

1 House BILL NO. 111  
 2 INTRODUCED BY Brand

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE  
 5 COMPENSATION OF VICTIMS OF MOTOR VEHICLE ACCIDENTS;  
 6 REQUIRING SECURITY BY MOTOR VEHICLE OWNERS; PROVIDING FOR  
 7 CERTAIN MANDATORY MINIMUM INSURANCE OR SELF-INSURANCE  
 8 PROTECTION BENEFITS PAYABLE REGARDLESS OF FAULT IN CASES OF  
 9 PERSONAL INJURY; PROVIDING FOR A LIMITATION OF GENERAL  
 10 DAMAGES; EXPANDING UNINSURED MOTORISTS COVERAGE, PROVIDING  
 11 SMALL CLAIMS ARBITRATION AND PENALTIES FOR FAILURE TO SHOW  
 12 PROOF OF SECURITY; PROVIDING FOR CERTAIN DEDUCTIBLES;  
 13 PROVIDING FOR SUBROGATION, INTERCOMPANY ARBITRATION, AND  
 14 OFFSET OF BENEFITS PAID AGAINST JUDGMENTS; PROVIDING AN  
 15 ASSIGNED CLAIMS PLAN; PROVIDING PENALTIES; REPEALING  
 16 SECTIONS 40-4403 AND 53-413 THROUGH 53-458, R.C.M. 1947; AND  
 17 PROVIDING AN EFFECTIVE DATE."

18  
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. This act may be cited as the "Montana  
 21 No-Fault Insurance Act".

22 Section 2. Purpose. The detrimental impact of  
 23 automobile accidents on uncompensated injured persons, upon  
 24 the orderly and efficient administration of justice in the  
 25 state, and in various other ways requires that this act be

1 adopted to effect the following purposes:

2 (1) To relieve the severe economic distress of  
 3 uncompensated victims of automobile accidents within this  
 4 state by requiring automobile insurers to offer and  
 5 automobile owners to maintain automobile insurance policies  
 6 or other pledges of indemnity which will provide prompt  
 7 payment of specified basic economic loss benefits to victims  
 8 of automobile accidents without regard to whose fault caused  
 9 the accident;

10 (2) To prevent the overcompensation of those  
 11 automobile accident victims suffering minor injuries by  
 12 restricting the right to recover general damages to cases of  
 13 serious injury;

14 (3) To encourage appropriate medical and  
 15 rehabilitation treatment of the automobile accident victim  
 16 by assuring prompt payment for such treatment;

17 (4) To speed the administration of justice, to ease  
 18 the burden of litigation on the courts of this state, and to  
 19 create a system of small claims arbitration to decrease the  
 20 expense of and to simplify litigation, and to create a  
 21 system of mandatory intercompany arbitration to assure a  
 22 prompt and proper allocation of the costs of insurance  
 23 benefits between motor vehicle insurers;

24 (5) To correct imbalances and abuses in the operation  
 25 of the automobile accident tort liability system, to provide

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1 offsets to avoid duplicate recovery, to require medical  
2 examination and disclosure, and to govern the effect of  
3 advance payments prior to final settlement of liability.

4 Section 3. Definitions. The following words and  
5 phrases, shall, for the purpose of this act, have the  
6 meanings ascribed to them, except where the context clearly  
7 indicates a different meaning:

8 (1) "Motor vehicle" means every vehicle, other than a  
9 motorcycle or other vehicle with fewer than four wheels,  
10 which (a) is required to be registered pursuant to law, and  
11 (b) is designed to be self-propelled by an engine or motor  
12 for use primarily upon public roads, highways, or streets in  
13 the transportation of persons or property, or (c) is a  
14 trailer, when connected to or being towed by a motor  
15 vehicle.

16 (2) "Maintenance or use of a motor vehicle" means  
17 maintenance or use of a motor vehicle as a vehicle,  
18 including, incident to its maintenance or use as a vehicle,  
19 occupying, entering into, and alighting from it.  
20 Maintenance or use of a motor vehicle does not include (a)  
21 conduct within the course of a business of repairing,  
22 servicing, or otherwise maintaining motor vehicles unless  
23 the conduct occurs off the business premises, or (b) conduct  
24 in the course of loading and unloading the vehicle unless  
25 the conduct occurs while occupying, entering into, or

1 alighting from it.

2 (3) "Owner" means a person who holds legal title to a  
3 motor vehicle, or in the event that a motor vehicle is the  
4 subject of a security agreement or lease with option to  
5 purchase and the debtor or lessee is entitled to the  
6 immediate use or possession of the vehicle, then the debtor  
7 or lessee shall be deemed the owner for the purposes of this  
8 act.

9 (4) "Insured" means an insured under a plan of  
10 reparation security as provided by this act, including the  
11 named insured and the following persons not identified by  
12 name as an insured while (a) residing in the same household  
13 with the named insured and (b) not identified by name in any  
14 other contract for a plan of reparation security complying  
15 with this act as an insured:

16 (a) a spouse,

17 (b) other relative of a named insured or

18 (c) a minor in the custody of a named insured or of a  
19 relative residing in the same household with a named  
20 insured.

21 A person resides in the same household with the named  
22 insured if that person usually makes his home in the same  
23 family unit, even though he temporarily lives elsewhere.

24 (5) "Income" means salary, wages, tips, commissions,  
25 professional fees, and other earnings from work or tangible

1 things of economic value produced through work in  
2 individually owned businesses, farms, ranches, or other  
3 work.

4 (6) "Loss" means economic detriment resulting from the  
5 accident causing the injury, consisting only of medical  
6 expense, income loss, replacement services loss and, if the  
7 injury causes death, funeral expense, survivor's economic  
8 loss and survivor's replacement services loss. Noneconomic  
9 detriment is not loss; however, economic detriment is loss  
10 although caused by pain and suffering or physical or mental  
11 impairment.

12 (7) "Noneconomic detriment" means all dignitary losses  
13 suffered by any person as a result of injury arising out of  
14 the ownership, maintenance, or use of a motor vehicle  
15 including pain and suffering, loss of consortium, and  
16 inconvenience.

17 (8) "Reparation obligor" means an insurer or  
18 self-insurer obligated to provide the benefits required by  
19 this act, including natural persons, firms, partnerships,  
20 associations, corporations, governmental units, trusts, and  
21 syndicates.

22 (9) "Basic economic loss benefits" means benefits as  
23 described in section (4).

24 (10) "Injury" means bodily harm to a person and death  
25 resulting from such harm.

1 (11) "Commercial vehicle" means:

2 (a) any motor vehicle used as a common carrier,

3 (b) any motor vehicle, other than a passenger vehicle  
4 or a station wagon, as those terms are defined by law, or

5 (c) any motor vehicle while used in the for-hire  
6 transportation of property.

7 (12) "Motorcycle" means a self-propelled vehicle  
8 designed to travel on fewer than four wheels which has an  
9 engine rated at greater than five horsepower.

10 (13) Except where otherwise indicated, "commissioner"  
11 means the commissioner of insurance of the state of Montana.

