitution, was in effect as broad as Montana's Article II, section 4, which explicitly prohibits both private and governmental discrimination, 'because the Alaska Human Rights legislation implementing the Constitution prohibits private as well as public discrimination. The Alaska Supreme Court stated in note 15, "However, the Legislature's construction of a

16 (continued) unrealistic to expect either members of the judiciary or state officials to be well versed in the rigors of experimental or statistical technique. But this merely illustrates that proving broad sociological propositions by statistics is a dubious business and one that inevitably is in tension with the normative philosophy that underlies the Equal Protection Clause."

constitutional provision is, of course, not binding upon this court." The court went on to hold that "state action" is a necessary predicate to application of the Equal Protection Clause of the Alaska Constitution.¹⁷

The case closest to the situation under consideration here is Murphy v. Harleysville Mutual Insurance Co., 422 A.2d 1097 (Pa. super. 1980), wherein a class action was brought on behalf of three groups that had purchased automobile insurance from the defendant: (1) all males; (2) all unmarried persons; and (3) all persons under 30 years of age. The plaintiff alleged that the premiums charged constituted a violation of the Pennsylvania ERA as to the first group and the federal Equal Protection Clause as to the other two groups. The Pennsylvania court found no state action as to the alleged federal violations. In its discussion of the alleged state ERA violation, the court quoted extensively from Lincoln v. Mid-Cities Pee Wee Football Assoc., 576 S.W.2d 922 (Tex. Ct. App. 1979), a case involving a girl's attempt to be allowed to participate in a private nonprofit corporation's all-male youth football league. Both states' ERAs prohibit discrimination "under the law". Both courts held that "state action or private conduct that is

¹⁷ This case was decided prior to Roberts v. U.S. Jaycees, 52 L.W. 5076 (1984), where the U.S. Supreme Court held that under Minnesota's Human Rights Act, Ms. Roberts could not be excluded from membership in the organization. The court stated, "Assuring women equal access to the goods, privileges, and advantages of a place of public accommodation clearly furthers compelling state interests." (emphasis supplied)

encouraged by, enabled by, or closely interrelated in function with state action"¹⁸ is required before a discriminatory practice is prohibited.

The courts stated: "Had the amendment been intended to proscribe private conduct, we believe this proscription could and would have been clearly expressed to apply to all discrimination, public and private."¹⁹ Following Murphy, the Pennsylvania Insurance Commissioner used the ERA as an aid in interpreting his powers and duties under the Rate Act 40 P.L. §§1181-1199, to disapprove the use of sex as a classification basis for automobile insurance rate differentials. The Commissioner's decision was upheld in Hartford Accident and Indemnity Co. v. Insurance Commissioner of Pennsylvania, 442 A.2d 382 (Pa. Comwlth. 1982), where the court held that the Commissioner did not exceed his statutory authority. The Commissioner's action was recently upheld by the Pennsylvania Supreme Court.²⁰

In light of these cases, it appears that if the Montana Supreme Court could be persuaded to follow the rationale regarding private discrimination referred to in the Texas and Pennsylvania decisions, the use of gender as a classification factor in setting insurance rates could be held unconstitutional if Chapter 531, Laws of 1983, were repealed.²¹ However, so long as the

¹⁸ Murphy at 1103.

¹⁹ Ibid.

²⁰ Hartford Accident & Indemnity Co. v. Insurance Commissioner, Docket No. J-76-1984, (Pa. Sup. Ct. 1984).

²¹ This seems unlikely in light of the recently decided In the Matter of C.H., M, 683 P.2d 931, 41 St.Rep. 997, 1005 (1984), where the court stated, "The Fourteenth Amendment of the United States

court applies traditional federal Equal Protection analysis to claims of alleged private discrimination, there would be no "state action", and the use of gender in setting insurance rates would be permissible if Chapter 531, Laws of 1983, were repealed.²²

21(continued) Constitution and Article II, section 4, of the 1972 Montana Constitution guaranty [sic] equal protection of the laws to all persons. The equal protection provisions of the federal and state constitutions are similar and provide generally equivalent but independent protections." Citing Emery v. St., 177 M 73, 580 P.2d 445, cert. den., 439 U.S. 874, 99 S.Ct. 210, 58 L.Ed.2d 187 (1978). The court goes on to explain when it applies the various tests to the type of classification involved.

²²See Note 20, but the court could address a gender classification under Article II, section 4, in the recently argued case of Miller-Wohl Co., Inc. v. Commissioner of Labor and Industry, No. 84-172.

History: En. 64-313 by Sec. 11, Ch. 524, L. 1975; R.C.M. 1947, 64-313.

49-2-204. Commission to adopt rules. The commission shall adopt procedural and substantive rules necessary to implement this chapter. Rulemaking procedures shall comply with the requirements of the Montana Administrative Procedure Act.

History: En. 64-315 by Sec. 13, Ch. 524, L. 1975; R.C.M. 1947, 64-315.

Cross-References

Montana Administrative Procedure Act,
Title 2, ch. 4.

Part 3

Prohibited Discriminatory Practices

Part Cross-References

Price discrimination, Title 30, ch. 14, part
9.

Unfair discrimination prohibited — life
insurance, annuities, and disability insurance,
33-18-206.

No discrimination based on evaluation or
treatment relating to mental illness,
53-21-189.

49-2-301. Retaliation prohibited. It is an unlawful discriminatory practice for a person, educational institution, financial institution, or governmental entity or agency to discharge, expel, blacklist, or otherwise discriminate against an individual because he has opposed any practices forbidden under this chapter or because he has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this chapter.

History: Ap.p. Sec. 2, Ch. 283, L. 1974; amd. Sec. 2, Ch. 121, L. 1975; amd. Sec. 3, Ch. 524, L. 1975; amd. Sec. 7, Ch. 38, L. 1977; Sec. 64-306, R.C.M. 1947; Ap.p. Sec. 9, Ch. 283, L. 1974; amd. Sec. 10, Ch. 524, L. 1975; Sec. 64-312, R.C.M. 1947; R.C.M. 1947, 64-306(9), 64-312(2); amd. Sec. 4, Ch. 177, L. 1979.

49-2-302. Aiding, coercing, or attempting. It is unlawful for a person, educational institution, financial institution, or governmental entity or agency to aid, abet, incite, compel, or coerce the doing of an act forbidden under this chapter or to attempt to do so.

History: En. 64-312 by Sec. 9, Ch. 283, L. 1974; amd. Sec. 10, Ch. 524, L. 1975; R.C.M. 1947, 64-312(1); amd. Sec. 5, Ch. 177, L. 1979.

Cross-References

When accountability exists, 45-2-302.

Inchoate offenses, Title 45, ch. 4.

49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, creed, religion, color, or national origin or because of age, physical or mental disability, marital status, or sex when the reasonable demands of the position do not require an age, physical or mental disability, marital status, or sex distinction;

(b) a labor organization or joint labor management committee controlling apprenticeship to exclude or expel any person from its membership or from an apprenticeship or training program or to discriminate in any way against a member of or an applicant to the labor organization or an employer or

employee because of race, creed, religion, color, or national origin or because of age, physical or mental disability, marital status, or sex when the reasonable demands of the program do not require an age, physical or mental disability, marital status, or sex distinction;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use an employment application that expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental disability, race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employment agency to fail or refuse to refer for employment, to classify, or otherwise to discriminate against any individual because of sex, marital status, age, physical or mental disability, race, creed, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(2) The exceptions permitted in subsection (1) based on bona fide occupational qualifications must be strictly construed.

(3) Compliance with 2-2-302 and 2-2-303, which prohibit nepotism in public agencies, may not be construed as a violation of this section.

(4) The application of a hiring preference as provided for in 2-18-111 and 18-1-110 may not be construed to be a violation of this section.

(5) It is not a violation of the prohibition against marital status discrimination in this section for an employer or labor organization to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents.

History: En. 64-306 by Sec. 2, Ch. 283, L. 1974; amd. Sec. 2, Ch. 121, L. 1975; amd. Sec. 3, Ch. 524, L. 1975; amd. Sec. 7, Ch. 38, L. 1977; R.C.M. 1947, 64-306(1), (2); amd. Sec. 1, Ch. 279, L. 1983; amd. Sec. 1, Ch. 342, L. 1985; amd. Sec. 3, Ch. 506, L. 1991; amd. Sec. 3, Ch. 13, L. 1993; amd. Sec. 3, Ch. 407, L. 1993.

Compiler's Comments

1993 Amendments: Chapter 13 inserted (5) to clarify that providing greater or additional contributions to a bona fide group insurance plan for employees with dependents does not constitute discrimination based on marital status; and made minor changes in style. Amendment effective February 1, 1993.

Chapter 407 throughout section substituted "disability" for "handicap"; and made minor changes in style.

Cross-References

Work-study program, 20-25-707.

Equal pay for women for equivalent service, 39-3-104.

Exclusion of handicapped from minimum wage and overtime compensation laws, 39-3-406.

Women in employment, Title 39, ch. 7.

Exemption from association with labor organization on religious grounds, 39-31-204.

Right to refuse to participate in sterilization, Title 50, ch. 5, part 5.

Right to refuse to participate in abortion, 50-20-111.

49-2-304. Discrimination in public accommodations. (1) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for the owner, lessee, manager, agent, or employee of a public accommodation:

(a) to refuse, withhold from, or deny to a person any of its services, goods, facilities, advantages, or privileges because of sex, marital status, race, age, physical or mental disability, creed, religion, color, or national origin;

(b) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that any of the services, goods, facilities, advantages, or privileges of the public accommodation will be refused, withheld from, or denied to a person of a certain race, creed, religion, sex, marital status, age, physical or mental disability, color, or national origin.

(2) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for a licensee under Title 16, chapter 4, to exclude from its membership or from its services, goods, facilities, advantages, privileges, or accommodations any individual on the grounds of race, color, religion, creed, sex, marital status, age, physical or mental disability, or national origin. This subsection does not apply to any lodge of a recognized national fraternal organization.

(3) Nothing in this section prohibits public accommodations from giving or providing special benefits, incentives, discounts, or promotions for the benefit of individuals based on age.

History: En. 64-306 by Sec. 2, Ch. 283, L. 1974; amd. Sec. 2, Ch. 121, L. 1975; amd. Sec. 3, Ch. 524, L. 1975; amd. Sec. 7, Ch. 38, L. 1977; R.C.M. 1947, 64-306(3); amd. Sec. 1, Ch. 3, L. 1989; amd. Sec. 2, Ch. 543, L. 1989; amd. Sec. 1, Ch. 454, L. 1991; amd. Sec. 4, Ch. 407, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 407 throughout section substituted "disability" for "handicap".

Cross-References

Health care facilities, 50-5-105.

Furnishing of medical assistance, 53-6-105.

Opportunity for religious observance in facilities for developmentally disabled, 53-20-142.

Opportunity for religious observance in mental health facilities, 53-21-142.

49-2-305. Discrimination in housing — exemptions. (1) It is an unlawful discriminatory practice for the owner, lessee, or manager having the right to sell, lease, or rent a housing accommodation or improved or unimproved property or for any other person:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, marital status, race, creed, religion, color, age, familial status, physical or mental disability, or national origin;

(b) to discriminate against a person because of sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of the housing accommodation or property;

(c) to make an inquiry of the sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national origin of a person seeking to buy, lease, or rent a housing accommodation or property for the purpose of discriminating on the basis of sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national origin;

(d) to refuse to negotiate for a sale or to otherwise make unavailable or deny a housing accommodation or property because of sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national origin;

(e) to represent to a person that a housing accommodation or property is not available for inspection, sale, or rental because of that person's sex,

marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national origin when the housing accommodation or property is in fact available; or

(f) for profit, to induce or attempt to induce a person to sell or rent a housing accommodation or property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national origin.

(2) The rental of sleeping rooms in a private residence designed for single-family occupancy in which the owner also resides is excluded from the provisions of subsection (1), provided that the owner rents no more than three sleeping rooms within the residence.

(3) It is an unlawful discriminatory practice to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination that is prohibited by subsection (1) or any intention to make or have a prohibited preference, limitation, or discrimination.

(4) It is an unlawful discriminatory practice for a person to discriminate because of a physical or mental disability of a buyer, lessee, or renter; a person residing in or intending to reside in or on the housing accommodation or property after it is sold, leased, rented, or made available; or any person associated with that buyer, lessee, or renter:

(a) in the sale, rental, or availability of the housing accommodation or property;

(b) in the terms, conditions, or privileges of a sale or rental of the housing accommodation or property; or

(c) in the provision of services or facilities in connection with the housing accommodation or property.

(5) For purposes of subsections (1) and (4), discrimination because of physical or mental disability includes:

(a) refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person with a disability if the modifications may be necessary to allow the person full enjoyment of the premises, except that in the case of a lease or rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the lessor's or renter's agreement to restore the interior of the premises to the condition that existed before the modification, except for reasonable wear and tear;

(b) refusal to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to allow the person equal opportunity to use and enjoy a housing accommodation or property; or

(c) (i) except as provided in subsection (5)(c)(ii), in connection with the design and construction of a covered multifamily housing accommodation, a failure to design and construct the housing accommodation in a manner that:

(A) provides at least one accessible building entrance on an accessible route;

(B) makes the public use and common use portions of the housing accommodation readily accessible to and usable by a person with a disability;

(C) provides that all doors designed to allow passage into and within all premises within the housing accommodation are sufficiently wide to allow passage by a person with a disability who uses a wheelchair; and

(D) ensures that all premises within the housing accommodation contain the following features of adaptive design:

(I) an accessible route into and through the housing accommodation;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms that allow an individual who uses a wheelchair to maneuver about the space;

(ii) a covered multifamily housing accommodation that does not have at least one building entrance on an accessible route because it is impractical to do so due to the terrain or unusual characteristics of the site is not required to comply with the requirements of subsection (5)(c)(i).

(6) For purposes of subsection (5), the term "covered multifamily housing accommodation" means:

(a) a building consisting of four or more dwelling units if the building has one or more elevators; and

(b) ground floor units in a building consisting of four or more dwelling units.

(7) (a) It is an unlawful discriminatory practice for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate because of sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national origin against a person in making available a transaction or in the terms or conditions of a transaction.

(b) For purposes of this subsection (7), the term "residential real estate-related transaction" means any of the following:

(i) the making or purchasing of loans or providing other financial assistance:

(A) for purchasing, constructing, improving, repairing, or maintaining a housing accommodation or property; or

(B) secured by residential real estate; or

(ii) the selling, brokering, or appraising of residential real property.

(8) It is an unlawful discriminatory practice to deny a person access to or membership or participation in a multiple-listing service; real estate brokers' organization; or other service, organization, or facility relating to the business of selling, leasing, or renting housing accommodations or property or to discriminate against the person in the terms or conditions of access, membership, or participation because of sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national origin.

(9) It is an unlawful discriminatory practice to coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of or because of the person having exercised or enjoyed or having aided or encouraged any

other person in the exercise or enjoyment of a right granted or protected by this section.

(10) The prohibitions of this section against discrimination because of age and familial status do not extend to housing for older persons. "Housing for older persons" means housing:

(a) provided under any state or federal program specifically designed and operated to assist elderly persons;

(b) intended for, and solely occupied by, persons 62 years of age or older; or

(c) intended and operated for occupancy by at least one person 55 years of age or older per unit in accordance with the provisions of 42 U.S.C. 3607(b)(2)(C) and (3) and 24 C.F.R. 100.304, as those sections read on October 1, 1989.

(11) The prohibitions of subsection (1) against discrimination because of age and familial status do not extend to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, if the owner actually maintains and occupies one of the living quarters as the owner's residence.

(12) For purposes of this section, "familial status" means having a child or children who live or will live with a person. A distinction based on familial status includes one that is based on the age of a child or children who live or will live with a person.

History: En. 64-306 by Sec. 2, Ch. 283, L. 1974; amd. Sec. 2, Ch. 121, L. 1975; amd. Sec. 3, Ch. 524, L. 1975; amd. Sec. 7, Ch. 38, L. 1977; R.C.M. 1947, 64-306(4); amd. Sec. 6, Ch. 177, L. 1979; amd. Sec. 1, Ch. 335, L. 1981; amd. Sec. 1, Ch. 503, L. 1989; amd. Sec. 1, Ch. 328, L. 1991; amd. Sec. 2, Ch. 454, L. 1991; amd. Sec. 1, Ch. 801, L. 1991; amd. Sec. 5, Ch. 407, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 407 throughout section substituted "disability" for "handicap" and references to a person with a disability for references to a handicapped per-

son; in (1)(c), (7)(a), and (8) inserted "marital status"; and made minor changes in style.

Cross-References

Urban renewal, 7-15-4207.

49-2-306. Discrimination in financing and credit transactions. (1)

It is an unlawful discriminatory practice for a financial institution, upon receiving an application for financial assistance, to permit an official or employee, during the execution of that person's duties, to discriminate against the applicant because of sex, marital status, race, creed, religion, age, physical or mental disability, color, or national origin in a term, condition, or privilege relating to the obtainment or use of the institution's financial assistance, unless based on reasonable grounds.

(2) It is an unlawful discriminatory practice for a creditor to discriminate on the basis of race, color, religion, creed, national origin, age, mental or physical disability, sex, or marital status against any person in any credit transaction that is subject to the jurisdiction of any state or federal court of record.

History: En. 64-306 by Sec. 2, Ch. 283, L. 1974; amd. Sec. 2, Ch. 121, L. 1975; amd. Sec. 3, Ch. 524, L. 1975; amd. Sec. 7, Ch. 38, L. 1977; R.C.M. 1947, 64-306(5), (8); amd. Sec. 6, Ch. 407, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 407 throughout section substituted "disability" for "handicap"; and made minor changes in style.

Cross-References

State District Court jurisdiction, Title 3, ch. 5, part 3.

Municipal Court jurisdiction, 3-6-103.

Power to contract, Title 28, ch. 2, part 2.

No discrimination by certain insurers, 33-18-210.

Medical and health insurance — continuation of coverage for handicapped child, 33-22-304, 33-22-506, 33-30-1003, 33-30-1004.

Minors' power to contract, Title 41, ch. 1, part 3.

49-2-307. Discrimination in education. It is an unlawful discriminatory practice for an educational institution:

(1) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution because of race, creed, religion, sex, marital status, color, age, physical disability, or national origin or because of mental disability, unless based on reasonable grounds;

(2) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information or to make or keep a record concerning the race, color, sex, marital status, age, creed, religion, physical or mental disability, or national origin of an applicant for admission, except as permitted by regulations of the commission;

(3) to print, publish, or cause to be printed or published a catalog or other notice or advertisement indicating a limitation, specification, or discrimination based on the race, color, creed, religion, age, physical or mental disability, sex, marital status, or national origin of an applicant for admission; or

(4) to announce or follow a policy of denial or limitation of educational opportunities of a group or its members, through a quota or otherwise, because of race, color, sex, marital status, age, creed, religion, physical or mental disability, or national origin.

History: En. 64-306 by Sec. 2, Ch. 283, L. 1974; amd. Sec. 2, Ch. 121, L. 1975; amd. Sec. 3, Ch. 524, L. 1975; amd. Sec. 7, Ch. 38, L. 1977; R.C.M. 1947, 64-306(7); amd. Sec. 7, Ch. 407, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 407 throughout section substituted "disability" for "handicap".

Nondiscrimination in education, Art. X, sec. 7, Mont. Const.

Exemption from immunization requirements on religious grounds, 20-5-405.

Cross-References

Aid prohibited to sectarian schools, Art. X, sec. 6, Mont. Const.

49-2-308. Discrimination by the state. (1) It is an unlawful discriminatory practice for the state or any of its political subdivisions:

(a) to refuse, withhold from, or deny to a person any local, state, or federal funds, services, goods, facilities, advantages, or privileges because of race, creed, religion, sex, marital status, color, age, physical or mental disability, or national origin, unless based on reasonable grounds;

(b) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that at local, state, or federal funds, services, goods, facilities, advantages, privileges of the office or agency will be refused, withheld from, or denied to a person of a certain race, creed, religion, sex, marital status, color, age, physical or mental disability, or national origin or that the patronage of

person of a particular race, creed, religion, sex, marital status, color, age, or national origin or possessing a physical or mental disability is unwelcome or not desired or solicited, unless based on reasonable grounds;

(c) to refuse employment to a person, to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because of that person's political beliefs. However, this prohibition does not apply to policymaking positions on the immediate staff of an elected officer of the executive branch provided for in Article VI, section 1, of the Montana constitution, to the appointment by the governor of a director of a principal department provided for in Article VI, section 7, of the Montana constitution, or to the immediate staff of the majority and minority leadership of the Montana legislature.

(2) This section does not prevent the nonarbitrary consideration in adoption proceedings of relevant information concerning the factors listed in subsection (1).

History: En. 64-306 by Sec. 2, Ch. 283, L. 1974; amd. Sec. 2, Ch. 121, L. 1975; amd. Sec. 3, Ch. 524, L. 1975; amd. Sec. 7, Ch. 38, L. 1977; R.C.M. 1947, 64-306(6); amd. Sec. 3, Ch. 682, L. 1991; amd. Sec. 8, Ch. 407, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 407 throughout section substituted "disability" for "handicap"; and made minor changes in style.

Cross-References

Special consideration for military personnel and veterans, Art. II, sec. 35, Mont. Const.
Aid prohibited to sectarian schools, Art. X, sec. 6, Mont. Const.

Executive branch officers and agencies, Title 2, ch. 15.

Classified service employees — municipal commission-manager government, 7-3-4415.

Sex discrimination — records of military discharges, 7-4-2614.

Urban renewal, 7-15-4207.

Employment by county Board of Park Commissioners, 7-16-2326.

Use of hospital district facilities, 7-34-2123.

Veterans' benefits, Title 10, ch. 2, part 3.

Sheltered workshops — public contracts to purchase, Title 18, ch. 5, part 1.

Special education supervisor, 20-3-103.

Exemption from school immunization requirements on religious grounds, 20-5-405.

Special education for exceptional children, Title 20, ch. 7, part 4.

Surrogate parent to represent interests of handicapped student, 20-7-461 through 20-7-463.

Educational programs for gifted children, Title 20, ch. 7, part 9.

State School for the Deaf and Blind, Title 20, ch. 8.

Work-study program, 20-25-707.

Library services for the handicapped, 22-1-103.

Religious beliefs of witness not relevant to credibility, Rule 610, M.R.Ev. (see Title 26, ch. 10).

Marital status irrelevant to parent-child relationship, 40-6-103.

Adoption policy — best interest of child standard — factors to be considered, 40-8-114.

Right to refuse to participate in sterilization, Title 50, ch. 5, part 5.

Exemption from prenatal blood tests on religious grounds, 50-19-109.

Right to refuse to participate in abortion, 50-20-111.

Furnishing of medical assistance, 53-6-105.

Community programs and homes for the physically disabled, Title 53, ch. 19, part 1.

Community-based services for developmentally disabled, 53-20-212.

Community mental health centers, 53-21-206.

Ineligibility of handicapped for driver's license, 61-5-105.

Homestead exemption, Title 70, ch. 32, part 2.

Surviving spouse exempt from inheritance tax, 72-16-313.

Exceptions to fishing and hunting license requirements and regulations, Title 87, ch. 2, part 8.

49-2-309. Discrimination in insurance and retirement plans. (1) It is an unlawful discriminatory practice for a financial institution or person to

discriminate solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement plan, program, or coverage, including discrimination in regard to rates or premiums and payments or benefits.

(2) This section does not apply to any insurance policy, plan, or coverage or to any pension or retirement plan, program, or coverage in effect prior to October 1, 1985.

(3) It is not a violation of the prohibition against marital status discrimination in this section for an employer to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents.

History: En. Secs. 1, 3, Ch. 531, L. 1983; amd. Sec. 4, Ch. 13, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 13 inserted (3) to clarify that providing greater or additional contributions to a bona fide group insurance plan for employees with dependents does not constitute discrimination based on marital

status; and made minor changes in style. Amendment effective February 1, 1993.

Cross-References

Insurance forms — discriminatory provisions as grounds for disapproval, 33-1-502.

49-2-310. Maternity leave — unlawful acts of employers. It shall be unlawful for an employer or his agent to:

(1) terminate a woman's employment because of her pregnancy;

(2) refuse to grant to the employee a reasonable leave of absence for such pregnancy;

(3) deny to the employee who is disabled as a result of pregnancy any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by her employer, provided that the employer may require disability as a result of pregnancy to be verified by medical certification that the employee is not able to perform her employment duties; or

(4) require that an employee take a mandatory maternity leave for an unreasonable length of time.

History: En. 41-2602 by Sec. 2, Ch. 320, L. 1975; R.C.M. 1947, 41-2602(1); amd. Sec. 1, Ch. 285, L. 1983; MCA 1981, 39-7-203; redes. 49-2-310 by Sec. 2, Ch. 285, L. 1983.

49-2-311. Reinstatement to job following pregnancy-related leave of absence. Upon signifying her intent to return at the end of her leave of absence, such employee shall be reinstated to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other service credits unless, in the case of a private employer, the employer's circumstances have so changed as to make it impossible or unreasonable to do so.

History: En. 41-2602 by Sec. 2, Ch. 320, L. 1975; R.C.M. 1947, 41-2602(2); MCA 1981 39-7-204; redes. 49-2-311 by Sec. 2, Ch. 285, L. 1983.

Part 4

Exceptions to Prohibitions

49-2-401. Repealed. Sec. 11, Ch. 801, L. 1991.

History: En. 64-306.1 by Sec. 4, Ch. 524, L. 1975; amd. Sec. 1, Ch. 27, L. 1977; R.C.M. 1947, 64-306.1(1); amd. Sec. 7, Ch. 177, L. 1979.

49-2-402. "Reasonable" to be strictly construed. Any grounds urged as a "reasonable" basis for an exemption under any section of this chapter shall be strictly construed.

History: En. 64-306 by Sec. 2, Ch. 283, L. 1974; amd. Sec. 2, Ch. 121, L. 1975; amd. Sec. 3, Ch. 524, L. 1975; amd. Sec. 7, Ch. 38, L. 1977; R.C.M. 1947, 64-306(10).

49-2-403. Specific limits on justification. (1) Except as permitted in 49-2-303(3) through (5) and 49-3-201(5), sex, marital status, age, physical or mental disability, race, creed, religion, color, or national origin may not comprise justification for discrimination except for the legally demonstrable purpose of correcting a previous discriminatory practice.

(2) Age or mental disability may represent a legitimate discriminatory criterion in credit transactions only as it relates to a person's capacity to make or be bound by contracts or other obligations.

History: En. 64-307 by Sec. 3, Ch. 283, L. 1974; amd. Sec. 3, Ch. 121, L. 1975; amd. Sec. 5, Ch. 524, L. 1975; amd. Sec. 8, Ch. 38, L. 1977; R.C.M. 1947, 64-307(1), (2); amd. Sec. 2, Ch. 342, L. 1985; amd. Sec. 4, Ch. 506, L. 1991; amd. Sec. 5, Ch. 13, L. 1993; amd. Sec. 9, Ch. 407, L. 1993.

Compiler's Comments

1993 Amendments: Chapter 13 near beginning revised subsection reference to include 49-2-303(5). Amendment effective February 1, 1993.

Chapter 407 throughout section substituted "disability" for "handicap".

Cross-References

Power to contract, Title 28, ch. 2, part 2.
 Minors' power to contract, Title 41, ch. 1, part 3.

49-2-404. Distinctions permitted for modesty or privacy. Separate lavatory, bathing, or dressing facilities based on the distinction of sex may be maintained for the purpose of modesty or privacy.

History: En. 64-307 by Sec. 3, Ch. 283, L. 1974; amd. Sec. 3, Ch. 121, L. 1975; amd. Sec. 5, Ch. 524, L. 1975; amd. Sec. 8, Ch. 38, L. 1977; R.C.M. 1947, 64-307(3).

Cross-References

Right of privacy, Art. II, sec. 10, Mont. Const.

49-2-405. Veterans' and handicapped persons' employment preference. The application of an employment preference as provided for in Title 39, chapter 29 or 30, and 10-2-402 by a public employer as defined in 39-29-101 and 39-30-103 may not be construed to constitute a violation of this chapter.

History: En. Sec. 12, Ch. 1, Sp. L. 1983; amd. Sec. 15, Ch. 646, L. 1989.

Part 5

Enforcement by Commission

49-2-501. Filing complaints. (1) A complaint may be filed by or on behalf of any person claiming to be aggrieved by any discriminatory practice prohibited by this chapter. The complaint must be in the form of a written, verified complaint stating the name and address of the person, educational institution, financial institution, or governmental entity or agency alleged to have engaged in the discriminatory practice and the particulars of the alleged discriminatory practice. The commission staff may file a complaint in like manner when a discriminatory practice comes to its attention.

(2) (a) Except as provided in 49-2-510 and subsection (2)(b) of this section, a complaint under this chapter must be filed with the commission within 180 days after the alleged unlawful discriminatory practice occurred or was discovered.

(b) If the complainant has initiated efforts to resolve the dispute underlying the complaint by filing a grievance in accordance with any grievance procedure established by a collective bargaining agreement, contract, or written rule or policy, the complaint may be filed within 180 days after the conclusion of the grievance procedure if the grievance procedure concludes within 120 days after the alleged unlawful discriminatory practice occurred or was discovered. If the grievance procedure does not conclude within 120 days, the complaint must be filed within 300 days after the alleged unlawful discriminatory practice occurred or was discovered.

(c) Any complaint not filed within the times set forth herein may not be considered by the commission.

History: En. 64-308 by Sec. 5, Ch. 283, L. 1974; amd. Sec. 6, Ch. 524, L. 1975; R.C.M. 1947, 64-308(1); amd. Sec. 8, Ch. 177, L. 1979; amd. Sec. 1, Ch. 415, L. 1987; amd. Sec. 3, Ch. 801, L. 1991.

49-2-502. Notification of and action by commission. The staff shall notify the commission in writing of all complaints filed with the commission. The commission shall meet a minimum of four times a year to hear and act upon all complaints filed.

History: En. 64-308 by Sec. 5, Ch. 283, L. 1974; amd. Sec. 6, Ch. 524, L. 1975; R.C.M. 1947, 64-308(part).

49-2-503. Temporary relief by court order. At any time after a complaint is filed under this chapter, a district court may, upon the application of the commission or the complainant, enter a preliminary injunction against a respondent in the case. The procedure for granting the order is as provided by statute for preliminary injunctions in civil actions.

History: En. 64-308 by Sec. 5, Ch. 283, L. 1974; amd. Sec. 6, Ch. 524, L. 1975; R.C.M. 1947, 64-308(3); amd. Sec. 4, Ch. 801, L. 1991.

Cross-References

Injunctions, Title 27, ch. 19.

49-2-504. Informal settlement. The commission staff shall informally investigate the matters set out in a filed complaint promptly and impartially. If the staff determines that the allegations are supported by substantial evidence, it shall immediately try to eliminate the discriminatory practice by conference, conciliation, and persuasion.

History: En. 64-308 by Sec. 5, Ch. 283, L. 1974; amd. Sec. 6, Ch. 524, L. 1975; R.C.M. 1947, 64-308(4).

49-2-505. Contested case hearing. (1) If the informal efforts to eliminate the alleged discrimination are unsuccessful, the staff shall inform the commission of the failure and the commission shall cause written notice to be served, together with a copy of the complaint, requiring the person, educational institution, financial institution, or governmental entity or agency charged in the complaint to answer the allegations of the complaint at a hearing before the commission.

(2) The hearing must be held by the commission in the county where the unlawful conduct is alleged to have occurred unless the person, institution,

(presented by
Jacqueline J. Zimmerman)

Counterpoint Non-Gender Insurance: A Perspective
Edward J. Zimmerman*

Abstract

Since 1978, a variety of legal issues have emerged regarding non-gender insurance. The author traces these developments, particularly in the annuity, life, and accident and health insurance lines of the business. He examines in detail the experience in Montana which requires non-gender insurance for all lines and concludes that public policy decisions on this important subject seem to be shifting to administrative arenas, rather than remaining with elected legislative bodies.

"The evidence is clear and conclusive—statutory implementation of non-gender insurance in 1985 has significantly increased the cost of insurance for many women."

-Ted Schwinden, governor
State of Montana
April 9, 1987

The year 1988 marks the 10th anniversary of the landmark Supreme Court decision in *Los Angeles Dep't of Water and Power v. Manhart*¹ in which the Court held that Title VII of the Civil Rights Act of 1964² prohibits employers from requiring females to contribute higher periodic contributions than males to a defined benefit pension plan in order to assure equal benefits upon retirement. This decision was the opening salvo in a decade-long debate over the use of gender by insurers and employers to determine the level of rights or benefits for insurance products or employee benefit plans.

The discussion which follows addresses the nature of the debate, the recent history of this debate, the experience in the one jurisdiction which

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1. 435 U.S. 702 (1978).

2. Civil Rights Act, 42 USCA § 2000e (West 1981).

has completely prohibited gender classifications, and a sense of what the future will hold. The principal focus is on the life and health insurance industry; however, occasional reference to the automobile/liability insurance area will be necessary for a complete frame of reference. At the outset, the reader should be aware that the author is firmly committed to the belief that the use of gender in the pricing of insurance or the determination of benefits is an appropriate and necessary element of the risk classification system used by the insurance industry, and that gender classifications provide an economic fairness—and in many cases, advantage—for women.

THE NATURE OF THE DEBATE

The issue of whether gender is a permissible classifier of risk has been presented to virtually every forum imaginable. Regardless of the means by which the debate has been brought forth, the factual issues are relatively consistent. The following discussion reviews the primary contentions which have surfaced over the past decade.

The gravamen of the debate focuses on whether consideration of gender in assessing a risk of loss at some future, indeterminate time should be prohibited as a matter of public policy. In dealing with this public policy issue, the insurance industry must often confront unvarnished allegations of "discrimination". The most readily apparent argument in the hands of proponents of non-gender insurance is that insurance companies "discriminate against" women when gender is used as a risk classifier. This contention has obvious facial appeal to public policy makers, be they legislators or regulators, and the insurance industry may therefore be cast in an unfavorable light at the outset. There are, however, several factors which must be considered in addressing the charge of sexual discrimination.

When considering whether insurers "discriminate", one is unfortunately and quickly thrust into a game of semantics. Do insurers discriminate? The answer must, of course, be "Yes." Insurers discriminate between good and bad risks, between smokers and nonsmokers, between sky divers and those who pursue less dangerous hobbies, and between males and females.

The critical question is not whether insurers discriminate, but whether they discriminate *between* risks as opposed to discriminating *against* risks.³ The

3. See Kimball, *Reverse Sex Discrimination: Manhattan*, 1979 AM. B. FOUND. RES. J., 83.

debate surrounding non-gender insurance goes to the very core of the risk classification system.⁴

Clearly, insurers are unable to assess risks on a purely individual basis. Simply stated in the life insurance context, it is unknown how long a given individual will live. As a result, insurers must group individuals according to the expected risk they present. Given the need for such grouping, the next level of inquiry is the precision with which such groups shall be determined. The greater precision with which a group with like characteristics can be developed, the greater the likelihood of accurate pricing for the individuals who comprise the group. The elimination of gender as a risk classifier lessens the homogeneity of a given group, thereby diminishing pricing precision. The issue therefore becomes not one of "sex discrimination" but one of "price discrimination."⁵ Thus, insurers continue in the use of gender as a risk classifier in order to obtain precision in the determination of risk and therefore in pricing.

Once one embarks upon the issue of pricing and distinctions between groups of people, one must assess the economic impact upon those groups. Specifically, does the use of gender as a risk classifier affect females favorably or unfavorably? Typically, a female experiences an economic benefit from gender-based pricing: Because of their greater longevity, women experience lower life insurance premium rates than do men. Similarly, young women receive more favorable auto insurance rates because of the better risk they present. Alternatively, women, as a group, incur greater medical expenses than their male counterparts, and greater longevity creates the need to accumulate more funds for subsequent periodic annuity payments over a longer time.

A recurring argument of the proponents of non-gender insurance is that a female's "life-time cost" for gender-based insurance is dramatically higher than the cost paid by a male. The differential, higher cost for women has been placed in the range of \$15,732 to \$20,176.⁶ The "lifetime cost" approach has been discredited due largely to the faulty assumptions underlying the calculations. The fatal flaw with this approach is the assumption that all women and men purchase not only automobile insurance and individual life insurance but also individual major medical

4. See Bailey, Hutchison & Narber, *The Regulatory Challenge to Life Insurance Classification*, 25 *DRAKE L. REV.* 779 (1976).

5. Miller, *How to Discriminate by Sex: Federal Regulation of the Insurance Industry* 17 *CONN. L. REV.* 567, 569 (1985), citing L. PHILIPS, *THE ECONOMICS OF PRICE DISCRIMINATION* (1983).