12 Section 4. Basic economic loss benefits - inclusions.

13 (1) Basic economic loss benefits shall provide  
14 reimbursement for all loss suffered through injury arising  
15 out of the maintenance or use of a motor vehicle, subject to  
16 any applicable deductibles, exclusions, disqualifications,  
17 and other conditions, and shall provide a maximum of thirty  
18 thousand dollars (\$30,000) for loss arising out of the  
19 injury of any one person, consisting of:

20 (a) Twenty thousand dollars (\$20,000) for medical  
21 expense loss arising out of injury to any one person; and

22 (b) A total of ten thousand dollars (\$10,000) for  
23 income loss, replacement services loss, funeral expense  
24 loss, survivor's economic loss, and survivor's replacement  
25 services loss arising out of the injury to any one person.

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1 (2) Medical expense benefits shall reimburse all  
 2 reasonable expenses for necessary medical, surgical, x-ray,  
 3 optical, dental, chiropractic, and rehabilitative services,  
 4 including prosthetic devices, prescription drugs, necessary  
 5 ambulance, hospital, extended care, and nursing services.

6 "Extended care facility" means a place where skilled nursing  
 7 care and related services are provided for patients who  
 8 require post-hospitalization, in-patient medical, nursing,  
 9 or therapy services. Hospital room and board benefits may  
 10 be limited, except for intensive care facilities, to the  
 11 regular daily semi-private room rates customarily charged by  
 12 the institution in which the recipient of benefits is  
 13 confined. Such benefits shall also include necessary  
 14 remedial treatment and services recognized and permitted  
 15 under the laws of this state for an injured person who  
 16 relies upon spiritual means through prayer alone for healing  
 17 in accordance with his religious beliefs. Medical expense  
 18 loss includes medical expenses accrued prior to the death of  
 19 a person notwithstanding the fact that benefits are paid or  
 20 payable to the decedent's survivors. Medical expense  
 21 benefits for rehabilitative services shall be subject to the  
 22 provisions of section (5).

23 (3) Income loss benefits shall reimburse eighty-five  
 24 percent (85%) of the injured person's loss of present and  
 25 future gross income from inability to work proximately

1 caused by the nonfatal injury subject to a maximum of two  
 2 hundred dollars (\$200) per week. Compensation for loss of  
 3 income from work shall be reduced by any income from  
 4 substitute work actually performed by the injured person or  
 5 by income the injured person would have earned in available  
 6 appropriate substitute work which he was capable of  
 7 performing but unreasonably failed to undertake.

8 For the purposes of this section "inability to work"  
 9 shall mean disability which continuously prevents the  
 10 injured person from engaging in any substantial gainful  
 11 occupation or employment, for wage or profit, for which he  
 12 is or may by training become reasonably qualified.

13 (4) Funeral and burial benefits shall be reasonable  
 14 expenses not in excess of one thousand two hundred fifty  
 15 dollars (\$1,250).

16 (5) Replacement service loss benefits shall reimburse  
 17 all expenses reasonably incurred by or on behalf of the  
 18 nonfatally injured person in obtaining usual and necessary  
 19 substitute services in lieu of those that, had he not been  
 20 injured, the injured person would have performed not for  
 21 income but for the direct benefit of himself or his  
 22 household; if the nonfatally injured person normally, as a  
 23 full time responsibility, provides care and maintenance of a  
 24 home with or without children, the benefit to be provided  
 25 under this clause shall be the reasonable value of such care

1 and maintenance or the reasonable expenses incurred in  
 2 obtaining usual and necessary substitute care and  
 3 maintenance of the home, whichever is greater. These  
 4 benefits shall be subject to a maximum of fifteen dollars  
 5 (\$15) per day. All replacement services loss sustained on  
 6 the date of injury and the first seven (7) days thereafter  
 7 is excluded in calculating replacement services loss.

8 (6) Survivors economic loss benefits, in the event of  
 9 death occurring within one (1) year of the date of the  
 10 accident, caused by and arising out of injuries received in  
 11 the accident, shall reimburse loss after decedent's death of  
 12 contributions of money or tangible things of economic value,  
 13 not including services, subject to a maximum of two hundred  
 14 dollars (\$200) per week that his surviving dependents would  
 15 have received for their support during their dependency from  
 16 the decedent had he not suffered the injury causing death.

17 For the purposes of definition under this act, the  
 18 following described persons shall be presumed to be  
 19 dependents of a deceased person: (a) a wife is dependent on  
 20 a husband with whom she lives at the time of his death; (b)  
 21 a husband is dependent on a wife with whom he lives at the  
 22 time of her death; (c) any child while under the age of  
 23 eighteen (18) years, or while over that age but physically  
 24 or mentally incapacitated from earning, is dependent on the  
 25 parent with whom he is living or from whom he is receiving

1 support regularly at the time of the death of such parent.  
 2 In all other cases, questions of the existence and extent of  
 3 dependency shall be determined in accordance with the facts  
 4 at the time of the death.

5 Payments to the surviving spouse shall be terminated in  
 6 the event such surviving spouse remarries or dies. Payments  
 7 to a dependent child who is not physically or mentally  
 8 incapacitated from earning shall be terminated in the event  
 9 he attains majority, marries or becomes otherwise  
 10 emancipated, or dies.

11 (7) Survivors replacement services loss benefits shall  
 12 reimburse expenses reasonably incurred by surviving  
 13 dependents after the date of the decedent's death in  
 14 obtaining ordinary and necessary services in lieu of those  
 15 the deceased would have performed for their benefit had he  
 16 not suffered the injury causing death, minus expenses of the  
 17 survivors avoided by reason of the decedent's death. These  
 18 benefits shall be subject to a maximum of two hundred  
 19 dollars (\$200) per week.

20 (8) "Basic economic loss benefits" do not include  
 21 benefits for physical damage done to property or motor  
 22 vehicles, including their contents.

23 Section 5. Rehabilitation treatment and occupational  
 24 training. (1) A reparation obligor is responsible for the  
 25 cost of a procedure or treatment for rehabilitation or a

1 course of rehabilitative occupational training if the  
 2 procedure, treatment, or training is reasonable and  
 3 appropriate for the particular case, its cost is reasonable  
 4 in relation to its probable rehabilitative effects, and it  
 5 is likely to contribute substantially to medical or  
 6 occupational rehabilitation.

7 (2) An injured person who has undertaken a procedure  
 8 or treatment for rehabilitation or a course of  
 9 rehabilitative occupational training, other than medical  
 10 rehabilitation procedure or treatment, shall notify the  
 11 reparation obligor that he has undertaken the procedure,  
 12 treatment, or training within sixty (60) days after a  
 13 rehabilitation expense exceeding one thousand dollars  
 14 (\$1,000) has been incurred for the procedure, treatment, or  
 15 training, unless the reparation obligor knows or has reason  
 16 to know of the undertaking. If the injured person does not  
 17 give the required notice within the prescribed time, the  
 18 reparation obligor is responsible only for one thousand  
 19 dollars (\$1,000) or the expense incurred after the notice is  
 20 given and within the sixty (60) days before the notice,  
 21 whichever is greater, unless failure to give timely notice  
 22 is the result of excusable neglect.