6. *Fact Sheet on Montana's Non-Gender Insurance Law*, Non-Gender Insurance Project of the Women's Lobbyist Fund, [hereafter "Fact Sheet"] Sept., 1987 at 3. The \$15,732 figure has been frequently cited by the National Organization for Women before state legislatures (e.g., in statements before the Montana legislature in 1985).

insurance, disability income insurance and an individual annuity. As accurately observed in the September, 1987, "Fact Sheet on Montana's Non-Gender Insurance Law," published by the Women's Lobbyist Fund: "It is true that few women would carry all these types of insurance. . . ."⁷

It is no more true that *all* women benefit from non-gender insurance than that *all* women benefit from gender-distinct insurance. The lynchpin of any assessment of cost impact must be "typicality". What is the normal experience of the insurance-buying public?

Health Insurance

Plans which provide coverage for the cost of medical care in the private sector are generally available in two forms: group plans (primarily as a condition of employment) and individual policies. Only individual health insurance policies consider gender in determining rates; employer-based plans are gender-neutral.⁸ While it is certainly true that individual health insurance is most often gender-distinct and women often pay larger premiums than men, 90 per cent of all health insurance is obtained through the mechanism of gender-neutral group insurance sponsored by employers.⁹ Thus, the standard of typicality provides that the vast majority of persons acquiring health insurance are unaffected by gender distinctions.

Annuities

Similarly, more than 80 per cent of all annuities and pensions are obtained through the gender-neutral, employer-based group mechanism.¹⁰ With individual annuities, the greater projected longevity of women will be considered to assure the availability of a pool of money from which to make payments over an uncertain period of time. In the event, however, that a survivor option is elected for a spouse under a life annuity, the gender of *both* the male and the female must be considered, and the economic impact on the female would be altered dramatically. The standard of typicality may therefore be quite difficult to obtain as to individual annuities, but the most typical annuity of all, employer-based, is provided on a gender-neutral basis.

7. Fact Sheet at 3.

8. As required by *Arizona Governing Committee v. Norris*, 463 U.S. 1073 (1983).

9. See HEALTH INSURANCE ASSOCIATION OF AMERICA, SOURCE BOOK OF HEALTH INSURANCE DATA: 1986 UPDATE 6.

10. See AMERICAN COUNCIL OF LIFE INSURANCE, LIFE INSURANCE FACT BOOK: 1987 UPDATE 16 and AMERICAN COUNCIL OF LIFE INSURANCE, 1987 PENSION FACTS 8-9, 16, 24-25, 28-29.

Disability Income Insurance

Over 75 per cent of all disability income coverage is provided by employers on a gender-neutral basis.¹¹ Further, in the individual policy marketplace, numerous policies are available for which the insurer has determined that non-gender pricing is appropriate. Typically, disability income insurance policies are gender-neutral.

Life Insurance

More than one-half of all life insurance is held by individuals, and in 1986, nearly three-fourths (71.7 per cent) of the life insurance protection purchased was acquired through individual policies.¹² Although a wide variety of policies are available (e.g., term, whole life, universal life, variable life), the most direct comparison can be made with term life insurance. Since term life does not provide for the accumulation of cash values, the premiums paid are directed solely to pure insurance coverage.

As noted by a survey conducted by the Montana Department of Insurance¹³ implementation of the non-gender insurance law in that state resulted in an average cost increase for term life insurance to 30-year old women of 10 per cent. Policies which provide for the accumulation of cash values and payment of dividends require males to pay larger premiums which, in turn, lead to higher cash values and dividends. Proponents of non-gender insurance argue that, even given the higher premiums paid by males, women receive less value in their policies.¹⁴ This contention, while facially correct, fails to consider the time value of money—a dollar is worth more today than at a future date. As recognized by most state insurance regulators, insurers must take the time value of money into account when illustrating projected future policy values.¹⁵ Once this factor is considered, the result is that women receive their

11. See HEALTH INSURANCE ASSOCIATION OF AMERICA, SOURCE BOOK OF HEALTH INSURANCE DATA, 1986-1987 at 14.

12. See AMERICAN COUNCIL OF LIFE INSURANCE, LIFE INSURANCE FACT BOOK: 1987 UPDATE 4.

13. The "Non-Gender Survey" was conducted by the Montana Insurance Department and presented to the 1987 Legislative in Feb., 1987.

14. Fact Sheet, *supra* Note 6.

15. See e.g., Mont. Admin. R. 6.6.205(5)(1980). This Administrative Rule provides that:

A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies.

The Montana rule was derived from the Life Insurance Disclosure Model Regulation adopted by the National Association of Insurance Commissioners in 1976 and promulgated by 34 states, NAIC MODEL LAWS, REGULATIONS AND GUIDELINES, 580-1, *et seq.*

insurance protection at lower cost.¹⁶ Thus, the standard of typicality is met, and women are the recipients of a distinct economic advantage.

Automobile Insurance

Virtually all automobile insurance is purchased by individuals. In fact, 35 states and the District of Columbia require registered car owners to obtain minimum levels of coverage as a condition to licensing vehicles.¹⁷ After accounting for mileage driven and all other relevant factors, younger male drivers continue to present a significantly greater risk than their female counterparts. Therefore, young women pay lower premiums.¹⁸

When the critical factor of typicality is carefully weighed, it is abundantly clear that life insurance and automobile insurance are the two products which affect the majority of persons purchasing insurance. In both instances, women gain a fair advantage because of the more favorable risk they present.

HISTORY OF THE DEBATE

Although four states had prohibited the use of gender in determining automobile insurance rates in the early and mid-1970s¹⁹ the issue of gender as a risk classification factor was truly joined by the *Manhart* decision mentioned earlier. Although the scope of *Manhart* was relatively limited, the concepts embodied in the briefs and the decision proved to be a precursor of significant activity in the courts, the Congress and state legislatures for the ensuing decade. The *Manhart* opinion focused on the "pay-in stage" of an uninsured defined benefit pension plan in which all employees of the Los Angeles Department of Water and Power were required to participate. In recognition of the fact that women as a group live longer than men as a group, the employer required women to make larger periodic contributions to the plan (the "pay-in phase") to assure that sufficient funds would be available to pay-out benefits during the anticipated longer lives of the female participants. An action was brought under Title VII alleging that this practice violated the Civil Rights Act of 1964. The majority opinion of Justice Stevens focused on the possibility that an *individual* woman could be discriminated against should

16. Miller, *supra* Note 5, at 580-90.

17. INSURANCE INFORMATION INSTITUTE, INSURANCE FACTS 103 (1987-88 ed.).

18. See, ALL-INDUSTRY RESEARCH ADVISORY COUNCIL, UNISEX AUTO INSURANCE RATING (Oct 1, 1987).

19. HAW. REV. STAT. § 294-33 (1985); MASS. ANN. LAWS ch. 175, §§ 22E, 24A (Law. Co-op. 1977 & Supp. 1987); MICH. COMP. LAWS ANN. § 500.2027(c) (West 1983 & Supp. 1987); N.C. GEN. STAT. § 58-30.3(a) (1982 & Supp. 1987).

she not, in fact, outlive a similarly situated male.²⁰ The holding of the Court—which effectively prohibited the requirement of higher periodic contributions by females in employee benefit plans—threw open the door to a flurry of litigation and legislative activity for the next decade.

While a wide range of litigation began to move its way through the federal court system, the watershed year for the issue of non-gender insurance was 1983. That year brought to the forefront three significant events which have since framed the debate. The first event was the enactment of legislation in the State of Montana which prohibited using gender or marital status to determine rates or benefits in any insurance plan, program or policy.²¹ The second event was intensified activity before the United States Congress in the form of H.R. 100 and S. 372. The third, and most wide-sweeping, event was the opinion of the United States Supreme Court in *Norris v. Arizona Governing Committee*.²²

In July 1983, the United States Supreme Court rendered its opinion in *Norris* which extended that reasoning of *Manhart* to the “pay-out phase” of an employee benefit plan under Title VII. Specifically, the Court found that a voluntary deferred compensation plan may not offer, as an alternative optional benefit, a lifetime annuity in which the insurance company used sex-distinct mortality tables in calculating monthly benefits. Although the plurality opinion of Justice Marshall correctly observed that the opinion did not extend to the activities of individual insurers²³ (correctly framing the issue as one regarding employment), the implications for the industry were significant in light of pending legislative activity.

The *Norris* decision stimulated intensified activity in the Congress in the form of H.R. 100, a measure which would have prohibited insurers from using gender as a rating factor in virtually all products, whether or not they be related to an employee benefit plan. Although H.R. 100 was not enacted, the debate concerning the issue coupled with the Montana enactment moved the industry and the proponents of non-gender insurance to intensified activity on a new front—the states.

Spurred by the outcome of *Norris* and the new Montana law, the proponents of non-gender insurance took their case to the states, seeking action from the legislatures, the courts and regulatory agencies. Since 1983, legislation which would prohibit the use of gender in determining rates has been considered annually in approximately a dozen states.²⁴ The

20. Note 1, *supra* at 708.

21. MONT. CODE ANN. § 49-2-309 (1986).

22. 463 U.S. 1073 (1983).

23. *Id.* at 1087 n. 17.

24. In 1987, the District of Columbia, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Missouri, New York, Oregon, Rhode Island, South Carolina and Texas considered “unisex” legislation.

insurance industry and the proponent groups have vigorously debated the matter before legislatures throughout the country, yet no state, other than Montana, has enacted such legislation.

On a second front, the issue has been presented to state court systems for their consideration. In 1984, the Supreme Court of Pennsylvania held that the state insurance commissioner did not abuse his discretion in disapproving gender-distinct automobile insurance rates.²⁵ The original denial was based upon language in the Pennsylvania automobile rate-making statute²⁶ which prohibited the charging of "unfairly discriminatory" rates. The court's decision received considerable notoriety because of its reference to the Pennsylvania State Equal Rights Amendment ("ERA").²⁷ Unfortunately the decision has been cast erroneously as holding that the use of gender-distinct automobile rates violates the state ERA. In fact, the court looked to that constitutional provision as one factor in determining the issue before the tribunal—whether the insurance commissioner had abused statutory discretion.

An appellate court review of the applicability of a state equal rights amendment on gender-based insurance pricing is quite likely in view of a recent decision of the Commonwealth Court of Pennsylvania. On April 25, 1988, the Commonwealth Court granted a summary judgment on the question of whether the Pennsylvania Equal Rights Amendment prohibits gender-based pricing of automobile insurance policies.²⁸ Specifically, the Court found unconstitutional an act of the 1986 Pennsylvania legislature which amended the Casualty and Surety Rate Regulatory Act which specifically permits gender-based automobile insurance rates. The full scope of the Commonwealth Court opinion is unclear for at least two reasons. First, the court's finding that the "state action" doctrine is inappropriate will assuredly be the subject of appellate argument. Secondly, the court's view that distinctions which are "reasonable and genuinely based on physical characteristics unique to one sex" strongly implies that gender-based pricing in the life and health insurance markets would meet constitutional muster in Pennsylvania. Thus, the key future event to be observed will be the Pennsylvania Supreme Court's analysis of the "state action" doctrine as it applies to the facts of this case.

The proponents of non-gender insurance rates have also pursued a theory in state courts based upon state public accommodation laws. Such laws, which prohibit the denial of equal access to places of public ac-

25. *Hartford Accident & Indemnity Co. v. Ins. Comm. of Pennsylvania*, 505 Pa. 571, 442 A.2d 382 (1982), *aff'd* 482 A.2d 542 (1984) noted 3 J. OF INS. REG. 469 (1985).

26. PA. CONS. STAT. ANN. § 1183(d) (Purdon 1971).

27. PA. CONST. art. I, § 28, (Purdon Supp. 1987).

28. *Bartholomew v. Foster*, No. 2551 C.D. 1986 (Pa. Commw. April 25, 1988).

commodation, are prevalent throughout the United States.²⁹ To date, three actions have been brought which allege that insurance is a "place of public accommodation" and that the use of gender in determining rates and benefits is, therefore, a denial of equal access. Of the three cases, two have been resolved at the appellate level. In both instances, the defendant insurer sought to dismiss based upon the inapplicability of the public accommodation statute to the facts set forth by the plaintiff. In *NOW v. Mutual of Omaha*,³⁰ the motion to dismiss was granted by the trial court, and the District of Columbia Court of Appeals affirmed the denial based, in part, on the absence of any specific language in the Act³¹ regulating insurance premium practices. Similarly, the defendant insurer in *NOW v. Metropolitan*³² filed a motion to dismiss before the New York trial court. The motion was denied; however, on interlocutory appeal the Appellate Division of the New York Supreme Court directed dismissal of the case finding that the New York public accommodations law³³ "has no application to defendant's gender-based, risk classification, rate making policies which are expressly sanctioned by the Insurance Law."³⁴ The third case remains at a pretrial stage in the State of California.³⁵

The most recent tack taken by proponent groups is to seek a state agency to promulgate a rule prohibiting the use of gender in insurance. On Aug. 24, 1987, the Massachusetts Commissioner of Insurance issued a rule that banned the use of sex as a classifying characteristic for purposes of underwriting policies of life and health insurance.³⁶ That rule, which becomes effective Sept. 1, 1988, would apply not only to policies issued after the effective date of the rule, but also to those contracts which are "renewed by agreement."³⁷ On Jan. 14, 1988, a challenge was filed to the proposed rule.³⁸ The plaintiffs, both individual insurance companies and trade associations, seek to have the regulation declared void and enforcement enjoined.

THE MONTANA EXPERIENCE

In 1983, the Montana Legislature enacted H.B. 358 which became known as the "Montana Nongender Insurance Law." Effective Oct. 1, 1985, the

29. See, e.g., N.Y. Executive Law § 296(2)(a).
30. 531 A.2d 274 (D.C. Appeals 1987), noted 4:4 J. OF INS. REG. 149 (1987).
31. D.C. CODE §§ 1-2501 to 1-2557 (1987).
32. 131 A.D.2d 356, 516 2d 934, (N.Y. App. Div. 1987), noted 6 J. OF INS. REG. 108 (1987).
33. N.Y. Executive Law § 246(2)(a).
34. See, *Now v. Metropolitan*, supra Note 32, 131 A.D. 2d. at 359.
35. *Kirsh v. State Farm Auto Ins. Co.*, No. C637897 Super. Ct. L.A. County.
36. Mass. Admin. Code tit. 211, § 35.00 et seq. (1987).
37. *Id.* at § 35.03(4).
38. *American Council of Life Insurance v. Roger Singer*, Comm of Ins., No. 88-0221 (Super. Ct. Suffolk County filed Jan. 14, 1988).

newly-enacted statute prohibited insurers from "discriminat[ing] solely on the basis of sex or marital status in the issuance or operation of any insurance policy, plan or coverage. . . ."³⁹

The law specifically applied only to those contracts issued or renewed on or after Oct. 1, 1985. Montana thus became the first and only state to impose non-gender insurance requirements on all lines of insurance. When the legislature next convened in 1985, the insurance industry undertook a significant effort to repeal the 1983 law. The 1985 repeal measure passed one house of the legislature, but failed in the second chamber, and the 1983 law became effective the following October 1st. When the legislature next met in 1987, lawmakers were presented squarely with the question of whether the law, as a matter of public policy, worked to the benefit of the citizens of Montana. State Rep. Helen O'Connell of Great Falls introduced H.B. 519 at the beginning of the 1987 session. This bill would have altered significantly the Montana Nongender Insurance Law by permitting insurers to make distinctions on the basis of sex or marital status "when bona fide statistical differences in risk or exposure have been substantiated". The prohibition in the 1983 law on the use of sex or marital status would have been limited to the refusal to insure or continuing to insure. Unlike any prior consideration of "unisex" issue, the debate on H.B. 519 presented, for the first time, the question of whether a unisex law which had been in effect for over one year was considered economically beneficial to the citizens of the jurisdiction. The legislature concluded that the prohibition on use of sex and marital status in determining rates or benefits should be eliminated; accordingly both houses of the Montana legislature passed H.B. 519. Although Gov. Schwinden agreed with the legislature on the issue of economic impact, he concluded inexplicably that his "constitutional obligation" compelled him to veto H.B. 519.⁴⁰ Thus, Montana remains the sole jurisdiction in the United States in which insurers may not take into account gender or marital status in determining rates or benefits for all lines of insurance.

Although H.B. 519 did not become law in Montana, the actions of the 1987 legislature and the governor are dramatically significant with regard to the issue of non-gender insurance. The most vigorously debated question surrounding the non-gender insurance issue has been whether gender distinctions benefit or disadvantage females. The experience in Montana, as demonstrated by the legislature and the statements of the governor, unequivocally establish that "nongender insurance . . . significantly increased the cost of insurance for many women".⁴¹ Aside from

39. MONT. CODE ANN. § 49-2-309 (1986).

40. Governor's Veto Message, filed with Office of the Secretary of State, April 9, 1987.

41. *Id.*

the complaints of numerous disgruntled insureds within the state, the principal evidence of economic impact before the legislature and the governor was a survey conducted by the Montana Department of Insurance.⁴² Among the conclusions of the survey are the following:

1. Term life insurance premiums for a 30 year-old female increased between 1 per cent and 110 per cent;
2. Whole life insurance premiums for a 30 year-old female increased between 4 per cent and 34 per cent;
3. Individual major medical health insurance premiums for a 25 year-old female decreased between 8 per cent and 28 per cent.
4. Individual auto insurance premiums for a 20 year-old female increased between 4 per cent and 91 per cent.

The survey also revealed that auto insurance premiums were affected, on average, by a 12 per cent factor not due to non-gender insurance and that, startlingly, life insurance products available in the state decreased approximately 37 per cent due to the 1983 law. As noted by Gov. Schwinden, "the evidence is clear and conclusive" that non-gender insurance statutes work to the economic detriment of many of the female citizens of the jurisdiction.

Why then was H.B. 519 vetoed? Unfortunately, the basis for Gov. Schwinden's veto provides no direction in other jurisdictions and little direction for the State of Montana. The veto was based upon Article II, Section 4 of the Montana Constitution, popularly known as the "Individual Dignity Clause." That section states:

No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.

The veto is void of direction for the future for two reasons. With respect to jurisdictions other than Montana, no comparable state constitutional provision will be found. In 1972, a constitutional convention was convened in Montana to revise the framework of the state's laws. The result was a new constitution for the state which was subsequently ratified. Part of that new constitution was the previously mentioned Individual Dignity Clause. The clause is not a "state equal rights amendment" nor was it

42. Non-Gender Survey, *supra*, Note 13.

intended to be so. Barring the adoption of this clause by another state, it is unique from any other constitutional provision.