23 (3) If the injured person notifies the reparation  
 24 obligor of a proposed specified procedure or treatment for  
 25 rehabilitation, or a proposed specified course of

1 rehabilitative occupational training, and the reparation  
 2 obligor does not promptly thereafter accept responsibility  
 3 for its cost, the injured person may make a motion in an  
 4 action to adjudicate his claim, or, if no action is pending,  
 5 bring an action in the district court, for a determination  
 6 that the reparation obligor is responsible for its costs. A  
 7 reparation obligor may make a motion in an action to  
 8 adjudicate the injured person's claim, or, if no action is  
 9 pending, bring an action in the district court, for a  
 10 determination that it is not responsible for the cost of a  
 11 procedure, treatment, or course of training which the  
 12 injured person has undertaken or proposes to undertake. A  
 13 determination by the court that the reparation obligor is  
 14 not responsible for the cost of a procedure, treatment, or  
 15 course of training is not res judicata as to the propriety  
 16 of any other proposal or the injured person's right to other  
 17 benefits. This subdivision does not preclude an action by  
 18 the reparation obligor or the injured person for declaratory  
 19 relief under any other law of this state, nor an action by  
 20 the injured person to recover basic economic loss benefits.

21 (4) If an injured person unreasonably refuses to  
 22 accept a rehabilitative procedure, treatment, or course of  
 23 occupational training, a reparation obligor may make a  
 24 motion in an action to adjudicate the injured person's  
 25 claim, or if no action is pending, may bring an action in

1 the district court, for a determination that future benefits  
 2 will be reduced or terminated to limit recovery of benefits  
 3 to an amount equal to benefits that in reasonable  
 4 probability would be due if the injured person had submitted  
 5 to the procedure, treatment, or training, and for other  
 6 reasonable orders. In determining whether an injured person  
 7 has reasonable ground for refusal to undertake the  
 8 procedure, treatment, or training, the court shall consider  
 9 all relevant factors, including the risks to the injured  
 10 person, the extent of the probable benefit, the place where  
 11 the procedure, treatment, or training is offered, the extent  
 12 to which the procedure, treatment, or training is recognized  
 13 as standard and customary, and whether the imposition of  
 14 sanctions because of the person's refusal would abridge his  
 15 right to the free exercise of his religion.

16 Section 6. Right to benefits. (1) If the accident  
 17 causing injury occurs in this state, every person suffering  
 18 loss from injury arising out of maintenance or use of a  
 19 motor vehicle has a right to basic economic loss benefits.

20 (2) If the accident causing injury occurs outside this  
 21 state, the following persons and their surviving dependents  
 22 suffering loss from injury arising out of maintenance or use  
 23 of a motor vehicle have a right to basic economic loss  
 24 benefits:

25 (a) insureds, and

1 (b) the driver and other occupants of a secured  
 2 vehicle, other than (i) a vehicle which is regularly used in  
 3 the course of the business of transporting persons or  
 4 property and which is one of five or more vehicles under  
 5 common ownership, or (ii) a vehicle owned by a government  
 6 other than this state, its political subdivisions, municipal  
 7 corporations, or public agencies.

8 (3) For the purposes of this act, injuries suffered by  
 9 a person while on, mounting, or alighting from a motorcycle  
 10 do not arise out of the maintenance or use of a motor  
 11 vehicle although a motor vehicle is involved in the accident  
 12 causing the injury.

13 Section 7. Priority of applicability of security for  
 14 payment of basic economic loss benefits. (1) In case of  
 15 injury to the driver or other occupant of a motor vehicle,  
 16 if the accident causing the injury occurs while the vehicle  
 17 is being used in the business of transporting persons or  
 18 property, the security for payment of basic economic loss  
 19 benefits is the security covering the vehicle or, if none,  
 20 the security under which the injured person is an insured.

21 (2) In case of injury to an employee, or to his  
 22 spouse, or other relative residing in the same household, if  
 23 the accident causing the injury occurs while the injured  
 24 person is driving or occupying a motor vehicle furnished by  
 25 the employer, the security for payment of basic economic

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1 loss benefits is the security covering the vehicle or, if  
 2 none, the security under which the injured person is an  
 3 insured.

4 (3) In the case of any other person whose injury  
 5 arises from the maintenance or use of a motor vehicle  
 6 described in subsection (1) or (2) who is not a driver or  
 7 occupant of another involved motor vehicle, the security for  
 8 the payment of basic economic loss benefits is the security  
 9 covering the vehicle, or if none, the security under which  
 10 the injured person is an insured.

11 (4) In all other cases, the following priorities  
 12 apply:

13 (a) The security for payment of basic economic loss  
 14 benefits applicable to injury to an insured is the security  
 15 under which the injured person is an insured.

16 (b) The security for payment of basic economic loss  
 17 benefits applicable to injury to the driver or other  
 18 occupant of an involved motor vehicle who is not an insured  
 19 is the security covering that vehicle.

20 (c) The security for payment of basic economic loss  
 21 benefits applicable to injury to a person not otherwise  
 22 covered who is not the driver or other occupant of an  
 23 involved motor vehicle is the security covering any involved  
 24 motor vehicle. An unoccupied parked vehicle is not an  
 25 involved motor vehicle unless it was parked so as to cause

1 unreasonable risk of injury.

2 (5) If two or more obligations to pay basic economic  
 3 loss benefits are applicable to an injury under the  
 4 priorities set out in this section, benefits are payable  
 5 only once and the reparation obligor against whom a claim is  
 6 asserted shall process and pay the claim as if wholly  
 7 responsible, but he is thereafter entitled to recover  
 8 contribution pro rata for the basic economic loss benefits  
 9 paid and the costs of processing the claim. Where  
 10 contribution is sought among reparation obligors responsible  
 11 under clause (c) of subsection (4), proration shall be based  
 12 on the number of involved motor vehicles.

13 (6) Where a reparation obligor pays basic economic  
 14 loss benefits which another reparation obligor is obligated  
 15 to pay under the priority provided in this section, the  
 16 reparation obligor that pays is subrogated to all rights of  
 17 the person to whom benefits are paid.

18 Section 8. Reparation security compulsory. (1) Every  
 19 owner of a motor vehicle of a type which is required to be  
 20 registered or licensed or is principally garaged in this  
 21 state shall provide and maintain a plan of reparation  
 22 security under provisions approved by the commissioner,  
 23 insuring against loss resulting from liability imposed by  
 24 law for injury and property damage sustained by any person  
 25 arising out of the ownership, maintenance, operation, or use



1 of an automobile. Such coverage shall provide for basic  
 2 economic loss benefits and residual liability coverage in  
 3 amounts not less than those specified in section (9),  
 4 subsection (3). The nonresident owner of a motor vehicle  
 5 which is not required to be registered or licensed, or which  
 6 is not principally garaged in this state, shall maintain  
 7 such security in effect continuously throughout the period  
 8 of the operation, maintenance, or use of such motor vehicle  
 9 within this state with respect to accidents occurring in  
 10 this state.

11 (2) The security required by this act may be provided  
 12 by a policy of insurance complying with this act which is  
 13 issued by or on behalf of an insurer authorized to transact  
 14 business in this state or, if the vehicle is registered in  
 15 another state, by a policy of insurance issued by or on  
 16 behalf of an insurer authorized to transact business in  
 17 either this state or the state in which the vehicle is  
 18 registered or by qualifying as a self-insurer.