The greater difficulty with the governor's reliance on the Individual Dignity Clause is the absence of any supporting rationale for the conclusion reached by the chief executive of the state. The Montana Supreme Court has not been presented with the question of the constitutionality of gender-based insurance rates and in fact, decisions of the court interpreting the Individual Dignity Clause lead to a conclusion contrary to that reached by Gov. Schwinden. Nor does the governor's veto message disclose the underpinnings for his conclusion that the Individual Dignity Clause compels a veto. The only guidance provided by the message is that the "perception of what is 'good' or 'bad' economically for women"⁴³ is not binding on either the legislature or the governor.

The Montana Supreme Court provided the framework within which such a constitutional analysis must take place in *Butte Community Union v. Lewis*.⁴⁴ That case, which addressed the legislature's restricting of the availability of certain welfare benefits based on the age of the applicant examined carefully the appropriate test to be invoked in an analysis of Article II, Section 4 of the state constitution. After noting the tests employed in a federal equal protection analysis, the court observed that those federal tests need not be followed in reviewing the constitutionality of a Montana statute under the Montana Constitution. The court first addressed the "middle-tier test" espoused by the United States Supreme Court in *Craig v. Boren*,⁴⁵ and observed that:

Traditionally courts have applied a "rational basis" test for equal protection analysis where a fundamental right is not implicated. Rational basis is easily satisfied. The more stringent test, strict scrutiny requiring the state to show a compelling state interest, is seldom satisfied. . . . Unable, or unwilling, to recognize gender as a suspect class, the Court still recognized that Congress should not be able to discriminate between the sexes on any "conceivable basis." The Court therefore adopted, in *Crain v. Boren*, the middle-tier of the review for analyzing gender-based discrimination. The Court said such discrimination will be upheld only when the government can show that the classification it has used is "substantially related" to an "important governmental objective." (citations omitted)⁴⁶

Nonetheless, the Montana court determined to establish its own middle-tier test for determining the constitutionality of Montana statutes when measured against the Individual Dignity Clause. The test established by

43. *Supra* Note 40.

44. 712 P.2d 1309 (Mont. 1986).

45. 429 U.S. 190 (1976).

46. 712 P.2d 1309, 1312 (Mont. 1986).

the court was comprised of two factors: 1) That the classification is reasonable and 2) that the interest of the state in so classifying is more important than the interest of the people who may be subject to the classification. The court further noted that "a reasonable classification is one which is not arbitrary."⁴⁷ Applying this two-prong test to H.B. 519, the Governor ignored the evidence of reasonableness presented to the legislature (the "perception of what is 'good' or 'bad' economically for women") and made no finding whatsoever that the classification was allegedly arbitrary. The second prong of the test—balancing the state's interest against the interest of the affected class—was also ignored by the veto. In fact, the economic impact on the female, as well as male, citizens of Montana is a critical factor in assessing the second prong of the test.

Moreover, the one reported case in which the constitutionality of the use of gender-based mortality tables is addressed squarely reached a different conclusion. In *Hanover Trust Company v. United States*⁴⁸ the use of gender-based mortality tables for the purpose of determining the taxable reversionary interest in a trust was challenged under the Equal Protection Clause of the Fifth Amendment to the United States constitution. The federal Court of Appeals for the Second Circuit, employing the "substantially-related test," held that the use of such tables was permissible under the constitutional standard. While *Hanover Trust* deals with federal standards for equal protection analysis (and may therefore be distinguishable),⁴⁹ the case certainly casts further doubt on the propriety of the constitutional interpretation by the Montana executive branch.

FORECAST FOR THE FUTURE

Because of the diverse past of the non-gender insurance issue, a forecast of the future can hardly be made with any certainty. Given the fervor of the proponent groups and the insurance industry's vigorous defense of its risk classification system, the debate should continue to rage. At the state level the trend of legislative proposals can be expected to continue throughout 1988 and thereafter. In addition, developments in the California public accommodations case and any appeals which may be taken from the New York and District of Columbia cases⁵⁰ will

47. *Id.* at 1314.

48. 576 F.Supp. 837 (S.D. 1983), *rev'd* 775 F.2d 459 (2nd Cir. 1985), *cert. den.*, 106 S. Ct. 1490 (1986).

49. See, Miller, *Gender-Based Mortality Tables and the Insurance Industry: Manufacturers Hanover Trust Co. v. United States*, 18 CONN. L. REV. 393, 396 (1986).

50. [Ed. Note. An appeal was denied in the New York case for failure to file in a timely fashion. See 6 J. OF INS. REG. (1988).]

dictate the future of litigation strategy. The Montana legislature next convenes in regular session in 1989. Whether another effort to modify the non-gender insurance law will be considered is at best speculative.

The most critical development in the near future will be the progress of litigation challenging the Massachusetts unisex regulation. While the central factual issues of this controversy are essentially unchanged from the prior legislative and judicial activity, the underlying mechanism—administrative rulemaking—is a radical departure. There is little doubt that the non-gender insurance debate is based upon public policy concerns. The *Manhart* and *Norris* cases were judicial interpretations of one of the most important pieces of social policy legislation in our history—the Civil Rights Act of 1964. The United States Congress and over 20 state legislatures have each considered as a matter of policy whether insurance companies should be permitted to consider gender in determining rates or benefits. Each of those legislative bodies, including the Montana legislature, heard the debate in the full light of day and rejected a non-gender insurance mandate, as a matter of public policy. On the other hand, the Massachusetts insurance commissioner, an appointed official, has undertaken to determine the public policy of the entire state. Moreover, this determination flies directly in the face of virtually all existing precedent and was undertaken by means of the often arcane administrative rulemaking process.

Creation of public policy through administrative action thus intensifies the long-standing debate and places the controversy on a considerably different plane. Not only must the industry concern itself with addressing public policy concerns before public policymakers, it must squarely and vigorously confront the spectre of administrative agencies setting the course of public policy.



MONTANA FARM BUREAU FEDERATION

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SENATE BUSINESS & INDUSTRY

EXHIBIT NO. EX 10

DATE 2/15/95

BILL NO. SB 290

(Presented by Irma Frank)

BILL # SB 290 ; TESTIMONY BY : DAVE McCLURE

DATE 2/15/95 ; SUPPORT Yes ; OPPOSE

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. I AM DAVE McCLURE, A FARMER-RANCHER FROM THE LEWISTOWN AREA AND CURRENTLY PRESIDENT OF THE MONTANA FARM BUREAU, AN ORGANIZATION OF OVER 6000 MEMBER FAMILIES. WE FAVOR SB 290 BECAUSE OF POLICY STATEMENTS ESTABLISHED BY OUR VOTING MEMBERS WHO ARE ACTIVE FARMERS AND RANCHERS.

OUR POLICY STATES:

"WE OPPOSE THE UNISEX INSURANCE LAW AND RECOMMEND ITS REPEAL."

MONTANA REMAINS THE ONLY STATE THAT HAS UNIFORMLY BANNED SEX DISCRIMINATION FOR ALL LINES OF INSURANCE. THAT MAKES US UNIQUE. SINCE WE ARE DEPENDENT ON MULTI-STATE AND OUT-OF-STATE INSURANCE COMPANIES TO SUPPLY OUR NEEDS, THERE IS A COST FOR BEING DIFFERENT. SEPARATE POLICIES AND PREMIUMS MUST BE DESIGNED FOR OUR STATE AND THAT IN ITSELF RELATES TO HIGHER COSTS ESPECIALLY BECAUSE OF OUR LIMITED POPULATION NUMBERS.

I SERVE ON THE BOARD OF DIRECTORS OF SEVERAL MULTI-STATE INSURANCE CARRIERS AND HAVE PARTICIPATED IN THE DISCUSSIONS ABOUT HOW STATE MANDATES INCREASE COSTS TO THE INSURANCE COMPANIES OPERATING IN THOSE STATES. THOSE COSTS ARE BORNE BY THE CONSUMERS IN THOSE STATES. AS MONTANA CITIZENS, WE ARE PROUD OF OUR STATE AND THE FACT THAT WE ARE UNIQUE, HOWEVER WE SHOULD NOT USE THAT FOR NO GOOD REASON WHEN IT INCREASES COSTS. EVEN THOUGH I AM A DIRECTOR ON THESE INSURANCE BOARDS, I AM HERE TODAY REPRESENTING OUR MEMBERS, WHO ARE CONSUMERS AND PREMIUM-PAYERS OF INSURANCE.

FOR SOME TYPES OF INSURANCE, A REQUIREMENT FOR SEX-NEUTRAL PREMIUMS CAUSES WOMEN TO PAY LESS AND MEN TO PAY MORE THAN THEY SHOULD; FOR OTHER TYPES, MEN PAY LESS AND WOMEN MORE. ONE EXPECTED FINANCIAL EFFECT IS THAT LIFE INSURANCE PREMIUMS INCREASE FOR WOMEN AND DECREASE FOR MEN. HEALTH INSURANCE PREMIUMS DECREASE FOR WOMEN AND INCREASE FOR MEN. AUTOMOBILE INSURANCE PREMIUMS INCREASE FOR WOMEN AND DECREASE FOR MEN, PARTICULARLY AT THE YOUNGER AGES. SEX DISTINCT RATES ARE FAIRER BECAUSE THEY MORE ACCURATELY REFLECT THE RISK INVOLVED. MONTANA'S UNISEX RATING LAW HAS CAUSED THE INSURANCE PREMIUMS OF YOUNG MARRIED AND YOUNG SINGLE FEMALE DRIVERS TO INCREASE IN ORDER TO SUBSIDIZE THE HIGHER RISK OF AUTO ACCIDENTS OF YOUNG SINGLE MALE DRIVERS. WHY SHOULD THESE DRIVERS BE FORCED TO PAY MORE THAN THEIR FAIR SHARE TO SUBSIDIZE THE COSTS OF ACCIDENTS CAUSED BY YOUNG, SINGLE MALE DRIVERS?

UNISEX RATING IS AN ECONOMIC, NOT A CIVIL RIGHTS ISSUE. INSURANCE PREMIUMS ARE BASED ON RISKS, TAKING INTO ACCOUNT THOSE CHARACTERISTICS OF A GROUP OF INDIVIDUALS HISTORICALLY PROVEN TO BE EFFECTIVE PREDICTORS OF RISK. THESE ESTIMATES ARE BASED ON ACTUAL HISTORICAL COSTS, NOT ON STEREOTYPES AND SOCIAL PREJUDICE. FOR THESE REASONS WE ENCOURAGE YOU TO PASS SENATE BILL 290. THANK YOU.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 11

DATE 2/15/95

BILL NO. SB 290

**STATEMENT OF
L. ERIC LOEWE, SENIOR COUNSEL
NATIONAL ASSOCIATION OF INDEPENDENT INSURERS
ON SB 290
February 15, 1995**

*(Presented by
Jarry Akey)*

On behalf of the National Association of Independent Insurers (NAII), I am writing to urge the adoption of SB 290 which would allow the use of gender in the establishment of automobile insurance rates. The NAII is a national trade association of approximately 570 property and casualty insurers. Our members account for 24 % of the automobile insurance premium in Montana.

Insurance, as you know, is the transfer of risk or chance of financial loss from an individual to the insurance company. Further, it is the pooling or sharing of such risks among a group of people. Insurance also is a product whose price must be determined before the cost of providing that product is known. Accordingly, the industry collects large amounts of statistics concerning losses and the subjects being insured - whether that be the construction of a home, or the attributes of a driver. Insurance companies then use this data to predict future loss experience. A single individual's future loss expectancy can never be known, but the expectancy of loss for a group of similar insureds can be predicted with some accuracy.

State laws, including Montana's, specify that insurance rates be adequate but not excessive and not unfairly discriminatory. All persons or groups of persons do not have the same potential for future losses. To be fair, insurance rates must differentiate between groups of people which are

identifiable as having different loss potentials. This is known as cost-based pricing. To fail to so differentiate would itself constitute unfair discrimination.

The evidence is overwhelming that insurance costs are different for young men and young women, yet insurers are currently required by Montana law to ignore this difference. Consider this sampling of facts:

- National Safety Council figures show that the rate of male drivers in fatal accidents is almost 60% higher than that of female drivers.
- The Insurance Institute for Highway Safety found that male drivers 16-24 years old were involved in 114 fatalities per 100,000 people, compared with 46 fatalities per 100,000 people for female drivers of the same age group.
- A Michigan Department of State study revealed male drivers had six times as many major convictions as female drivers, twice as many moving violations, three times as many speeding tickets, and four times as many license suspensions and revocations.

Based on NAII statistics for the period 1990-1992 years combined, it costs automobile insurers 20% more to provide liability and collision coverage protection to young male drivers as a whole than to young female drivers. While claim frequency is approximately the same between both groups, the average claim cost for males is still higher than for females. This suggests that male drivers are more aggressive motorists, driving at higher speeds than females, and are involved in

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more severe accidents causing greater damage to both the vehicle and to the person(s). The difference in accident experience of males and females is greatest for youthful drivers. Most insurance companies, therefore, charge "unisex" rates for adult drivers over age 25 or 30., when the differences between male and female drivers are less pronounced.

In automobile insurance, geographical location, age of the operator, marital status, use of the vehicle (such as whether it is driven for pleasure only, driven to and from work, used in business or farming), the driving record of drivers, their amount of driving experience, annual miles driven, and make and model of the car, are all valid rating criteria. Insurance companies use some combination of all of these factors in the setting of rates. None of these however, substitutes for sex as a predictor of losses.

Criteria which are used to differentiate between groups or classes of insureds must be readily discernible, and easily verified. Use of these criteria should result in groupings which are relatively homogeneous within the group and different between the groups, in terms of loss potential. In insuring homes, this may mean differentiating between frame construction and brick, or between homes located in towns with ready water suppliers and close-by fire departments and those in rural areas, where the fire department may be miles away and water to fight a fire may depend on getting a pumper truck to the scene, or locating a farm pond.

Annual miles driven is often proposed as a substitute for sex in setting automobile insurance rates. However, as demonstrated by the National Safety Council figures, females have fewer

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accidents than males in each category of annual miles driven, so it is not an acceptable substitute. Annual miles driven is also difficult to verify. If this were a major criteria in determining rates for automobile insurance, the temptation would surely exist for insured to understate their actual miles driven.

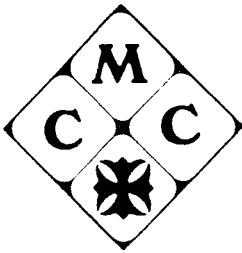
Who benefits from the continuation of unisex auto insurance rates?

- Not the young female who would continue to subsidize premiums of young males. A 23 year old single mother, just starting in the work force and not earning a large salary, is certainly in no position to subsidize the costs of others.

- Not the young male, who may find himself less desirable as a potential insured, and therefore may have more difficulty in obtaining insurance.

We urge you to support SB 290. The current unisex rating law unfairly forces female drivers to pay more than their fair share to subsidize the cost of accidents caused by young male drivers.

h/Vega/amidata/Voeve/Urtzom



Montana Catholic Conference

FEBRUARY 15, 1995

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM SHARON HOFF, REPRESENTING THE MONTANA CATHOLIC CONFERENCE. IN THIS CAPACITY, I SERVE AS LIAISON FOR MONTANA'S TWO ROMAN CATHOLIC BISHOPS.

THE MONTANA CATHOLIC CONFERENCE TAKES A NEUTRAL POSITION ON SB290. THIS DECISION WAS REACHED IN CONSULTATION WITH BOTH BISHOPS. WE USE THIS OPPORTUNITY TO COMMENT ON THE PROPOSED REPEAL OF MONTANA'S UNISEX INSURANCE LAW BECAUSE THIS LAW AFFECTS A SIGNIFICANT PORTION OF THE STATE'S POPULATION--MONTANA'S WOMEN.

THE DRIVING MOTIVATION BEHIND THE REPEAL HAS CONSISTENTLY BEEN UNCLEAR TO US. IS THE REPEAL FUELED BY INSURANCE INDUSTRY ISSUES OR BY THE ABORTION DEBATE? THE ANSWER DEPENDS UPON WHO YOU ASK.

AN ARTICLE TITLED "IS GENDER NEUTRAL DEAD?" FOUND IN THE INSURANCE INDUSTRY'S FEBRUARY 1995 ISSUE OF BEST'S REVIEW, DISCUSSES THE ISSUE AT LENGTH. THE ARTICLE LOOKS AT THE PROS AND CONS OF UNISEX INSURANCE. PERHAPS ONE OF THE MOST TELLING ARGUMENTS IN SUPPORT OF THIS REPEAL IS THE INDUSTRY

STATEMENT THAT "SEX DISTINCT RATES ARE FAIRER BECAUSE THEY MORE ACCURATELY REFLECT THE RISK INVOLVED.... *BECAUSE MEN HAVE A LOWER RATE OF DISABILITY, THEY'RE LESS EXPENSIVE TO INSURE.*" WE BELIEVE THAT MONTANA'S MANDATED MATERNITY BENEFITS ARE A PART OF "THE RISK INVOLVED."

BY REPEALING THE UNISEX LAW, WOMEN OF CHILD-BEARING AGE WILL SEE HIGHER HEALTH INSURANCE RATES. PLACING THE MATERNITY MANDATE IN THE INSURANCE CODES DOES *NOTHING* TO PROTECT WOMEN AGAINST HIGH HEALTH INSURANCE COSTS.

ANOTHER NON-GENDER BENEFIT IS THE MORE EQUITABLE DISTRIBUTION OF ANNUITY PAYOUTS FOR WOMEN. IN THE U.S., APPROXIMATELY 72 PERCENT OF THE ELDERLY POOR ARE WOMEN. WITHOUT UNISEX, LOWER ANNUITY PAYOUTS ARE PROBABLE. WE QUESTION WHETHER IT TAKES LESS MONEY FOR ELDERLY WOMEN TO LIVE THAN IT TAKES FOR ELDERLY MEN TO LIVE.

THE BEST ARTICLE ALSO CITES THE DEBATE SURROUNDING AUTO INSURANCE PRICING. THE ARTICLE CITES A 1987 REPORT INDICATING THAT IN MONTANA, 11.8% OF THE "INSURED CARS WERE DRIVEN BY YOUTHFUL OPERATORS AND WERE SIGNIFICANTLY AFFECTED BY THE ELIMINATION OF SEX AND MARITAL STATUS AS RATING VARIABLES. THE BALANCE OF THE STATE'S INSURED CARS, 88.2%, WAS UNAFFECTED OR WAS AFFECTED ONLY TO A SLIGHT

DEGREE. THE ARGUMENT THAT THIS IS ABOUT LOWERING AUTO RATES FOR WOMEN DOESN'T SEEM TO FIT THESE STATISTICS.