19 (3) Self-insurance, subject to approval of the  
 20 commissioner, is effected by filing with the commissioner in  
 21 satisfactory form:

22 (a) a continuing undertaking by the owner or other  
 23 appropriate person to pay tort liabilities or basic economic  
 24 loss benefits, or both, and to perform all other obligations  
 25 imposed by this act;

1 (b) evidence that appropriate provision exists for  
 2 prompt administration of all claims, benefits, and  
 3 obligations provided by this act; and

4 (c) evidence that reliable financial arrangements,  
 5 deposits, or commitments exist providing assurance,  
 6 substantially equivalent to that afforded by a policy of  
 7 insurance complying with this act, for payment of tort  
 8 liabilities, basic economic loss benefits, and all other  
 9 obligations imposed by this act.

10 (4) The state of Montana or any agency thereof and any  
 11 political subdivision of the state or agency thereof shall  
 12 provide security by lawfully obligating itself to pay  
 13 benefits in accordance with this act, either as a  
 14 self-insurer pursuant to subsection (3), or through purchase  
 15 of a plan of reparation security.

16 (5) Every owner of a motorcycle registered or required  
 17 to be registered in this state or operated in this state by  
 18 him or with his permission shall provide and maintain  
 19 security for the payment of tort liabilities arising out of  
 20 the maintenance or use of the motorcycle in this state.  
 21 Security may be provided by a contract of liability  
 22 insurance complying with section (9), subsection (3), or by  
 23 qualifying as a self-insurer in the manner provided in  
 24 subsection (3) of this section.

25 (6) A person providing security pursuant to subsection

1 (3) is a "self-insurer".

2 (7) "Security covering the vehicle" is the insurance  
3 or other security so provided. The vehicle for which the  
4 security is so provided is the "secured vehicle".

5 (8) "Plan of reparation security" includes a contract,  
6 self-insurance, or other legal means under which there is an  
7 obligation to pay the benefits described in section (9).

8 Section 9. Mandatory offer of insurance benefits.

9 (1) On and after January 1, 1976, no insurance policy  
10 providing benefits for injuries arising out of the  
11 maintenance or use of a motor vehicle shall be issued,  
12 renewed, continued, delivered, issued for delivery, or  
13 executed in this state with respect to any motor vehicle  
14 registered or principally garaged in this state unless  
15 coverage is provided therein or supplemental thereto, under  
16 provisions approved by the commissioner, requiring the  
17 insurer to pay, regardless of the fault of the insured,  
18 basic economic loss benefits.

19 A plan of reparation security shall state the name and  
20 address of the named insured, the coverage afforded by the  
21 policy, the premium charged, the term and limits of  
22 liability, and shall contain an agreement or endorsement  
23 that insurance is provided thereunder in accordance with and  
24 subject to the provisions of this act.

25 (2) Each plan of reparation security shall provide for

1 payment of basic economic loss benefits.

2 (3) (a) Each plan of reparation security shall also  
3 contain stated limits of liability, exclusive of interest  
4 and costs, with respect to each vehicle for which coverage  
5 is thereby granted, of not less than twenty-five thousand  
6 dollars (\$25,000) because of bodily injury to one person in  
7 any one accident and, subject to said limit for one person,  
8 of not less than fifty thousand dollars (\$50,000) because of  
9 injury to two or more persons in any one accident, and, if  
10 the accident has resulted in injury to or destruction of  
11 property, of not less than ten thousand dollars (\$10,000)  
12 because of such injury to or destruction of property of  
13 others in any one accident.

14 (b) Under residual liability insurance the reparation  
15 obligor shall be liable to pay, on behalf of the insured,  
16 sums which the insured is legally obligated to pay as  
17 damages because of bodily injury and property damage arising  
18 out of the ownership, maintenance, or use of a motor vehicle  
19 if the injury or damage occurs within this state, the United  
20 States of America, its territories or possessions, or  
21 Canada. A reparation obligor shall also be liable to pay  
22 sums which another reparation obligor is entitled to recover  
23 under the indemnity provisions of section (13).

24 (c) Every plan of reparation security shall be subject  
25 to the following provisions which need not be contained

1 therein:

2 (i) The liability of the reparation obligor with  
3 respect to the residual liability coverage required by this  
4 clause shall become absolute whenever injury or damage  
5 occurs; such liability may not be cancelled or annulled by  
6 any agreement between the reparation obligor and the insured  
7 after the occurrence of the injury or damage; no statement  
8 made by the insured or on his behalf and no violation of  
9 said policy shall defeat or void said policy.

10 (ii) The satisfaction by the insured of a judgment for  
11 such injury or damage shall not be a condition precedent to  
12 the right or duty of the reparation obligor to make payment  
13 on account of such injury or damage.

14 (iii) The reparation obligor shall have the right to  
15 settle any claim covered by the residual liability insurance  
16 policy, and if such settlement is made in good faith, the  
17 amount thereof shall be deductible from the limits of  
18 liability for the accident out of which such claim arose.

19 (4) (a) On and after January 1, 1976, no plan of  
20 reparation security may be renewed, delivered, or issued for  
21 delivery, or executed in this state with respect to any  
22 motor vehicle registered or principally garaged in this  
23 state unless coverage is provided therein or supplemental  
24 thereto, in the amounts of twenty-five thousand dollars  
25 (\$25,000) because of injury to or the death of one person in

1 any accident, and subject to the said limit for one person,  
2 fifty thousand dollars (\$50,000) because of bodily injury to  
3 or the death of two or more persons in any one accident, for  
4 the protection of persons insured thereunder who are legally  
5 entitled to recover damages from owners or operators of  
6 uninsured motor vehicles and hit-and-run motor vehicles  
7 because of injury.

8 (b) Every owner of a motor vehicle registered or  
9 principally garaged in this state shall maintain uninsured  
10 motor vehicle coverage as provided in this subsection.

11 (c) "Uninsured motor vehicle" means any motor vehicle  
12 for which a plan of reparation security meeting the  
13 requirements of this act is not in effect.

14 (d) No recovery shall be permitted under the uninsured  
15 motor vehicle provisions of this section for basic economic  
16 loss benefits paid or payable, or which would be payable but  
17 for any applicable deductible.

18 (5) At appropriately reduced premium rates reparation  
19 obligors shall offer the following deductibles, applicable  
20 only to claims arising out of injury to basic economic loss  
21 insureds:

22 (a) a deductible in the amount of one hundred dollars  
23 (\$100) to all medical expense benefits otherwise payable,  
24 except that if two or more insureds to whom the deductible  
25 is applicable are injured in the same accident, the

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1 aggregate amount of the deductible applicable to all of them  
 2 shall not exceed the specified deductible, which amount,  
 3 where necessary shall be allocated equally among them, and

4 (b) a deductible in the amount of two hundred dollars  
 5 (\$200) to all disability and income loss benefits otherwise  
 6 payable as a result of an injury to any one insured in one  
 7 accident.