TO FURTHER MUDDY THE WATERS, ENTER THE ABORTION ISSUE. IN A JANUARY 1994 LEGISLATIVE COUNCIL OPINION REGARDING THE BANKER'S LIFE DECISION, STAFF ATTORNEY JOHN MACMASTER CONCLUDES THAT DISCRIMINATION BASED SOLELY ON SEX "COVERS ABORTIONS, VASECTOMIES, OR ANYTHING ELSE THAT IS GENDER SPECIFIC TO ONLY ONE SEX..." WE CANNOT DISCOUNT THE ABORTION ISSUE; BUT IS THE *REAL* ISSUE BEHIND THE UNISEX REPEAL IS THE ABORTION ISSUE? WOULD THE COURTS UPHOLD AN ABORTION MANDATE? WE DON'T KNOW. IF ABORTION IS THE INTENT BEHIND THIS REPEAL, THEN LET'S BRING IT OUT AND DEBATE IT IN AN HONEST WAY.

WE HAVE CONSISTENTLY ARGUED AGAINST MANDATING ABORTION COVERAGE. WE SUGGEST THAT ONE POSSIBLE WAY TO ADDRESS THE ABORTION ISSUE AND STILL MAINTAIN THE NON-GENDER LAW IS FOR THE COMMITTEE TO CONSIDER AN AMENDMENT TO SECTION 49-2-309 TO INCLUDE A CONSCIENCE CLAUSE ALLOWING THE EXCLUSION OF ANY SERVICE WHICH THE CONSUMER FINDS RELIGIOUSLY OR MORALLY OBJECTIONABLE.

YOU CAN SEE OUR DILEMMA. WE HOPE WE'VE ADDED SOMETHING USEFUL TO THE DEBATE. WE APPRECIATE THE OPPORTUNITY TO OFFER OUR REFLECTIONS AND ENCOURAGE THE

**COMMITTEE TO CAREFULLY WEIGH ALL THE IMPLICATIONS OF
REPEALING MONTANA'S NON-GENDER INSURANCE LAW. THANK YOU.**

Proposed

**CONNIE G. CLARKE
2312 PEARL STREET
MILES CITY, MT 59301
406-232-3332**

FEBRUARY 14, 1995

Ladies & Gentlemen:

Due to distance and conflicting schedules, I am unable to appear in person today to testify for the repeal of the "Unisex" bill, but appreciate the opportunity to have my thoughts shared with you nonetheless.

As a matter of information, I am an independent businesswoman, with over twenty years in the property and casualty insurance business. I have worked both for insurance agencies and insurance companies, and to this day continue my efforts to higher degrees of professionalism by taking educational courses. My primary occupation is that of a seminar presenter of various insurance topics, as well as customer service related workshops.

I testified before the Senate Business and Industry Committee in 1983 against the Unisex bill, and for the same reasons, I am still against the unisex rating mechanism. One key word continues to be overlooked in the pro and cons of the unisex issue, and that is "FAIR". I fail to understand that when it is actuarially proven that young males have automobile losses that are more frequent and severe than young females, how it is fair that both groups have the same rating basis. While the general public seeks to have insurance rating that is more individualized, we take away one of the factors that appropriately differentiates the loss experience of one group from another.

I realize that unisex rating affects various types of insurance in different ways. But of all the types of insurance, I know that auto insurance is the most common type that women personally buy, and that unisex rating adversely and unfairly discriminates against us.

I urge you to consider repeal of a law that supports an **unfair** rating method.

Thank you.

Sincerely,

Connie G. Clarke

Connie G. Clarke

EXHIBIT NO. 13DATE 2/15/95BILL NO. SB 290

Montana Association of Churches

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

PHONE: (406) 442-5761

WORKING TOGETHER:American Baptist Churches
of the Northwest

TESTIMONY OF DAVID HEMION
LEGISLATIVE LIAISON
MONTANA ASSOCIATION OF CHURCHES
SB 290
SENATE BUSINESS & INDUSTRY COMMITTEE
FEBRUARY 15, 1995

Christian Churches
of Montana
(Disciples of Christ)

The Montana Association of Churches represents eight of
Montana's largest Christian denominations. These include:

Episcopal Church
Diocese of Montana

American Baptist Churches of the Northwest
Christian Churches (Disciples of Christ) in Montana
Episcopal Church - Diocese of Montana
Evangelical Lutheran Church in America - Montana Synod
Presbyterian Church (U.S.A.) - Glacier and Yellowstone
Presbyteries

Evangelical Lutheran
Church in America
Montana Synod

Roman Catholic Dioceses of Great Falls/Billings and
Helena

United Church of Christ - Montana and Northern Wyoming
Conference

Presbyterian Church (U. S. A.)
Glacier Presbytery

United Methodist Church - Yellowstone Conference.

Presbyterian Church (U. S. A.)
Yellowstone Presbytery

In order for the Association to take a position on any
issue, it must gain the unanimous approval of its member
denominations.

Roman Catholic Diocese
of Great Falls - Billings

The Association has a position on Equal Rights for Women,
founded in the belief that men and women were created equal
in the eyes of God and therefore have the constitutional
right to equal opportunities in our society. To implement
this belief, we ask that the Legislature assure equal
compensation for women in pay, benefits and pensions.

Roman Catholic Diocese
of Helena

Clearly, the Legislature was upholding this principle of
equality when it enacted Section 49-2-309 in 1983, providing
that "it is an unlawful discriminatory practice for a
financial institution or person to discriminate solely on
the basis of sex or marital status in the issuance or
operation of any type of insurance policy, plan or coverage
or in any pension or retirement plan, program, or coverage,
including discrimination in regard to rates or premiums and
payments or benefits."

United Church
of Christ
Mt.-N. Wyo. Cont.United Methodist Church
Yellowstone Conference

SB 290 would reverse that principle, allowing discrimination to the detriment of women in setting premium rates and benefits for health and medical insurance policies. The issue goes further than that, however, as the effect of repealing Section 49-2-309 would also allow discrimination against women in other financial benefits.

We ask you to reject this bill. That any group would discriminate so unfairly against anyone on account of gender is deplorable. For businesses to ask that such action be sanctioned by the Legislature is shameful arrogance.

Say "No!" to SB 290!

NATIONAL CLEARINGHOUSE FOR ENDING SEX DISCRIMINATION IN INSURANCE

1214 W. Koch • Bozeman, Montana 59715 • (406) 587-5704

February 15, 1995

Testimony in Opposition to SB 290

to: Senate Business and Industry Committee

fr: Marcia Youngman, Director

I have been director of the National Clearinghouse for Ending Sex Discrimination in Insurance since 1986. It is a project of the Montana Women's Agenda Research and Education Fund and the Montana Women's Lobby, and includes a broad-based, bi-partisan coalition of women of all ages, rural and urban, business owners and homemakers, families, and women's, senior citizen, church, consumer, civil rights, low-income, educator, domestic violence, child care, women's job training, and other groups that support Montana's landmark gender-neutral insurance law. I'm also a City Commissioner in Bozeman, which has given me fresh appreciation for the challenges you face in determining good public policy. The non-gender insurance law has been in effect since 1985, and nine years of evidence make it abundantly clear that it is excellent public policy that should remain in place.

If someone offered you a low price on bananas for 9 years, and someone else offered you an equivalently low price on apples for 45 years, with the option of a better value for grapefruit, nectarines, and oranges as well, which would you think was the better deal? The 45-year deal for the apples and 3 other types of fruit, of course. This is a simple example, but it applies pretty well to insurance as well. With sex-based rates, the industry offers women bananas: lower auto insurance rates for a few years, but much higher health and disability insurance rates and lower life insurance and annuity payouts for their whole lifetimes. Insurance discrimination costs women and families money and hurts their economic security.

When women and families have examined the facts, they have had no trouble figuring out that gender-neutral insurance is more beneficial to them overall. They also recognize that it's not fair to rate people according to their gender, something they have no control over. These two reasons are why support among Montana women and families has always been widespread and bi-partisan.

I only have time to touch on the highlights today, but if any of you would like more detailed information, I would be glad to provide it. After the law took effect, we surveyed the major insurance companies in the state to determine the impacts on premiums and payouts for auto, health, life insurance, annuities, and disability insurance to a lesser degree. Our studies have been used in legislative and court hearings nationwide without contradiction by the industry. We concluded that the law benefits a majority of insurance consumers financially. Insurance discrimination was costing Montana women \$20,000 over their lifetimes in higher

premiums or lower payouts. A lifetime of gender-neutral coverage is worth \$22,000 more to women in 1985 dollars. The figure would be much higher today. Furthermore, we did not include the cost of maternity coverage in this calculation. Until the law took effect, families were paying an average \$900 a year for maternity riders. As a result of the law, maternity coverage must be covered as other conditions are, resulting in thousands of dollars of additional savings.

The most significant positive effect for women and families was to make health insurance significantly more affordable and inclusive. Male-related or male-dominated conditions such as prostate problems and sports injuries were routinely covered when female-related conditions such as pregnancy were not, until the law took effect. We studied policies for men, women, and families, for several age groups and four deductibles. We found that 84% of purchasers ages 30-60 received lower rates after the law took effect. Just to give you one example, women's annual premiums age 30 for a \$500 deductible policy dropped \$173. Family rates dropped \$243. This is not counting the \$900 maternity rider savings. I called insurance companies to find out what had happened to premiums for this type of policy since 1985. They told me rates had gone up about 120% during the decade. This means that on the same policies we surveyed, if you repeal the law, women will pay about \$380 more per year for gender-based rates, not counting maternity coverage, and families will pay about \$530 more. But you will have to count maternity coverage in the cost to women and families. Senator Tveit's bill mandates that it be included in policies but not that everyone share the cost. This means that the industry will load the cost of maternity coverage onto policies of women and families during child-bearing years.

A Montana insurance agent checked current maternity-related insurance costs in Alexander, North Dakota, a town about 20 miles from Senator Tveit's home in Fairview. For maternity to be included in policies, it now costs \$1,050 per year. This means health insurance policies could go up as much as \$1400 a year for women and \$1600 for families, almost doubling their premiums. This would be a crippling financial burden on women and families and cause many of them to lose their health insurance. Higher-deductible policies will have lower total premiums, but rates will similarly skyrocket for women and families. It does no good to mandate maternity coverage if people cannot afford to buy health insurance.

A Republican insurance agent commented to me that when the gender-neutral insurance law took effect, men for the first time were paying their fair share of the financial responsibility both sexes should share for pre-natal care, delivery of healthy babies, and health care of children. Women are less likely than men to receive health insurance at work and make only about half what men do in wages, so if you repeal the law, the consequences on maternal and child health could be disastrous.

In the case of annuities, the law caused monthly payouts to go up substantially for women, almost \$6,000 over a 10-year period for the moderate policy we studied.

Annuities are intended to provide financial security in retirement years, and women's basic living expenses are no lower than men's, so this is vital.

In life insurance, term life premiums did go up for women, as we expected, but only \$9 a year for a \$50,000 policy, \$17 for a \$100,000 policy. Most men and women buy some form of whole life insurance, and in this category women gained significantly. Premiums did go up, but dividends and cash value went up more than enough to offset the increase. To be sure of this, we included the time value of money in our calculations. Insurers typically only tell you about premiums, but it is vital to look at all facets of this type of policy to determine whether women gain or lose.

Auto insurance has been emphasized today. State Farm's predictions today are interesting, considering what Ron Ashabraner, the company's Montana legislative liaison, says in the February 1995 insurance publication, Best's Review. He says, "the premium increases were not as significant as we predicted." He goes on to say that in some categories the law "didn't affect anything." He also comments it's difficult to isolate what is driving up premiums and that "when you start comparing premiums, it's hard to tell what's going on."

Our own study showed that rates went up substantially for young women and many young marrieds under 25, but by shopping around young women could pay as little as \$65 more per year, and young marrieds could actually pay \$161 less. You also have to take into account that when the rates took effect, it was the height of the liability crisis, and increases were passed on that had nothing to do with the law. What is fascinating is what has happened since then. In 1985, Montana's average premium cost was 24th in the nation. By 1988, we had dropped to 40th, and in 1992 we ranked 45th. I can't give the non-gender law direct credit for this, but it was the only major regulatory change during the period.

You have been urged to repeal the law for the sake of young women drivers and young marrieds. 91.1% of Montana's 712,000 drivers are over 25, unaffected by the law because most insurers already charged gender-neutral rates over 25. 4.7 percent are young men who will receive significant increases if the law is repealed, even if they are safe drivers. 4.2% are young women. The youthful marriage rate is dropping, and less than 1% of Montana's drivers are young marrieds. *How can you consider repealing a law that benefits hundreds of thousands of Montanans their whole lifetimes in several lines of insurance for the sake of a few thousand young women and young marrieds who will only benefit for a handful of years?*

Young women are not better drivers because on average they drive fewer miles and are more obedient of traffic laws. If you passed a law requiring insurers to rate drivers more fully according to mileage and driving record, you would benefit most young women. You would also benefit women for their entire lifetimes, because statistics show an equally significant difference in male and female accident rates over 25 as under 25, statistics which insurers unfairly ignored when using sex as a

rating factor. When you use behavior instead of sex to rate people, safe drivers of both sexes benefit, and that is much fairer.

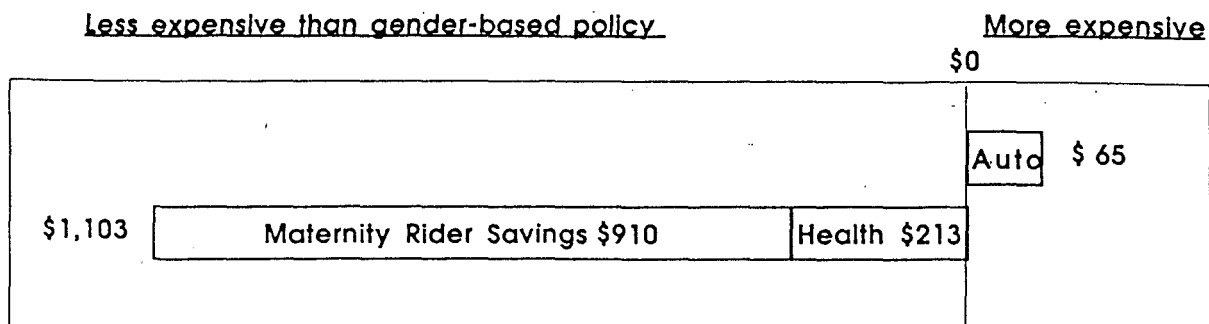
The same holds true for the other lines of insurance. *The industry has used gender-based actuarial data inconsistently in every line of insurance in ways that have tended to penalize women and families.* This makes it clear that sex-based rates had more to do with marketing and policy than with science. It is critical that you not allow insurers to return to this discriminatory practice. Gender is not needed for effective ratemaking. It is simply an easy proxy for more directly risk-related factors that would allow companies to reward people more accurately for low-risk behaviors.

Just a word about economic impacts on the industry. Only one company left the state claiming it was due to the law, and it returned. Over three times as many companies have become newly licensed in Montana as have ceased doing business. Sales volumes have climbed steadily in affected lines of insurance since the law took effect. The industry is doing well under the law, just as insurance customers are.

We support the law because it is fair, and because gender-based rating violates our Constitution. However, we would not have fought so hard to save it if women and families did not benefit economically. The non-gender insurance issue has been thoroughly debated in five previous legislative sessions. Four previous repeal efforts have failed, the last time six years ago, when a Republican-controlled Senate squashed the repeal bill 30-20. You have better things to do than re-debate an issue year after year. This law is too important to the women and families of Montana for us to quit if you were to repeal the law. We would bring this issue back as many times as it took until the law was restored. The law is working, it is pro-family, and the women and families of Montana like it. Isn't it time for you to move on to a new issue?

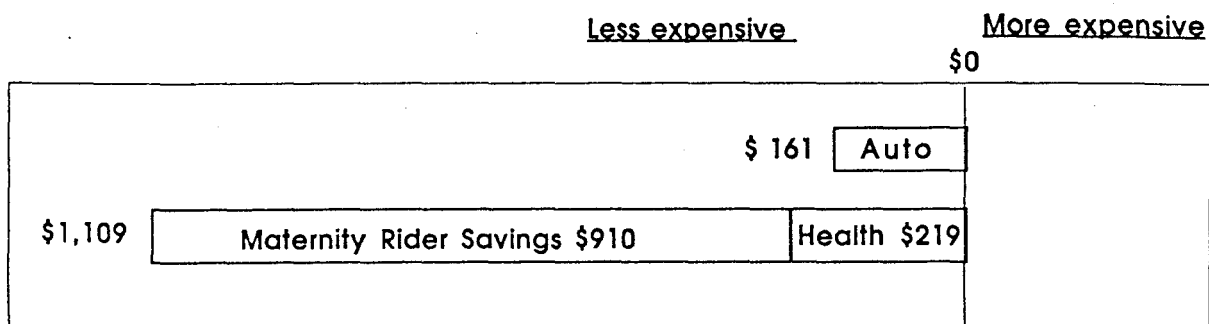
Possible Annual Savings to Young Women Buying Gender-Neutral Auto and Major Medical Insurance

Woman under 25



\$1,058 Savings: \$148 basic policy savings plus \$910 saved through the elimination of separate maternity riders

Couple under 25



\$1,270 Savings: \$380 plus \$910 maternity rider savings

These graphs use data from surveys conducted by the Montana Insurance Department and the Montana Women's Lobby Non-Gender Insurance Project after Montana's non-gender insurance law took effect in late 1985. The amounts shown are actual annual savings on specific gender-neutral policies available to young women and couples when shopping around.



Montana Nurses' Association

P.O. Box 5718 • Helena, Montana 59604 • 442-6710

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 15

DATE 2/15/95

BILL NO. SB 290

TESTIMONY OPPOSING SB 290
MONTANA NURSES' ASSOCIATION
FEBRUARY 15, 1995

My name is Barbara Booher. I am the Executive Director for the Montana Nurses' Association which represents 1400 RN's across the state.

The Montana Nurses' Association has a strong commitment toward the elimination of sex based discrimination in pension plans, social security, and health insurance programs and continues to support equal rights for all individuals regardless of sex or marital status.

Senate Bill 290, if passed, would allow Montana insurance companies to discriminate against some purchasers (probably many of our members) of insurance based on sex and marital status. It would tell the citizens of Montana that the legislature, after ending discrimination in insurance in 1983, decided to revert back to discriminating against women. It makes no sense for the legislature to allow discrimination in insurance rates, especially when Montana law explicitly rejects it in most other areas. Why should women -- some single mothers, some divorced -- suffer an excessive economic burden in order to obtain insurance coverage?

The MNA urges that insurance rates be set according to objective criteria with a direct relationship to the risk involved in the insurance. For example: mileage driven; driving records; health practices such as smoking, exercise habits, etc. Gender is not needed as a rating factor. It is simply an easy substitute for directly risk-related factors that would allow companies to reward women and men more accurately for low-risk behaviors. Repeal would hurt Montana women and families economically and discourage insurers from moving in the positive direction of using risk-related factors.