8 (6) Reparation obligors shall offer the following  
 9 optional coverages in addition to compulsory coverages:

10 (a) medical expense benefits subject to a maximum  
 11 payment of ten thousand dollars (\$10,000);

12 (b) medical expense benefits subject to a maximum  
 13 payment of twenty thousand dollars (\$20,000);

14 (c) residual liability coverage of not less than  
 15 twenty-five thousand dollars (\$25,000) for damages for  
 16 injury to one person in any one accident arising out of the  
 17 maintenance or use of a motor vehicle, subject to a  
 18 limitation of fifty thousand dollars (\$50,000) for damages  
 19 arising out of any one accident;

20 (d) basic economic loss benefits to all persons  
 21 purchasing liability coverage for injuries arising out of  
 22 the maintenance or use of a motorcycle; and

23 (e) underinsured motorist coverage whereby subject to  
 24 the terms and conditions of such coverage the reparation  
 25 obligor agrees to pay its insureds for such uncompensated

1 damages as they are legally entitled to recover on account  
 2 of a motor vehicle accident because the total damages they  
 3 are legally entitled to recover exceed the residual  
 4 liability limit of the owner of the other vehicle, to the  
 5 extent of the residual liability limits on the motor vehicle  
 6 of the person legally entitled to recover or such smaller  
 7 limits as he may select less the amount paid by reparation  
 8 obligor of the person against whom he is entitled to  
 9 recover. His reparation obligor shall be subrogated to any  
 10 amounts it pays and upon payment shall have an assignment of  
 11 the judgment if any against the other person to the extent  
 12 of the money it pays.

13 (7) Nothing in this act shall be construed as  
 14 preventing the insurer from offering other benefits or  
 15 coverages in addition to those required to be offered under  
 16 this section.

17 (8) Any coverage issued by a participating member of  
 18 the Montana automobile insurance plan shall comply with the  
 19 provisions of this section, any provisions of law or of the  
 20 contract notwithstanding.

21 Section 10. Insurers' certification of basic coverage.  
 22 (1) Every insurer licensed to write motor vehicle accident  
 23 reparation and liability insurance in this state shall, on  
 24 or before January 1, 1976, or as a condition to such  
 25 licensing, file with the commissioner and thereafter

1 maintain a written certification that it will afford at  
 2 least the minimum security provided by section (9) to all  
 3 policyholders, except that in the case of nonresident  
 4 policyholders it need only certify that security is provided  
 5 with respect to accidents occurring in this state.

6 (2) Notwithstanding any contrary provision in it,  
 7 every contract of liability insurance for injury, wherever  
 8 issued, covering obligations arising from ownership,  
 9 maintenance, or use of a motor vehicle, except a contract  
 10 which provides coverage only for liability in excess of  
 11 required minimum tort liability coverages, includes basic  
 12 economic loss benefit coverages and residual liability  
 13 coverages required by this act, while the vehicle is in this  
 14 state, and qualifies as security covering the vehicle.

15 Section 11. Deduction of collateral benefits from tort  
 16 recovery; limitation on right to recover damages. (1) With  
 17 respect to a cause of action in negligence accruing as a  
 18 result of injury arising out of the operation, ownership,  
 19 maintenance, or use of a motor vehicle with respect to which  
 20 security has been provided as required by this act, there  
 21 shall be deducted from any recovery the value of basic or  
 22 optional economic loss benefits paid or payable or which  
 23 would be payable but for any applicable deductible. This  
 24 subdivision shall not bar subrogation and indemnity  
 25 recoveries under section (13), if the injury had the

1 consequences described in subsection (3) of that section and  
 2 a civil action has been commenced in the manner prescribed  
 3 in applicable laws or rules of civil procedure to recover  
 4 damages for noneconomic detriment.

5 (2) A person may bring a negligence action for  
 6 economic loss not paid or payable by an economic loss  
 7 obligor because of daily or weekly dollar limitations of  
 8 section (4), the seven-day services exclusion of section  
 9 (4), the limitations of benefits contained in section (4),  
 10 subsection (1), or an exclusion from coverage by sections  
 11 (18) to (20).

12 (3) In an action described in subsection (1), no  
 13 person shall recover damages for noneconomic detriment  
 14 unless:

15 (a) the sum of the following exceeds two thousand  
 16 dollars (\$2,000):

17 (i) reasonable medical expense benefits paid,  
 18 payable, or payable but for any applicable deductible, plus

19 (ii) the value of free medical or surgical care or  
 20 ordinary and necessary nursing services performed by a  
 21 relative of the injured person or a member of his household,  
 22 plus

23 (iii) the amount by which the value of reimbursable  
 24 medical services or products exceeds the amount of benefit  
 25 paid, payable, or payable but for an applicable deductible

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1 for those services or products if the injured person was  
2 charged less than the average reasonable amount charged in  
3 this state for similar services or products, minus

4 (iv) the amount of medical expense benefits paid,  
5 payable, or payable but for an applicable deductible for  
6 diagnostic X-rays and for a procedure or treatment for  
7 rehabilitation and not for remedial purposes or a course of  
8 rehabilitative occupational training; or

9 (b) the injury results in:

10 (i) permanent disfigurement;

11 (ii) permanent injury;

12 (iii) death, or

13 (iv) disability for sixty (60) days or more.

14 (c) For the purposes of clause (a) evidence of the  
15 reasonable value of medical services and products shall be  
16 admissible in any action brought in this state.

17 (d) For the purposes of clause (b) disability means  
18 the inability to engage in substantially all of the injured  
19 person's usual and customary daily activities.

20 (4) Nothing in this section shall impair or limit the  
21 liability of a person in the business of manufacturing,  
22 distributing, retailing, repairing, servicing, or  
23 maintaining motor vehicles arising from a defect in a motor  
24 vehicle caused or not corrected by an act or omission in  
25 manufacture, inspection, repair, service, or maintenance of

1 a vehicle in the course of his business.

2 (5) Nothing in this section shall impair or limit tort  
3 liability or limit the damages recoverable from any person  
4 for negligent acts or omissions other than those committed  
5 in the operation, ownership, maintenance, or use of a motor  
6 vehicle.

7 Section 12. Mandatory arbitration of certain claims;  
8 supreme court to promulgate rules of procedure. (1) The  
9 supreme court and the several courts of general trial  
10 jurisdiction of this state may, on or before January 1,  
11 1976, by rules of court or other constitutionally  
12 permissible device, provide for the submission to  
13 arbitration, upon mutual consent of all parties to the  
14 action, of all cases at issue where a claim in an amount of  
15 five thousand dollars (\$5,000) or less is made by a motor  
16 vehicle accident victim, whether in an action to recover  
17 economic loss or noneconomic detriment for the allegedly  
18 negligent operation, maintenance, or use of a motor vehicle  
19 within this state, or against any reparation obligor for  
20 benefits as provided in this act.

21 (2) The rules of court may provide that cases which  
22 are not at issue, whether or not suit has been filed, may be  
23 referred to arbitration by agreement of reference signed by  
24 counsel for both sides, or by the parties themselves. Such  
25 agreement of reference shall define the issues to be

1 arbitrated and, shall also contain any stipulations with  
2 respect to facts submitted or agreed or defenses waived. In  
3 such cases, the agreement of reference shall take the place  
4 of the pleadings in the case and be filed of record.