There are no valid reasons for reinstituting discrimination against women in insurance.

The Montana Nurses' Association urges you to give this bill a DO NOT PASS recommendation.

League of Women Voters
of Montana



SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 17

DATE 2/15/95

BILL NO. SB 290

To Senate Business and Industry Committee

OPPOSE SB 290 TO REPEAL NON-GENDER INSURANCE

The Montana League of Women Voters supports equal access in insurance for all Montanans. This bill would remove the equal access to insurance for both men and women that has been in place since 1985. This system, despite dire predictions when passed, has not resulted in any major insurers pulling out of Montana. The system is working. Why fix it if it isn't broken?

Women were discriminated against under gender based insurance, especially in health insurance in child rearing years. The attempt to cover pregnancy in SB290 is an insult to women because it calls maternity a "disability". It is not. It is part human life. And it is not "caused" by the actions of just one sex.

We urge a "DO NOT PASS" vote on this legislation.

Marty Onishuk
Missoula LWV
5855 Pinewood Ln.
Missoula, Mt. 59803

Northwestern National Life

PO Box 129, Suite D
234 East Babcock
Bozeman, Montana 59715

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 16

Norma Boetel 2/15/95

Registered Representative/Agent

SB 290

Office (406) 587-5155

Residence (406) 586-5669

To: Senate Business and Industry Committee.

I have been in the life, health and disability income insurance business for over 15 years. I have experienced the gender-based and the non-gender insurance rates and I have found the non-gender rates to benefit both men and women.

Before the adoption of non-gender insurance rates, females had a slight advantage in life insurance paying lower rates compared to comparable coverage for men. However, the cost of the waiver of premium rider (a disability clause) for females was higher. Since the passage of the non-gender legislation, the premium increase for females for the life portion of the policy and the decrease for the waiver of premium rider is a near wash. In addition, women for various reasons usually buy smaller policies than men. Generally, most companies charge more per thousand of coverage for smaller policies and any advantage females had is lost.


If the non-gender law is repealed, my primary concern is for single women with or without families who will have difficulty affording either health or disability income insurance. Many of these women will be unable to pay health insurance premiums and the result will be women letting their health insurance coverage lapse. The need for women to have coverage is more important today than it was nine years ago, before the 1985 legislation, because of the extremely high costs of health care.

Sex discrimination in insurance has cost women throughout their lifetimes. Any advantage women may have enjoyed in auto and life insurance rates is more than offset by the very high rates of health and disability income insurance and the decrease in pension and annuity payments if this law is repealed.

Since sex discrimination is prohibited by the Montana Constitution, the legislature should recognize the requirements of the Constitution by ensuring that all insurance companies doing business in the State adopt other factors in their rate making other than the sex of the insuree. The result will be fair and affordable insurance for all citizens of the State of Montana.

I urge the committee to oppose SB 290.

Respectfully submitted,



Norma Boetel

February 13, 1995

To the Senate Business and Industry Committee:

I am writing to voice my opposition to SB 290, which would repeal the non-gender insurance law in Montana. This law has been in effect for almost a decade in the state and has enforced the fair and equitable treatment of both men and women in insurance practices.

As the parent of a teenaged son, I object to the setting of insurance rates based on stereotypes rather than individual driving behavior. I am in favor of starting new drivers of either sex at an equal rate base and then allowing insurance companies to raise or lower rates based on actual driving record.

Thank you for your careful consideration of this issue of equal treatment under the law.

Sincerely,

Debra DeBode
(Debra DeBode)

527 N. Montana Ave.
Bozeman, MT 59715

February 11, 1995

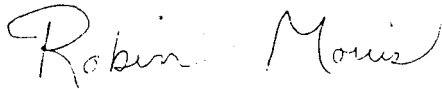
to: Senate Business and Industry Committee members
fr: Robin Morris, 211 South 5th Street, Livingston, MT
59047

My husband and I support the non-gender insurance law because it is fair. All Montanans, male or female, deserve fair treatment under the law.

We are the parents of a young girl. When she reaches driving age, we want her to be rated according to her behavior, not sex, for insurance. That's fair to everyone, and it will benefit our daughter substantially over her lifetime.

Please don't return sex discrimination to insurance. Support families. Please oppose SB 290.

Respectfully,

A handwritten signature in cursive script that reads "Robin Morris".

Robin Morris

FOR IMMEDIATE ATTENTION

February 12, 1995

Senate Business and Industry Committee
Capitol Station
Helena, MT 59620

Re: SB 290

Dear Senators,

I have just learned of the attempt to repeal Montana's non-gender insurance law, which has been in effect for nine years. I own a small business, employing six people in Bozeman, and am in the process of trying to find an affordable health insurance policy for our group of six females and two males (including spouses). After quite a bit of research on numerous different coverages, I was very relieved to find that Montana plans provide for affordable maternity benefits, and don't penalize us with higher rates for having younger male drivers on the staff.

Non-gender insurance is the answer for small businesses such as mine. Please oppose SB 290.

Sincerely,



Susan Pendleton Mavor, President
Prairie Smoke Corporation
10 Evergreen Drive, Suite A
Bozeman, MT 59715

BEST'S REVIEW


SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 21DATE 2/15/95BILL NO. SB 321*(Presented by Mark O'Keefe)**Is Gender Neutral Dead?**Protecting Professionals**High-Tech Thievery**HMO Liability**CD-ROM Training*

Will Agents Get Results?

(page 38)

Under New Management



IS GENDER NEUTRAL DEAD?

BY KRISTIN L. NELSON

Back in the 1980s, it appeared there was enough momentum to eliminate the practice of sex-distinct rates. Critics argued that gender-based pricing was offensive to basic civil rights principles and that the conventional wisdom saying it benefited women was illusory. Sweeping change was predicted following the Arizona vs. Norris and the City of Los Angeles vs. Manhart decisions mandating the use of unisex mortality tables for employment-related retirement benefits.

In addition to these federal rulings, there was considerable activity on the state level. Montana signed into law rules forbidding the use of sex or marital status in determining rates for all lines. Massachusetts became the first state to administratively ban sex discrimination by insurance companies in determining policy rate or benefits for all lines of insurance as well. Hawaii, Michigan, North Carolina and Pennsylvania passed laws to prohibit the use of gender in setting rates for automobile coverage.

The National Organization for Women argues that on a distance-driven rather than a time-period basis, the sex of the driver makes little difference to the safety of an insured car.

Lead by regulators, women's and consumer's groups, reformers appeared to have the strength of conviction to ensure an underwriting revolution. However, the reformers may have underestimated their opponents. Always opposed to further regulation, the industry fought vigorously against any attempts to limit the use of what it considers cost-based pricing, arguing that gender is clearly a significant and reliable cost factor in insurance. As a result of this fierce opposition, and despite mostly favorable results in those states that have unisex rating, there has been little movement in this area lately and even an unwinding of some reform efforts.

At least 15 other states introduced but failed to pass unisex legislation over the last decade. In Massachusetts, the Supreme Court ruled the insurance commissioner lacked the authority to order a unisex system. Judges in Maryland ruled that the state's insurance department exceeded its authority when it prohibited a life insurer from engaging in sex-based rating and pricing. The National Organization for Women reports it lost a chance last year in Pennsylvania to further change auto insurers' underwriting practices. Even in Montana, a state that has successfully fought off repeated efforts to repeal its unisex law, some are saying the battle isn't over. What's more, disability carriers started going back to sex-distinct rates in 1994.

Like other disability insurers, The Guardian Life Insurance Co. of America went to unisex rates after the Norris ruling. The federal court case has been interpreted to apply to group insurance and even individual policies offered through the workplace. Though the ruling never required unisex rates for individual policies, disability carriers thought the courts would eventually adopt unisex across the board.

Convinced now that won't happen, disability insurance companies are turning the clock back. Paul Revere Insurance Group Vice President and Actuary Ernest Foerster says the carriers' original

decisions to go to unisex rates "were primarily driven by the market; the indication was that various states were going to require it, and we wanted to be the first ones in." His company is considering going back to sex-distinct rates.

Even though carriers operated voluntarily under the unisex rules for several years, they have returned to arguing that these sex distinct rates are fairer because they more accurately reflect the risk involved. "Because men have a lower rate of disability, they're less

expensive to insure," says Michael Schiffman, vice president of disability for The Guardian, at the time of the announcement early last year.

In 1987, insurance commissioner Roger Singer promulgated a broad anti-discrimination regulation making Massachusetts the first state to administratively ban sex discrimination by insurance companies in determining policy rates or benefits for all lines of insurance. However, insurers argued that the commissioner usurped powers properly held by the legislature. In 1991, the state's Supreme Court agreed, ruling that the insurance commissioner lacked the authority to order a unisex system by regulation since lawmakers had chosen not to pass legislation creating such a framework.

In what can best be described as a Catch-22, a similar scenario has been playing out in Maryland. When the state's Commission on Human Relations sued The Equitable Life Assurance Society of the United States for discriminating against women and blacks in violation of the state's equal rights amendment, a circuit court judge in Baltimore referred the matter to the Maryland department of insurance. In 1992, Maryland's insurance department ordered the carrier to stop engaging in sex-based rating and pricing of life insurance. Equitable appealed the ruling and today is waiting for a decision from the state's highest court, following rulings from lower courts that the Maryland insurance department had exceeded its authority.

During the trials, the American

Council of Life Insurance and Health Insurance Association of America presented the industry's arguments that gender is a distinct risk factor. They argued that medical research has shown that there are biological differences between men and women that give women an edge in longevity. The human relations commission produced scientists arguing against the immutability of gender-based factors and an actuary who argued that the issue of longevity is more complex than the industry's portrayal. "We cannot conclude from data showing that women as a group live on average longer than men as a group that any individual woman lives longer than a man of the same age," the actuary, Arthur Anderson, stated. He said the average life span of those who die before the group expectancy is about half that expectancy, and the average of those who die after the group is about 1.5 times that. He also stressed that "studies have shown that socioeconomic class, smoking habits, certain physical impairments and diseases, have a far greater effect on mortality than sex alone. We only know that sex is correlated with longer life-span; there is no proof of causation."

He said life insurers also ignore regional variations in male and female mortality rates. "While life insurance products are priced on a national basis, using national mortality statistics, the difference in mortality rates for residents of different states is nearly as great as the difference between male and female mortality averages," he said.

Now has tried unsuccessfully, most recently in Pennsylvania, to get states to adopt what it calls the mile exposure unit as the basis for automobile insurance rating. "It would be possible to combine measurement of a car's individual exposure with its price classification and both are essential for determining appropriate auto charges," says Patrick Butler, in charge of the group's insurance project. He says changing to the mile exposure unit would eliminate price discrimination against all owners of cars driven less than the average mileage of their class and would produce genuine unisex auto insurance. All owners of cars in the same class would pay the same price for each mile driven. "Odometers would become the measure of exposure and the guarantee of equal treatment," he says.

Automobile insurers argue that sex is a significant variable for evaluating

"ODOMETERS
 WOULD BECOME
 THE MEASURE
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 AND THE
 GUARANTEE
 OF EQUAL
 TREATMENT."

risk posed by youthful drivers. They say that statistics gathered over many years indicate women have better accident records than men, particularly in the case of drivers under age 25. Students are told in the latest American Institute for CPCU underwriting textbook, "other things being equal, females traditionally generated lower loss levels than males, and most classification plans resulted in lower rates for females than for males of the same ages. With respect to drivers involved in fatal accidents, males have worse loss experience than females." The authors indicate that this is changing since per 10 million miles driven, female drivers were involved in more auto accidents than male drivers in 1989-92.

Critics such as Butler argue that sex is not the best determinant of risk. He says men drive about twice the annual miles women drive, which explains why men have averaged about twice as many accidents as women. However, he says, "Despite the large

as many miles of driving exposure means "that women on average are paying twice as much per mile as men pay."

Butler says the group eventually will attempt to push the mile exposure unit method of calculating rates in those states it considers good targets, namely Pennsylvania, California, New Jersey, North Carolina and Michigan. However, he admits that reform cycles come around slowly and that in Pennsylvania, at least, a window of opportunity was lost last year when a bill failed to make it out of committee in the legislature.

Meanwhile, Montana remains the only state that has uniformly banned sex discrimination for all lines of insurance. While there have been several attempts to repeal the law adopted in 1985, so far they have failed. In fact, last year Montana regulators ordered that major medical coverage must include maternity benefits at no extra charge.

In a 1987 report considering the effects of unisex underwriting, the risk

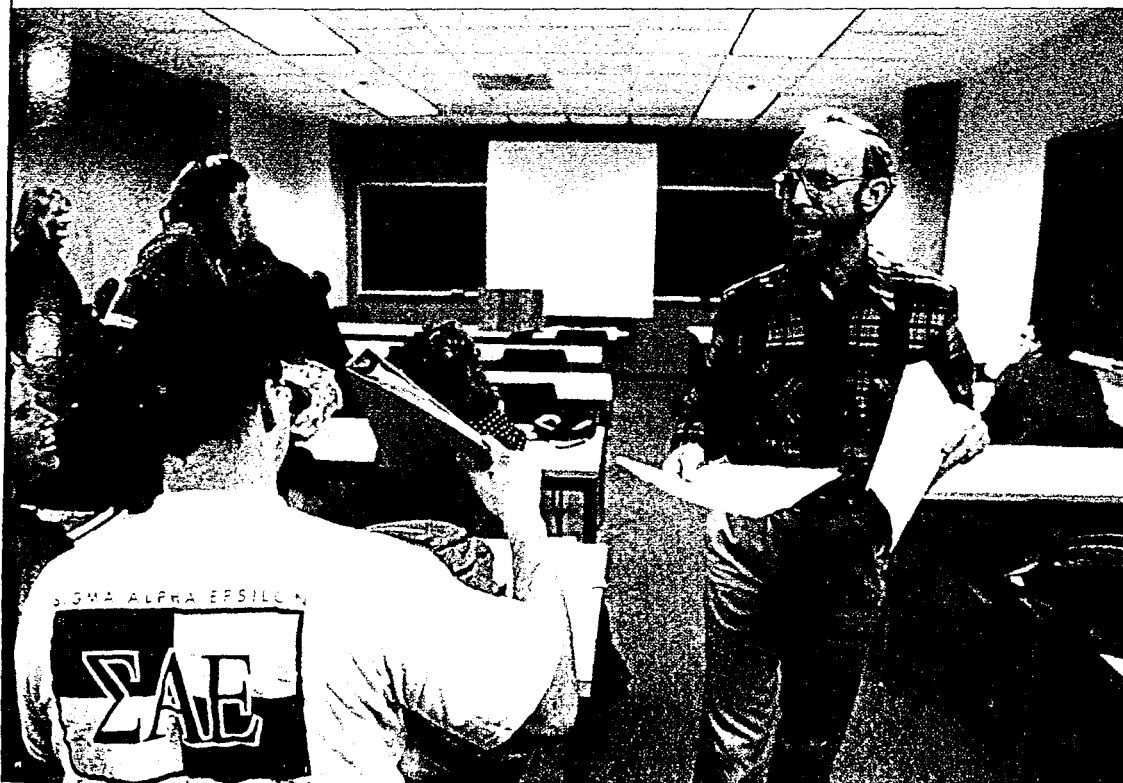
pay less and women more. One expected financial effect would be that life insurance premiums would increase for women and decrease for men. Health insurance premiums would decrease for women and increase for men. Automobile insurance premiums would increase for women and decrease for men, particularly at the younger ages. The committee also predicted that there could be increased emphasis of selling insurance to those whose coverage is thought to be overpriced; that fewer people would be able to afford insurance; and that insurers would have to assume the additional risk of inadequate premiums.

According to the state and other observers, premiums increased and decreased along the predictable patterns in those states that have tried unisex rating. The All-Industry Research Advisory Council, sponsored by the property/casualty industry, described the effects of the legislation in Montana in a report published in 1987. Results

showed that 11.8% of Montana's insured cars were driven by youthful operators and were significantly affected by the elimination of sex and marital status as rating variables. "The balance of the state's insured cars, 88.2%, was unaffected or was affected only to a slight degree." The council went on to say that 6.7% of the insured cars received significant rate increases after the changes.

In general, the report says that women drivers under age 25 had to pay more; 19-year-old single females experienced the largest dollar increases. Single women of that age who were owners or principal operators paid \$230 to

\$274 more per year, depending on where they lived. This compares with increases of \$138 to \$166 for single 17-year-old females who drive occasionally and increases of \$91 to \$109 for single 23-year-old female owners or principal operators.



Michael Murray, a professor at the Insurance Center at Drake University, Des Moines, Iowa, says the essence of insurance is sharing rather than discrimination. If all companies cease to discriminate, insurance will still be a viable industry.

difference between men's and women's average annual miles of exposure, insurers in the states that still permit sex-pricing of auto insurance favor men by charging unisex prices to adult men and women." He argues that paying the same per-year prices to insure half

classification committee of the American Academy of Actuaries predicted that for some types of insurance, a change to sex-neutral premiums would cause women to pay less and men more than they currently pay for the same coverages; for other types, men would

Marcia Youngman, former director of the National Clearinghouse for Ending Sex Discrimination in Insurance based in Bozeman, Mont., concurs with the council's findings, saying that rate decreases for young single men ranged from 3% to 20%, and increases for young women ranged from 22% to 44%. However, she says, "by shopping around, a young woman could receive an increase as low as \$65."

Youngman says her group's research shows that term life insurance premiums for men dropped slightly and women's increased an average of about \$9 a year. "In whole life insurance, the increase in dividends and cash values more than offsets the expected premium increase, making whole life worth more to women than before the law took effect."

In general, there is little evidence to support the notion that consumers or the industry have fared poorly in these states. In 1992, then Montana Insurance Commissioner Andrea Bennett submitted an affidavit in the Equitable case in Maryland describing the effects of the legislation. She stated that the statistics collected by her office from Oct. 1, 1985, through March 1991 showed that despite the claim of insurers that they would be forced to leave the state, Montana had authorized the operation of 220 new insurance companies. "At most, 11 companies have withdrawn from the Montana insurance market since 1985, and I have seen no proof at all that Montana's nongender law was the decisive factor," she stated.

The commissioner went on to say that there was an increase in the amount of life insurance sold in the state. She said it wasn't until the recession in 1988 that sales began to decline as they did throughout the industry.

Confirming that testimony, Deputy Insurance Commissioner Frank Cote, says overall premium tax has gone up along a normal predicted growth pattern. He says that while a small number of carriers pulled out of Montana, it is worth noting "all the major ones are still here." In fact, he says, "one of the carriers that left the state is now looking to return." Cote wouldn't name

that carrier, however. "The premium increases were not as significant as we predicted," says State Farm Insurance Group's legislative liaison in Montana, Ron Ashabraner. While there were predictions prior to the law's passage that carriers would increase their rates by as much as 300% in some categories, ultimately the law "didn't affect anything," he says. Moreover, he says it's difficult to isolate exactly what's driving up premiums, adding that "when you start comparing premiums, it's hard to tell what's going on."

Northwestern Mutual Life general agent Mike Anderson reports that when the legislation was introduced, his company "put a maximum effort toward avoiding the unisex pricing." From a company standpoint, unisex isn't fair pricing, he says. Nevertheless, "from a sales standpoint, we're indifferent to it at this point; it hasn't been a negative factor; it just hasn't come up that often." He says he hasn't seen any evidence that women are going across the border to other states to purchase insurance, as was originally feared. Nevertheless, Cote is convinced that with the new legislature in place and

insurance is not nearly as radical an idea as it might appear to some on the surface," according to a report by the National Association of Independent Insurers. The association reported that

the law's impact was restricted mainly to drivers under age 25: unisex rates for young drivers caused moderate increases in average premium for young women and moderate decreases in average premium for young men. In fact, "it's basically a non-issue right now," says spokes-

woman for the department, Teri Morante. "We seem to have companies on the waiting list to get in," says Bernard Cox, assistant deputy of the property/casualty division in North Carolina's insurance department. He notes no companies have left the state because of the unisex rating rules alone. In Pennsylvania, an insurance department spokeswoman says, "It did not cause an interruption in the marketplace; there has been a smooth transition."

Despite these apparent success stories, the issue appears to have lost its steam. Michael Murray, former editor of the *CPCU Journal*, spoke recently on the subject at the association's national meeting in

Chicago. He says he isn't surprised the industry has fought this issue so vigorously, because of its general objection to government intervention in its activities. "And this objection is to one of its most sophisticated activities," he adds. Nevertheless,

he asks the question, why is the insurance industry the only segment of our economy that still feels discrimination is a virtue? He says insurers should limit their discriminating to matters over which the policyholder has some control and is benefiting from his or her choice. "This can be supposed not only on the grounds that it is just, but also because of the potential for influencing people's behavior," he says. ■

"BECAUSE
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INSURE."

"THE INCREASE IN DIVIDENDS AND
CASH VALUES MORE THAN OFFSETS
THE EXPECTED PREMIUM INCREASE,
MAKING WHOLE LIFE WORTH
MORE TO WOMEN THAN BEFORE THE
LAW TOOK EFFECT."

because of the increased attention brought to the matter by last year's ruling mandating maternity benefit coverage there will be further attempts to repeal the unisex law.

The other states that have tried unisex rating in automobile coverage report success with the rules as well. "The average premium data and the Michigan residual market survey information show that elimination of gender as a rating factor for automobile in-

DATE 2/13/95
 MISSOURI MT. 59802
 BILL NO. 38332
 Feb 13, 1994

(Presented by
 Carol Davis)

To Whom It May Concern,

We own a 1972 Monrose 14' x 72' (3) three bedroom Mobile Home, ^{Parted} ~~Parted~~ in Westview Park Missouri Mont. at 4549 Bailey. We have had our Mobile Home for sale for the last two year, by the mean's of a for sale sign in the front of our mobile home, We have had at least 12 party's look at our mobile home in two years eight of said party's have wanted to leave the mobile home on said lot 4549 Bailey to talk to the manggement of Westview Park as of this time I've have not heard back from any of this eight party's

William D Stevens Living Trust

EX William D Stevens

WESTVIEW PARK

3500 Schramm
Missoula, MT 59802

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 23

DATE 2/15/95

BILL NO. SB 332

(Presented by Carol Doring)

October 1, 1993

Subject: Rental Mobile Homes.

Effective on November 1, 1993

On November 1, 1993, Westview Park will no longer allow rental mobile homes to be parked in Westview Park.

OWNER OCCUPIED ONLY.

Existing rental units will be allowed to remain as long as the present tenant remains.

When the present tenant moves the unit must be sold, under Park guidelines, or removed from the Park.

All present renters must be registered with the Park office by the above effective date.

Natalie Leuna

Owner / Agent

(Presented by Carol Davis)

I Bob Dischner who owns and operates R J D rentals. I own several trailers in the Missoula and Westview Trail Park, which is managed by Shelter West.

1st The owner of Westview doesn't want me to have rentals in his park, because people that rent don't take as good of care of property they rent as people who own.

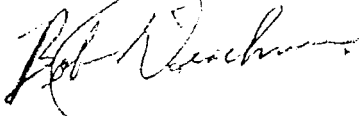
2nd Shelter West screens all of my renters to see if they have good credit or what have you, (I pay the rent.) they have no business harassing these people.

3rd I borrowed a lot of money to start this rental business and if I have to move these trailer out of Westview, it would be bankruptcy for me because the cost of moving is outrageous and there is no place to move these homes to.

I invested in these properties for my retirement so if they put me out of business I would lose about \$36,000.00 a year income when I retire.

Thank you very much
R J D Rentals

Bob dischner



LAMBROS

REAL ESTATE
February 19, 1994

RICHARD HERBEL
4756 WILKIE
MISSOULA, MT 59802

Dear Resident:

During the past two years, the Westview Mobile Home Park has experienced several rate increases. Property taxes have increased 12.6%, electricity by 11.2%, gas by 11.6%, trash removal by 12.4% and water treatment by 8.6%.

To absorb part of these taxes and utility increases, the monthly lot rental will be \$190.00 and \$25.00 for common area charges (which include trash, water, maintenance, landscaping, security lighting, street cleaning, and snow removal). This increase will take effect on May 1, 1994.

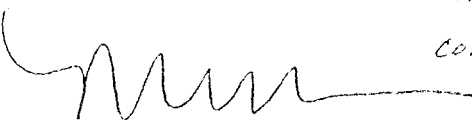
If you have any questions or concerns, please feel free to contact our office at #721-7363.

Sincerely,

Rent maint. 70-24-315

Common Areas 70-24-303 (c)(c)

Water
Health code 16-10-706


Maris Mills
Manager/Leasing Dept.


cc: Resident Historical File

CERTIFICATE OF MAILING

I certify that I have mailed a true and correct copy of the above Rent Increase Letter to:

RICHARD HERBEL
4756 WILKIE
MISSOULA, MT 59802

by depositing the same in the United States mail depository, postage pre-paid, mailed at Missoula, Montana, this 19th day of February, 1994.


Agent For Westview Mobile Home Park

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 25

DATE PROPERTY MANAGEMENT 2/15/94

P.O. Box 2867

BILL NO. MISSOULA, MONTANA 59806 SB 33

phone (406) 721-KENT (7363)

fax (406) 543-4607

Presented by Jerry Michaud



MISSOULA RURAL FIRE DISTRICT

2521 SOUTH AVENUE WEST MISSOULA, MT 59801 (406) 549-6172

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 26

DATE 2/15/95

BILL NO. SB 332

*Presented by
Jerry Michael*

February 9, 1995

TO: Whom it May Concern
FROM: Paul Laisy, Operations Chief
RE: Mobile Home Parks

Missoula Rural Fire District regularly responds to fires, emergency medical calls and other emergency assistance calls at many mobile home parks in the District.

Missoula Rural Fire District would support legislation that provides more rapid response by the removal of, or the reduction in size and number of speed bumps.

These oversize speed bumps delay response to emergencies and cause damage to equipment.

Dawn McCallum

SENATE BUSINESS & ADMINISTRATION
EXHIBIT NO. 27
DATE 2/15/95
BILL NO. SB 332

4709 Parent

To whom it may concern,

Here are a few concerns and suggestions dealing with Conditions of Tenacy.

(Presented by
Jerry Michaud)

1. RENT

We are currently paying \$190.00/month. This is quite a large amount considering, we are unable to do anything without permission. These lots cost the same amount each month as some people are paying for land they are buying.

2. LATE RENT/BAD CHECKS

Most people up in Westview Park are on a set income. These people are also not able to make the payment within the three days at which you have given us. I feel that they should have 5 business days. This would allow people the opportunity to pay their rent without worrying that they will have to move due to circumstances that are not able to control.

3. PETS

I feel it is unfair to tell us that we may not have the amount of dogs or cats that we wish to as long as the animals and yard are being properly taken care of. I also do not wish to have to register and provide pictures of my dogs. I believe the only reason they want this information is so if they say the dog must leave or if the dog was to die, you would be unable to replace or keep the animal.

It is not fair that the animal who is found at large is unable to enter the court again. We have had problems with others letting our dog off his chain. Where does that leave us?

The reason I have a large dog is for protection of my home and my children. If I must retain him to the back yard, what good is he?

4. UTILITIES

I have found if you place more than three extra bags next your garbage can that it will be left there. I have to pay a fee for this garbage, so I feel they should at least pick them up.

It does not bother my neighbors that my garbage container is on my sidewalk, so I feel unless they don't like where it is, I'd like to leave it where it is.

6. PARKING

There are only 2 spaces available in our lot. For this reason, we have to park the logging truck and/or other cars on the lawn in front of our fence.

DM

If having vehicles that are clean and running is what is wished, then we need to be allowed to wash and work on them. I personally can not afford to take my cars into a shop when my husband can fix for half the cost.

9. & 10. MAINTENANCE AND REPAIR

I do not wish for anyone to enter my rented lot without my presence and permission. If anyone enters against my wish I will not be held responsible for anything that happens to them nor will I be held responsible to pay any expenses regardless of the reason. The only exception is an absolute emergency.

11. INSURANCE

I will carry insurance so to fit my needs, not the needs of the owner. Mr. Lewis should be carrying his own insurance. He should be held responsible for the lack of availability for 911 entering the court. This should also apply to the damage his speed bumps have done to peoples automobiles. Most of all, those speed bumps almost costed my infant her life. There is no way to replace a life.

14. & 15. SALES OF HOME

If I wish to rent my home, I should be allowed too. I am the one who is at risk not Lambros.

19. ABSENCES

If I am gone more than 7 days, I will have a neighbor look after things. The less people who know, the less chance of anything happening to my property.

GENERAL RULES

To up keep our home, we should not have to have permission. I will do it as I see fit. I will be within reason, but I feel that if you want people to paint then at least don't criticize. We want our homes to look good too.

Items on the porches is not a bad thing. I currently have a freezer there. that is the safest place I have to put it. I am able to keep an eye on it. Our children our Westviews future. If they are not allowed to have fun here, they could very well turn to the negative. They might some day own where we might want to live. So we should teach them to be considerate to there fellow neighbors. This could be done by finishing that park. So far they have been promissed and have never been givin. My suggestion to help them finacially is as follows:

DM

EXHIBIT 27
DATE 2-15-95
IL SB 332

First off we need to set up a plan for how the park should be. I propose we get the information from the children.

We then ask everyone to save all the recyclable materials. We ask that the be bagged accordingly to the items need.

We should also pick a few honest people who would be interested in picking up these materials and getting them to the recycling center.

Take this money and start building our children the park that they havee deserved for so long.

We could also chose a day for which these items could be set out to be picked up.

I feel this would give us a good start beings that no one else has got us started. This would also teach our children responsibility and allow them to take part.

Dawn McCallum
4709 Parent

**EDDY A. CROWLEY, D.D.S.**

Medical Arts Block

121 N. Last Chance Gulch

Helena, MT 59601

Telephone: (406) 442-0282

*(Presented by
Sen. Klarys)*

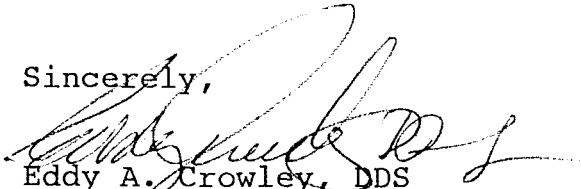
February 15, 1995

Senator John R. Hertel, Chairperson
Business and Industry Committee
State Capitol Complex
Helena, MT 59620

Dear Senator Hertel and Committee Members,

Enclosed is a petition signed by our patients, due to their concerns about changes in BC/BS policy concerning their insurance checks. We would strongly urge you to vote in support of SB 326. Please feel free to contact me should you have any further questions or concerns.

Sincerely,


Eddy A. Crowley, DDS

WE THE PATIENTS OF DR. EDDY A. CROWLEY, D.D.S. REQUEST THAT OUR
BLUE CROSS/BLUE SHIELD INSURANCE PAYMENTS FOR DENTAL CARE BE PAID
DIRECTLY TO DR. CROWLEY'S OFFICE :

(Presented by
Sen. Klammer)

PRINTED NAME	ADDRESS	PHONE#	SIGNATURE	
Dwan A. Ford	1322 8th Ave.	443-4464	Dwan A. Ford	2-2-
David A. Feithuser	Clancy	933-8251	David A. Feithuser	2-2-9
Ellen Baumbler	729 11th Ave	449-3062	Ellen Baumbler	2-3-1
Terry Toner	520 So. Sanders	442-9276	Terry Toner	2-3-15
Thomas O. Sanford	3520 Babney Rd	227-2237	Thomas O. Sanford	2-3-15
Rebby McLaughlin	463 N. Warren	443-1981	Rebby McLaughlin	2-7-9
Susan Hopewell	608 Knight	449-2807	Susan Hopewell	2-7-
Karey Olson Conn	543 5th Ave	442-8905	Karey Olson Conn	2-8-
Kita Trafton	2555 Fernside	443-3556	Kita Trafton	2-8-4
Leslie A. Duffy	305 Hatter	443-3072	Leslie A. Duffy	2-8-
JACK ELLERY	PO Box 2038	443-4354	JACK ELLERY	2-8-5
James L. McCann	PO Box 6015	449-6530	James L. McCann	2-8-15
Mark Hall	702 5th Ave	449-8647	Mark Hall	2-8-
Debbie Norton	809 Maxwell Nelson	442-2495	Debbie Norton	2-8-45
Joyce E. Thompson	2100 Lockley	442-7551	Joyce E. Thompson	2-9-
Annem Pincus	400 Harrison	2-2290	Annem Pincus	2-14-5
Cynthia Baril	1409 Poplar	449-2733	Cynthia Baril	2-14-9
G. H. SHEETS	4941 GREEN POND	449-4974	G. H. SHEETS	

(Presented by Sen. Lampe)

ACCIDENT & HEALTH
1993 DIRECT A & H PREMIUMS WRITTEN IN MONTANA
UPDATED 11/2/94

DIRECT A & H
PREMIUMS
WRITTEN

<u>RANK</u>	<u>INSURER NAME</u>	
1.	BLUE CROSS & BLUE SHIELD OF MT	\$193,029,655
2.	PRUDENTIAL INSURANCE CO. OF AMERICA	15,781,424
3.	PRINCIPAL MUTUAL LIFE INSURANCE CO.	14,265,714
4.	CONTINENTAL ASSURANCE CO.	12,589,479
5.	TRAVELERS INS CO (LIFE DEPT)	11,886,964
6.	JOHN ALDEN LIFE INSURANCE CO.	9,455,822
7.	BANKERS LIFE & CASUALTY CO.	9,115,393
8.	MUTUAL OF OMAHA INSURANCE CO.	8,740,701
9.	FEDERAL HOME LIFE INSURANCE CO.	7,910,621
10.	STATE FARM MUTUAL AUTO. INS. CO.	7,719,385
11.	MONTANA MEDICAL BENEFIT PLAN	5,950,884
12.	UNITED AMERICAN INSURANCE CO.	5,434,383
13.	UNIVERSE LIFE INSURANCE CO.	5,419,484
14.	CAPITOL AMERICAN LIFE INS. CO.	4,657,274
15.	UNITED OF OMAHA LIFE INS. CO.	3,830,622
16.	COMBINED INS. CO. OF AMERICA	3,811,828
17.	CUNA MUTUAL INSURANCE SOCIETY	3,289,145
18.	STANDARD LIFE & ACCIDENT INS.CO.	3,093,368
19.	PHYSICIANS MUTUAL INSURANCE CO.	3,009,293
20.	LIFE INVESTORS INS. CO. OF AMERICA	2,999,868
21.	EQUITABLE LIFE & CASUALTY INS. CO.	2,590,910
22.	TIME INSURANCE COMPANY	2,408,879
23.	SAFECO LIFE INSURANCE COMPANY	2,201,182
24.	AMERICAN TRAVELLERS LIFE INS. CO	2,135,129
25.	PIONEER LIFE INS CO OF ILLINOIS	2,106,901

Above is the statistical listing of the top 25 companies by premium volume in Montana. This listing is not intended to recommend any particular company, and should not be used as such. If you have further questions regarding this matter please contact the Montana Insurance Department at 1-800-332-6148.

McCUE LAW FIRM

34 WEST SIXTH AVENUE, SUITE 1-C
POST OFFICE BOX 4416
HELENA, MONTANA 59604

STEPHEN R. McCUE
MARY KELLY McCUE

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. SB 326-A

DATE 2-15-95

BILL NO. SB 326

406/443-4455

FAX 406/443-1592

FROM: Mary McCue
Legal Counsel/Lobbyist
Montana Dental Association

POSITION: Legislation should be enacted to bar insurance companies from disallowing health care patients to assign their insurance benefits to providers.

· The insured patient should be able to authorize the payment of insurance benefits directly to the health care provider for treatment.

· A patient who is prevented by policy provisions from assigning benefits to the provider, and who receives benefits directly, may use those monies for other purposes. This promotes financial difficulties for the patient and leaves the provider without payment for services already provided.

· It is discriminatory for the insurer to use this exclusion of assignment of benefits as "leverage" to attract providers into participating agreements. It becomes a penalty for the patient who seeks freedom of choice. This patient must pay at the time of treatment, whereas the patient who is willing to go to the participating provider may have treatment without any up-front payment. The discrimination is against the patient.

· Allowing assignment of benefits does not increase the cost of health care. In fact, it can reduce administrative costs by allowing the insurer to cut group checks as opposed to individual checks. It also does not change the level of benefit the insurer agrees to pay. Assignment of benefits does not affect the fees reimbursed for any treatment.

· Refusal to allow assignment of benefits ultimately increases the costs of health care. When the patient receives benefit checks directly, payments are often not made to the providers. The result is an increased burden on those who do pay for their health care services.

SUMMARY: Please support Senate Bill 326 which will allow the insured patient to assign insurance benefits to be paid directly to the provider.