5 Section 13. Indemnity; arbitration between obligors;  
6 subrogation. (1) A reparation obligor paying or obligated  
7 to pay basic or optional economic loss benefits shall be  
8 entitled to indemnity subject to the limits of the  
9 applicable residual liability coverage from a reparation  
10 obligor providing such coverage to a person whose negligence  
11 was the direct and proximate cause of the injury for which  
12 the basic economic loss benefits were paid or payable to the  
13 extent that the insured would have been liable for damages  
14 but for the deduction provisions of section (11), subsection  
15 (1), and only if a commercial vehicle was involved in the  
16 accident causing the injury.

17 (2) To the extent permitted by section z(11),  
18 subsection (1), a reparation obligor paying or obligated to  
19 pay basic or optional economic loss benefits shall be  
20 subrogated to the extent of benefits paid or payable to any  
21 cause of action to recover damages for economic loss which  
22 the person to whom the basic or optional economic loss  
23 benefits were paid or payable has brought under the terms of  
24 section (11), subsection (3) of this act against another  
25 person whose negligence was the direct and proximate cause

1 of the injury for which the basic economic loss benefits  
2 were paid or payable.

3 (3) The right of indemnity provided in subsection (1)  
4 shall be enforceable only through mandatory good faith and  
5 binding arbitration procedures to be established by rule of  
6 the commissioner of insurance. These procedures shall  
7 utilize determinations of comparative negligence. No  
8 evidence nor the decision in such an arbitration proceeding  
9 shall be admissible in any action by any party.

10 (4) Nothing in this act shall limit or abridge the  
11 subrogation rights of a reparation obligor providing  
12 collision coverage to a policyholder, but any obligor  
13 required to submit a claim described in subsection (1) to  
14 arbitration shall joint any claim it has against the other  
15 party to that proceeding as a result of automotive property  
16 damage to its insured arising out of the same accident as  
17 the primary claim.

18 (5) No reparation obligor shall include in its  
19 contract any provision which would require a person to  
20 commence a negligence action as a condition precedent to the  
21 payment of basic economic loss benefits or which permits the  
22 reparation obligor to determine whether such an action will  
23 be commenced. No reparation obligor shall contract for a  
24 right of reimbursement or subrogation greater than or in  
25 addition to those permitted by this act.

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1 (6) Arbitration proceedings need not await final  
2 payment of benefits, and the award, if any, shall include  
3 provision for reimbursement of subsequent benefits, but no  
4 question of fact decided by a prior award shall be  
5 reconsidered in any such subsequent arbitration hearing.

6 Section 14. Reparation obligor's duty to respond to  
7 claims. (1) Basic economic loss benefits are payable  
8 monthly as loss accrues. Loss accrues not when injury  
9 occurs, but as income loss, replacement services loss,  
10 survivor's economic loss, survivor's replacement services  
11 loss, or medical or funeral expense is incurred. Benefits  
12 are overdue if not paid within thirty (30) days after the  
13 reparation obligor receives reasonable proof of the fact and  
14 amount of loss realized, unless the reparation obligor  
15 elects to accumulate claims for periods not exceeding  
16 thirty-one (31) days and pays them within fifteen (15) days  
17 after the period of accumulation. If reasonable proof is  
18 supplied as to only part of a claim, and the part totals one  
19 hundred dollars (\$100) or more, the part is overdue if not  
20 paid within the time provided by this section. Medical or  
21 funeral expense benefits may be paid by the reparation  
22 obligor directly to persons supplying products, services, or  
23 accommodations to the claimant.

24 (2) Overdue payments shall bear simple interest at the  
25 rate of ten percent (10%) per annum.

1 (3) A claim for basic economic loss benefits shall be  
2 paid without deduction for the benefits which are to be  
3 subtracted pursuant to section (21), if these benefits have  
4 not been paid to the claimant before the reparation benefits  
5 are overdue or the claim is paid. The obligor is entitled  
6 to reimbursement from the person obligated to make the  
7 payments or from the claimant who actually receives the  
8 payments.

9 (4) A reparation obligor may bring an action to  
10 recover benefits which are not payable, but are in fact paid,  
11 because of an intentional misrepresentation of a material  
12 fact, upon which the reparation obligor relies, by the  
13 claimant or by a person providing products or services for  
14 which basic economic loss benefits are payable. The action  
15 may be brought only against the person providing the  
16 products or services, unless the claimant has intentionally  
17 misrepresented the facts or knew of the misrepresentation.  
18 A reparation obligor may offset amounts he is entitled to  
19 recover from the claimant under this subdivision against any  
20 basic economic loss benefits otherwise due him.

21 (5) A reparation obligor who rejects a claim for  
22 benefits shall give to the claimant prompt written notice of  
23 the rejection, specifying the reason. If a claim is  
24 rejected for a reason other than that the person is not  
25 entitled to the basic economic loss benefits claimed, the



1 written notice shall inform the claimant that he may file  
2 his claim with the assigned claims bureau and shall give the  
3 name and address of the bureau.

4 Section 15. Application for benefits under plan of  
5 security. (1) A plan of reparation security may prescribe  
6 a period of not less than six (6) months after the date of  
7 accident within which an insured or any other person  
8 entitled to claim basic economic loss benefits, or anyone  
9 acting on their behalf, must notify the reparation obligor  
10 or its agent, of the accident and the possibility of a claim  
11 for economic loss benefits in order to be eligible for such  
12 benefits. Such notice may be given in any reasonable  
13 fashion.

14 (2) A plan of reparation security may provide that in  
15 any instance where a lapse occurs in the period of  
16 disability or in the medical treatment of a person with  
17 respect to whose injury basic economic loss benefits have  
18 been paid and a person subsequently claims additional  
19 benefits based upon an alleged recurrence of the injury for  
20 which the original claim for benefits was made, the obligor  
21 may require reasonable medical proof of such alleged  
22 recurrence; provided, that in no event shall the aggregate  
23 benefits payable to any person exceed the maximum limits  
24 specified in the plan of security, and provided further that  
25 such coverages may contain a provision terminating

1 eligibility for benefits after a prescribed period of lapse  
2 of disability and medical treatment, which period shall not  
3 be less than one (1) year.

4 Section 16. Cooperation of person claiming benefits.  
5 (1) Medical examinations and discovery of condition of  
6 claimant. Any person with respect to whose injury benefits  
7 are claimed under a plan of reparation security shall, upon  
8 request of the reparation obligor from whom recovery is  
9 sought, submit to a physical examination by a physician or  
10 physicians selected by the obligor as may reasonably be  
11 required.

12 The costs of any examinations requested by the obligor  
13 shall be borne entirely by the requesting obligor. Such  
14 examinations shall be conducted within the city, town, or  
15 statutory city of residence of the injured person. If there  
16 is no qualified physician to conduct the examination within  
17 the city, town, or statutory city of residence of the  
18 injured person, then such examination shall be conducted at  
19 another place of the closest proximity to the injured  
20 person's residence. Obligor is authorized to include  
21 reasonable provisions in policies for mental and physical  
22 examination of those injured persons.

23 If requested by the person examined, a party causing an  
24 examination to be made shall deliver to him a copy of every  
25 written report concerning the examination rendered by an

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1 examining physician, at least one of which reports must set  
2 out in detail the findings and conclusions of such examining  
3 physician.

4 An injured person shall also do all things reasonably  
5 necessary to enable the obligor to obtain medical reports  
6 and other needed information to assist in determining the  
7 nature and extent of the injured person's injuries and loss,  
8 and the medical treatment received by him. If the claimant  
9 refuses to cooperate in responding to requests for  
10 examination and information as authorized by this section,  
11 evidence of such noncooperation shall be admissible in any  
12 suit or arbitration filed for damages for such personal  
13 injuries or for the benefits provided by this act.

14 (2) Any person receiving benefits under this act shall  
15 participate and cooperate, as reasonably required under the  
16 coverage, in any and all arbitration proceedings as provided  
17 in section (13) by or on behalf of the obligor paying the  
18 benefits, and the obligor may require in the furnishing of  
19 proof of loss the claimant's statement that he shall so  
20 participate and cooperate as consideration for the payment  
21 of such benefits. However, no claimant may be required by  
22 any obligor which has paid or is obligated to pay benefits  
23 as herein provided to personally attend an arbitration  
24 proceeding which shall take place more than fifty (50) miles  
25 from the usual residence of the claimant; and provided that

1 in no event shall the claimant have to attend such an  
2 arbitration proceeding if, at the time scheduled for that  
3 meeting, travel thereto by the claimant is not recommended  
4 by a physician treating the claimant for his injuries. Any  
5 claimant required to personally attend an arbitration  
6 proceeding shall be compensated by the reparation obligor  
7 requiring his attendance for actual income loss and expenses  
8 reasonably incurred.

9 Section 17. Economic loss benefits; exemptions from  
10 legal attachment. All economic loss benefits provided by  
11 this act, whether paid or payable to any claimant shall not  
12 be subject to garnishment, sequestration, attachment, or  
13 execution, or any other legal process which would deny their  
14 receipt and use by that person; provided, however, that this  
15 section shall not apply to any person who has provided  
16 treatment or services, as described in section (4),  
17 subsection (2), to the victim of a motor vehicle accident.

18 Section 18. Converted motor vehicles. A person who  
19 converts a motor vehicle is disqualified from basic or  
20 optional economic loss benefits, including benefits  
21 otherwise due him as a survivor, from any source other than  
22 an insurance contract under which the converter is an  
23 insured, for injuries arising from maintenance or use of the  
24 converted vehicle. If the converter dies from the injuries,  
25 his survivors are not entitled to basic or optional economic

1 loss benefits from any source other than an insurance  
 2 contract under which the converter is a basic economic loss  
 3 insured. For the purpose of this section, a person is not a  
 4 converter if he uses the motor vehicle in the good faith  
 5 belief that he is legally entitled to do so.

6 Section 19. Races. A person who is injured in the  
 7 course of an officiated racing or speed contest, or in  
 8 practice or preparation therefor is disqualified from basic  
 9 or optional economic loss benefits. His survivors are not  
 10 entitled to basic or optional economic loss benefits for  
 11 loss arising from his death.

12 Section 20. Intentional injuries. A person  
 13 intentionally causing or attempting to cause injury to  
 14 himself or another person is disqualified from basic or  
 15 optional economic loss benefits for injury arising from his  
 16 acts, including benefits otherwise due him as a survivor.  
 17 If a person dies as a result of intentionally causing or  
 18 attempting to cause injury to himself, his survivors are not  
 19 entitled to basic or optional economic loss benefits for  
 20 loss arising from his death. A person intentionally causes  
 21 or attempts to cause injury if he acts or fails to act for  
 22 the purpose of causing injury or with knowledge that injury  
 23 is substantially certain to follow. A person does not  
 24 intentionally cause or attempt to cause injury (1) merely  
 25 because his act or failure to act is intentional or done

1 with his realization that it creates a grave risk of causing  
 2 injury or (2) if the act or omission causing the injury is  
 3 for the purpose or averting bodily harm to himself or  
 4 another person.

5 Section 21. Benefits primary; subtractions;  
 6 coordination. (1) Basic economic loss benefits shall be  
 7 primary with respect to benefits, except for those paid or  
 8 payable under a workmen's compensation law, which any person  
 9 receives or is entitled to receive from any other source as  
 10 a result of injury arising out of the maintenance or use of  
 11 a motor vehicle.

12 (2) Benefits paid or payable under a workmen's  
 13 compensation law because of the injury or death shall be  
 14 subtracted in computing basic economic loss benefits, but  
 15 only to the extent that they exceed any deductible  
 16 applicable to the basic economic loss benefits.

17 (3) Any legally constituted entity, other than a  
 18 reparation obligor obligated to pay benefits under a plan of  
 19 reparation security or an insurer or employer obligated to  
 20 pay benefits under a workmen's compensation law, may  
 21 coordinate any benefits it is obligated to pay for loss  
 22 incurred as a result of injury arising out of the  
 23 maintenance or use of a motor vehicle with basic economic  
 24 loss benefits.

25 (4) Notwithstanding subsection (3), no entity may

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1 coordinate benefits unless it provides those persons whom  
 2 purchase benefits from it with an equitable reduction or  
 3 savings in the direct or indirect cost of the purchased  
 4 benefits. If the benefits to be coordinated are provided to  
 5 an individual through a group, program, contract, or other  
 6 arrangement for which another person pays in whole or in  
 7 part, the entity coordinating benefits shall return to the  
 8 individual or use for his benefit any reduction or savings  
 9 in the direct or indirect cost of the benefits.

10 Section 22. Duplicate claims; obligor subrogated. A  
 11 reparation obligor paying or obligated to pay basic economic  
 12 loss benefits is subrogated to any claim based on an  
 13 intentional tort or on strict or statutory liability against  
 14 any person whose act or omission caused the injury. This  
 15 right of subrogation shall exist only to the extent that  
 16 basic economic loss benefits are paid and only to the extent  
 17 that recovery on the claim would produce a duplication of  
 18 benefits or reimbursement of the same loss.

19 Section 23. Assigned claims plan. (1) Reparation  
 20 obligors providing basic economic loss insurance in this  
 21 state may organize and maintain, subject to approval and  
 22 regulation by the commissioner, an assigned claims bureau  
 23 and an assigned claims plan, and adopt rules for their  
 24 operation and for the assessment of costs on a fair and  
 25 equitable basis consistent with this act. If such obligors

1 do not organize and continuously maintain an assigned claims  
 2 bureau and an assigned claims plan in a manner considered by  
 3 the commissioner of insurance to be consistent with this  
 4 act, he shall organize and maintain an assigned claims  
 5 bureau and an assigned claims plan. Each reparation obligor  
 6 providing basic economic loss insurance in this state shall  
 7 participate in the assigned claims bureau and the assigned  
 8 claims plan. Costs incurred shall be allocated fairly and  
 9 equitably among the reparation obligors.

10 (2) The assigned claims bureau shall promptly assign  
 11 each claim and notify the claimant of the identity and  
 12 address of the assignee-obligor of the claim. Claims shall  
 13 be assigned so as to minimize inconvenience to claimants.  
 14 The assignee thereafter has rights and obligations as if he  
 15 had issued a policy of basic economic loss insurance  
 16 complying with this act, applicable to the injury or, in  
 17 case of financial inability of a reparation obligor to  
 18 perform its obligations, as if the assignee had written the  
 19 applicable reparation insurance, undertaken the  
 20 self-insurance, or lawfully obligated itself to pay basic  
 21 economic loss benefits.