Blue Cross Blue Shield of Montana

A member of Blue Cross and Blue Shield Association
An Association of Independent Blue Cross and Blue Shield Plans

SEATTLE BUSINESS & INVESTMENT
EXHIBIT NO. EX-30-B
P.O. Box 4309
DATE 2-15-95
Bill No. SB 326
(406) 444-8200
(406) 442-6946

Customer Information Line:
1-800-447-7828

Presented by Mary McCue

January 13, 1994

RE: Subscriber ID

Dear

The purpose of this letter is to explain why the forthcoming benefits check is made payable to you and your dentist. Under a law passed by the 1991 legislature, a dentist can file a lien against the proceeds of your health insurance. A lien is a claim on the property of another as security for the payment of a debt.

The lien law is of no concern when you use a Montana dentist who is a Participating Dentist with Blue Cross and Blue Shield of Montana. These dentists have agreed to accept your benefit plan's allowance and, in return, they are paid directly and have no need to file a lien.

Dr. _____ is not now a participating dentist and has filed a lien against the proceeds of your insurance for the services provided on January 3, 1994. In recognition of the lien, your benefits check is made payable to both you and your dentist for any payable services. Since this dentist is not a Blue Cross and Blue Shield of Montana participating dentist, it is possible you will have a balance due to Dr. _____. If this dentist was a participating dentist with Blue Cross and Blue Shield of Montana, there would be no need for this letter, nor the inconvenience of the lien.

We regret any inconvenience the lien may cause. If you have any questions, please call us at 1-800-447-7828. Enclosed is a list of participating dentists. You may wish to suggest to your dentist that he consider participating with Blue Cross and Blue Shield of Montana.

Sincerely,

Sharon Cuchine, Manager
Customer Service

Enclosure



Blue Cross BlueShield of Montana

An Independent Licensee of the Blue Cross and Blue Shield Association

404 Fuller Avenue
P.O. Box 4309
Helena, Montana 59604
(406) 444-8200
Fax: (406) 442-6946

EX. 30-C

Customer Information Line:
1-800-447-7828

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 30-C

DATE 2-15-95

BILL NO. SB 326

(Presented by Mary McCue)

June 7, 1994

*Revised
Letter*

1~

RE: Subscriber ID 0002~

Dear 3~:

The purpose of this letter is to explain why the forthcoming benefits check is made payable to you and your dentist. Under a law passed in 1991, a dentist can file a lien against the proceeds of your health insurance. A lien is a claim on the property of another as security for the payment of a debt.

The lien law is of no concern when you use a Participating Dentist with Blue Cross and Blue Shield of Montana. Participating dentists have agreed to accept your benefit plan's allowance and, in return, they are paid directly and have no need to file a lien. Dr. 4~ is not now a participating dentist and has filed a lien against the proceeds of your insurance for the services provided on 5~. Due to the lien, your benefits check for payable services is written to you and your dentist.

We regret any inconvenience the lien may cause. If you have any questions, please call us at 1-800-447-7828. Enclosed is a list of participating dentists. You may wish to suggest to your dentist that 6~ consider participating with Blue Cross and Blue Shield of Montana.

Sincerely,

Sharon Cuchine, Manager
Customer Service

210MT7~
Enclosure

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 31

DATE 2/15/95

BILL NO. SB 326

Senator John Hertel
Chairman, Senate Business & Industry Committee
Capitol Station
Helena, MT 59620

February 14, 1995

Reference: Assignment of benefits, Senate Bill 326

Dear Senator Hertel:

I am a dentist in Whietfish and am writing to voice my support for Senate Bill 326. We work with insurance companies every day and need the provision of assignment of benefits to protect our relationship and agreement with our patients when doing extensive work that involves a third party, such as a dental insurance company.

Sincerely,


John S. Petersen D.D.S.

RIMROCK PROFESSIONAL CENTER, SUITE A
1600 RIMROCK ROAD
BILLINGS, MONTANA 59102
TELEPHONE (406) 259-3182

GAYLE A. ROSET, D.D.S.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 32

DATE 2/15/95

BILL NO. SB 326

TELEFAX TRANSMISSION HEADER

DATE: 2-14-95 # PAGES 0
(excluding this page)

TO: Senator John Hertel FAX # 1-900-225-1600

ATTENTION: _____

REGARDING: SB 326

COMMENTS: Please support this bill as it
gives the choice to our patients and not
the insurance company.

FROM: Gayle A. Roset DDS FAX # (406) 259-3182

PLEASE CALL (406) 259-3182 WITH QUESTIONS. THANK YOU.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 33DATE 2/15/95BILL NO. SB 326

February 14, 1995

Senator Hertel,

I am writing concerning Senate Bill 326. I am in agreement with the bill, in that a person should be able to decide themselves where the payment for their health care should be sent. If the patient decides to have the benefits assigned to the dentist or doctor, it should be their choice to do so. The patient pays the premiums, therefore it is their money to do with as they please. It should not be up to the insurance company to decide where the check should go.

Please support this bill. It is very important.

Thank You,



Gayle Cayton
358 Trafois Trail
Billings, MT. 59105

(406)252-8354

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 34DATE 2/15/95BILL NO. SB 326

February 14, 1995

Dear Chairman Hertel,

I am writing in support of Senate Bill 326. I support this bill because as a patient I have the right to decide where my payment should be sent. As a health care provider, having provided the services for the patient, we have had difficulty in collecting the insurance portion that is sent to the patients. Because of this, we have had to start collecting payment at time of service. I feel this is a great injustice to the patient who has an insurance company that refuses to accept assignment of benefits. The premiums that the patient has to pay should allow them the right to choose where that payment will go.

Please support this bill, I feel that is is very important.

Thank You,

Kristie Smith RDH

Kristie Smith
480 Constitution
Billings, MT. 59105

(406) 252-1078



BlueCross BlueShield of Montana

404 Fuller Avenue
P.O. Box 4309
Helena, Montana 59604
(406) 444-8200
Fax: (406) 442-6946

Customer Information Line:

1-800-447-7828
SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 35

DATE 2/15/95

BILL NO. SB 326

411629 HK-5294 \$300

411630 HK 5-294 25

A member of the Blue Cross and Blue Shield Association,
An Association of Independent Blue Cross and Blue Shield Plans

February 28, 1994

Mark O'Keefe
State Auditor
Sam W. Mitchell Building
P.O. Box 4009
Helena, Montana 59604


Dear Mr. O'Keefe:

Enclosed are the Health Service Corporation Annual Report, Genetics Program Report, two Form SAI 54, and Form 13 for Blue Cross and Blue Shield of Montana for the year ending December 31, 1993. The 1993 Audited Financial Statements will be sent to your office within the next few weeks.

Please note that on the first Form SAI 54, actual salaries are listed, on the second form, compensation reported is taken from Box 1, Wages, Tips, and Other Compensation from the employees W-2 Forms.

Also enclosed are the checks associated with each report.

Sincerely,


Ronald C. King
Vice President, Finance

RECEIVED
STATE AUDITOR'S OFFICE
Mar 1 3 18 PM '94
HELENA, MONT.



STATE OF MONTANA
OFFICE OF THE
STATE AUDITOR
AND
COMMISSIONER OF INSURANCE

P.O. BOX 4009
HELENA, MONTANA 59604-4009
(406) 444-2040

MONTANA DOMESTIC
INSURER
COMPENSATION
SCHEDULE

TO BE FILED BY MARCH 1

Supplement to the December 31, 19 93 Annual Statement

Blue Cross and Blue Shield of Montana

(Insurance Company Name)

Please show all salaries and compensation, except for commissions paid to or retained by agents, received in the current year by:

- a) each director or trustee regardless of the amount
- b) each of the ten officers or employees receiving the largest amounts in excess of \$50,000. (Include in this schedule the aggregate amount received by the officer or employee attributable to services to the reporting insurer whether paid directly by the insurer or by related or affiliated companies).

Attach additional sheets if necessary.

Title	Name of Payee	Amount Paid
President & CEO	Alan F. Cain	178,500
Executive Vice President	Terry Screnar	140,004
Vice President, Underwriting	Garth Trusler	106,320
Vice President, I.S.	Tom Cladouhos	96,996
Vice President, Finance	Ron King	89,988
Vice President, Marketing	Randy Cline	87,996
Vice President, HBM	Clyde Bigelow	86,832
Vice President, ADS	Carl Tanberg	84,120
Vice President, External Affairs	Chuck Butler	83,496
Asst. Vice President, Marketing	Don Jones	72,600

The above statement is a true and correct report of payments made to the directors, officers, and key employees of this company in the previous calendar year.

Title	Name
Contoller	Tom Peressini
Date	Signature
February 28, 1994	<i>Tom Peressini</i>



STATE OF MONTANA
OFFICE OF THE
STATE AUDITOR
AND
COMMISSIONER OF INSURANCE

P.O. BOX 4009
HELENA, MONTANA 59604-4009
(406) 444-2040

MONTANA DOMESTIC
INSURER
COMPENSATION
SCHEDULE

TO BE FILED BY MARCH 1

EXHIBIT 35

Supplement to the December 31, 19 93 Annual Statement

DATE 2-15-95

SB 326

Blue Cross and Blue Shield of Montana

(Insurance Company Name)

Please show all salaries and compensation, except for commissions paid to or retained by agents, received in the current year by:

- a) each director or trustee regardless of the amount
- b) each of the ten officers or employees receiving the largest amounts in excess of \$50,000. (Include in this schedule the aggregate amount received by the officer or employee attributable to services to the reporting insurer whether paid directly by the insurer or by related or affiliated companies).

Attach additional sheets if necessary.

Title	Name of Payee	Amount Paid
President & CEO	Alan F. Cain	137,849
Executive Vice President	Terry Screnar	141,733
Vice President, Underwriting	Garth Trusler	95,819
Vice President, I.S.	Tom Cladouhos	93,904
Vice President, Finance	Ron King	91,460
Vice President, Marketing	Randy Cline	86,592
Vice President, External Affairs	Chuck Butler	81,435
Vice President, HBM	Clyde Bigelow	72,569
Special Projects Director	Dick Lindeman	72,298
Senior Director, Marketing	Lee Shannon	71,118

The above statement is a true and correct report of payments made to the directors, officers, and key employees of this company in the previous calendar year.

Title	Name
Controller	Tom Peressini
Date	Signature
February 28, 1993	<i>Tom Peressini</i>

BCBSMT Board of Directors compensation for attendance at board meetings during 1993.

Sharon "Kelly" Archambeault	\$3,300.00
Jimmie Ashcraft, M.D.	2,000.00
Lane Basso	1,500.00
Don L. Bishop, M.D.	2,800.00
Charlie V. Brown	4,200.00
Peter Burleigh, M.D.	500.00
Larry Campodonico, M.D.	2,400.00
Thomas Hines	3,700.00
James A. Kiley, M.D.	2,500.00
John B. Kuhr	3,400.00
Esther Nelson	3,400.00
* Russell Ritter	3,800.00
J. Robert Sletten	2,800.00
Warren Wilcox	1,000.00
Nora Gerrity, M.D.	2,000.00
Dick Doyle	2,000.00
TOTAL	\$41,300.00

DATE Wednesday February 15, 1995

SENATE COMMITTEE ON Business and Industry 8:00 A.M.
Room 325

BILLS BEING HEARD TODAY: SB 290 Senator Tweit
SB 326 Senator Klampe SB 332 Senator Weldon

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<u>Bernard E. Docher</u>	<u>Mt. Nurses Assoc.</u>	<u>SB 290</u>		<u>X</u>
<u>DEBBIE BERNEY</u>	<u>PIA-Prof. Ins. Agts. of MT</u>	<u>SB 290</u>	<u>Y</u>	
<u>Tom Schneider</u>	<u>MP&A</u>	<u>SB 326</u>		<u>X</u>
<u>Denny Morgan</u>	<u>ACLI</u>	<u>SB 290</u>	<u>X</u>	
<u>Sheila Hogan</u>	<u>CTI</u>			<u>X</u>
<u>W James Kembel</u>	<u>Liberty Northwest Ins.</u>	<u>SB 290</u>	<u>X</u>	
<u>Greg Van Hossen</u>	<u>State Farm Ins. Co.</u>	<u>SB 290</u>	<u>X</u>	
<u>Reguline Lemark</u>	<u>Am. Ins. Ass'n</u>	<u>SB 290</u>	<u>X</u>	
<u>Bob Abraham</u>	<u>State Farm Ins.</u>	<u>SB 290</u>	<u>X</u>	
<u>Mary Jane Chay</u>	<u>Amr. Council of Life</u>	<u>SB 290</u>	<u>X</u>	
<u>William Hill</u>	<u>State Farm</u>	<u>SB 290</u>	<u>X</u>	
<u>Marty Onishuk</u>	<u>Loj WJ</u>	<u>SB 290</u>		<u>X</u>
<u>John Bandy</u>	<u>Self</u>	<u>SB 290</u>	<u>X</u>	
<u>Kay Kocou Fox</u>	<u>Montana Low Income Coal.</u>	<u>SB 290</u>		<u>X</u>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE

Wednesday February 15, 1995

SENATE COMMITTEE ON

Business and Industry 8: A.M.

Room 325

BILLS BEING HEARD TODAY:

SB 290 Senator Tweit
SB 326 Senator Klampe SB 332 Senator Nelson

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Debra Sands	Partnership Health Care	SB 290		X
Marcia Youngman	Int Women's Agenda	290		X
Arlene Mandash	Eagle Forum	290	X	
Laurie Koutnik	CC of Mt	290	X	
David Hemion				✓
Pete Joseph	MFT			✓
SAMANTHA SANCHEZ	ACLU			✓
Lorna Frank	MT. Farm Bureau	290	X	
Berri Buckles	Self	290	X	
Paul Hunt	MT Demo Party	290		X
Ann Broesky	self	290		Y
Sandra Hale	Self	290		Y
MoRue	S. A. O.	290		X
Andrea Olsen	BPA	290		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Wednesday February 15, 1995 8:00 A.M.

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: SB 290

Senator Larry Weit
SB 326 Senator Klumpe SB 332 Senator Weldon

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<u>Susan Losh</u>	<u>Self</u>	<u>SB 290</u>	<u>X</u>	
<u>Pix Holden</u>	<u>Senator</u>	<u>290</u>	<u>X</u>	
<u>Bob Spotts</u>	<u>Self</u>	<u>290</u>	<u>X</u>	
<u>Ward Chanaka</u>	<u>James W. Gary</u>	<u>290</u>	<u>X</u>	
<u>SHARON HOFF</u>	<u>MT CATH CONT</u>	<u>290</u>	<u>neutral</u>	
<u>Maureen Cleary-Schwinden</u>	<u>WIFE</u> <u>WOMEN IN FARM ECONOMY</u>	<u>290</u>		<u>X</u>
<u>J.V. Bennett</u>	<u>MontPIRG</u>	<u>290</u>		<u>X</u>
<u>LARRY AKEY</u>	<u>NATL ASSOC OF INDEPENDENT INSURERS</u>	<u>290</u>	<u>✓</u>	
<u>"</u>	<u>MT ASSOC OF LIFE UNDERWRITERS</u>	<u>290</u>	<u>NEUTRAL</u>	
<u>Tom Hopgood</u>	<u>HHH. Ins. Assoc. of America</u>	<u>SB 290</u>	<u>✓</u>	
<u>Tom Hopgood</u>	<u>HHH. Ins. Assoc. of America</u>	<u>SB 326</u>		<u>✓</u>
<u>Ed Caplis</u>	<u>MT Senior Citizen Assoc</u>	<u>SB 290</u>		<u>✓</u>
<u>Ed Caplis</u>	<u>MSCA</u>	<u>SB 326</u>		<u>✓</u>
<u>MIKE GRIFFITH</u>	<u>AARP</u>			<u>✓</u>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Wednesday Feb 15, 1995

SENATE COMMITTEE ON Business & Industry

BILLS BEING HEARD TODAY: SB 290

SB 326

SB 332

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
DR. ROGER E. BISSON	M.D.A.	326	X	
Shuanne Smith	Helena dentist	326	X	
LARRY AILEY	MT ASSOC OF LIFE UNDERWRITERS	326		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Wednesday February 15, 1995

SENATE COMMITTEE ON Business and Industry 8:00 A.M.
Room 325

BILLS BEING HEARD TODAY: SB 290 Senator Treit
SB 326 Senator Klampe SB 332 Senator Nelson

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Kate Cholewa	MT Women's Lobby			X
Shel & Shawn Akane	Missoula mobile home owners	332	✓	
Cecil Wilborn	Great Falls IPM president	332	✓	X
Carla Perrigo	Missoula	332	✓	
S. AKANE		332	✓	
Linda Wolfgram		332	✓	
John Allie	Blue Cross	326		X
Russ Piller	Wash Corp	326		X
Maryon Cline	Int Dental Ass'n	326	✓	
Melissa Case	MPA	332	✓	
Mervell McLeod	Western President Mobile Home Institute	332	✓	
Linda Carpenter	MT Housing Providers WMAA MHA TPM	332		X
Tom EBERRY	MONTANA ASSOCIATED PHYSICIANS IN BILLING	320	✓	
John R. Heich	Self	326	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Senate Comm. B & A
~~HOUSE OF REPRESENTATIVES~~

VISITOR'S REGISTER

Business & Industry

COMMITTEE

BILL NO. *SB 290*
SB 326
SB 332

DATE *2-15-95* SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>Daniel N. McLean</i>	<i>Oakland-Holding Co</i>	<i>SB 332</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Daniel W. Hark DMD</i>	<i>Helen, self</i>	<i>326</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Carol E. Davis</i>	<i>Missoula Mt</i>	<i>332</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>James W. Crichton</i>	<i>Self</i>	<i>326</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Senate Committee on B & V

~~HOUSE OF REPRESENTATIVES~~

VISITOR'S REGISTER

SB 290
SB 326

Business & Industry COMMITTEE

BILL NO. SB 332

DATE 2-15-95 SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Beth Lovitt Shel Akane & Shawn	Mt. Hood Assoc	SB 326		✓
Sandra Barrows 1770 Colorado Gulch	Self	SB 326		✓
Denise Melton 409 Raymond Helena	Self / Dr. J.W. Kehn	SB 326		✓
Tom Bourke 904 Broadway	Self / Dr. Bullweber	SB 326		✓
Gerry Toner 1520 So. Sanders Helena	Self	SB 326		✓
Mike Trevor 1604 Harris Ct., Helena	Self & wife	SB 326		✓
Terrin Casey P.O. Box 999 E. Helena	Self	SB 326		✓
John Jost 1314 Helena Ave. Helena	MT. DENT Assoc	SB 326		✓
Steve Turkiewicz	MADA Insurance Trust Mt. Hood Health Care Purchasers	SB 326	✓	
Anita Bennett	MLA Services Inc	SB 326	✓	
Gloria Hermanson	MT Psych Assoc	326		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.