22 Section 24. Persons entitled to participate in  
 23 assigned claims plan. (1) A person entitled to basic  
 24 economic loss benefits because of injury covered by this act  
 25 may obtain basic economic loss benefits through the assigned

1 claims plan or bureau established pursuant to section (23)  
2 and in accordance with the provisions for making assigned  
3 claims provided in this act if:

4 (a) Basic economic loss benefits are not applicable to  
5 the injury for some reason other than those specified in  
6 sections (18), (19), or (20);

7 (b) The plan of reparation security applicable to the  
8 injury cannot be identified; or

9 (c) A claim for basic economic loss benefits is  
10 rejected by a reparation obligor on some ground other than  
11 the person is not entitled to basic economic loss benefits  
12 under this act.

13 (2) If a claim qualifies for assignment under  
14 subsection (1) of this section, the assigned claims bureau  
15 or any reparation obligor to whom the claim is assigned  
16 shall be, as provided in section (23), subrogated to all of  
17 the rights of the claimant against any person, including  
18 another obligor, who is legally obligated to provide  
19 economic loss benefits to the claimant, for economic loss  
20 benefits provided by the obligor to whom the claim was  
21 assigned.

22 (3) A person shall not be entitled to basic economic  
23 loss benefits through the assigned claims plan with respect  
24 to injury which was sustained if at the time of such injury  
25 the injured person was the owner of a private passenger

1 motor vehicle for which security is required under this act  
2 and he failed to have such security in effect. Persons  
3 claiming benefits as a result of injury to members of the  
4 owner's household shall also be disqualified from benefits  
5 if those members knew or reasonably should have known that  
6 security covering the vehicle was not provided as required  
7 by this act.

8 Section 25. Notification to assigned claims bureau. A  
9 person authorized to obtain basic economic loss benefits  
10 through the assigned claims plan shall notify the bureau of  
11 his claim within one (1) year of the date on which he  
12 receives written authorization to participate in such plan.  
13 If timely action for basic economic loss benefits is  
14 commenced against a reparation obligor who is unable to  
15 fulfill his obligations under this act, a claim through the  
16 assigned claims plan may be made within a reasonable time  
17 after discovery of such inability.

18 Section 26. Claims against wrong insurer. If timely  
19 action for economic loss benefits is commenced against a  
20 reparation obligor and benefits are denied because of a  
21 determination that the obligor's coverage is not applicable  
22 to the claimant under the provisions of section (7) on the  
23 priority of applicability of security a claim against a  
24 proper obligor or assigned claims plan may be made not later  
25 than ninety (90) days after such determination becomes final

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1 or the last date on which the action could otherwise have  
2 been commenced, whichever is later.

3 Section 27. Penalties for failure to provide security  
4 for basic reparation benefits. (1) Every owner of a motor  
5 vehicle for which security has not been provided as required  
6 by section (8), shall be liable in tort without limitation.

7 (2) Any owner of a motor vehicle with respect to which  
8 security is required under this act, who operates such motor  
9 vehicle or permits it to be operated upon a public highway,  
10 street, or road in this state without having in full force  
11 and effect security complying with the terms of section (8),  
12 is guilty of a misdemeanor.

13 (3) Any other person who operates such motor vehicle  
14 upon a public highway, street, or road in this state with  
15 knowledge that the owner does not have such security in full  
16 force and effect is guilty of a misdemeanor.

17 (4) Any operator of a motor vehicle who is convicted  
18 of a misdemeanor under the terms of this section shall have  
19 his operator's license revoked for not less than six (6)  
20 months nor more than twelve (12) months. If such operator  
21 is also an owner of the motor vehicle, his motor vehicle  
22 registration shall also be revoked for not less than six (6)  
23 months nor more than twelve (12) months.

24 (5) When a nonresident's operating privilege is  
25 suspended pursuant to this section, the attorney general or

1 his designee shall transmit a copy of the record of such  
2 action to the official in charge of the issuance of licenses  
3 in the state in which the nonresident resides.

4 (6) Upon receipt of such notification that the  
5 operating privilege of a resident of this state has been  
6 suspended or revoked in any other state pursuant to a law  
7 providing for its suspension or revocation for failure to  
8 deposit security for the payment of judgments arising out of  
9 a motor vehicle accident, or for failure to provide security  
10 covering a vehicle if required by the laws of that state,  
11 the attorney general shall suspend the license of the  
12 resident until he furnishes evidence of compliance with the  
13 laws of this state and if applicable the laws of the other  
14 state.

15 Section 28. Rules of attorney general. (1) The  
16 attorney general shall have the power and perform the duties  
17 imposed upon him by this act and may adopt rules to  
18 implement and provide effective administration of the  
19 provisions requiring security and governing termination of  
20 security.

21 (2) The attorney general may by rule provide that  
22 motor vehicles owned by certain persons may not be  
23 registered in this state unless satisfactory evidence is  
24 furnished that security has been provided as required by  
25 section (8). If a person who is required to furnish

1 evidence ceases to maintain security, he shall immediately  
 2 surrender the registration certificate and license plates  
 3 for the vehicle. These requirements may be imposed if:

4 (a) The registrant has not previously registered a  
 5 motor vehicle in this state; or

6 (b) An owner or operator of the vehicle has previously  
 7 failed to comply with the security requirements of this act  
 8 or of prior law; or

9 (c) The driving record of an owner or operator of the  
 10 vehicle evidences his continuing disregard of the laws of  
 11 this state enacted to protect the public safety; or

12 (d) Other circumstances indicate that such action is  
 13 necessary to effectuate the purposes of this act.

14 Section 29. Obligor's notification of lapse,  
 15 cancellation, or failure to renew policy of coverage. If  
 16 the required plan of reparation security of an owner or  
 17 named insured is cancelled, and notification of such fact is  
 18 given to the insured as required by law, a copy of such  
 19 notice shall within thirty (30) days after coverage has  
 20 expired be sent to the attorney general. If, on or before  
 21 the end of that thirty (30) day period, the insured owner of  
 22 a motor vehicle has not presented the attorney general or  
 23 his authorized agent with evidence of required security  
 24 which shall have taken effect upon the expiration of the  
 25 previous coverage, or if the insured owner or registrant has

1 not instituted an objection to his obligor's cancellation,  
 2 he shall immediately surrender the registration certificate  
 3 and motor vehicle license plates to the attorney general and  
 4 may not operate or permit operation of the vehicle in this  
 5 state until security is again provided and proof of security  
 6 furnished as required by this act.

7 Section 30. Automobile insurance rates - penalties.

8 (1) The policy premiums charged by each insurer in  
 9 connection with the compulsory plan of reparation security  
 10 required by this act for private passenger motor vehicles  
 11 shall be at least thirty percent (30%) below such insurer's  
 12 policy premiums in effect on December 31, 1974, for  
 13 liability insurance with limits of twenty-five thousand  
 14 dollars (\$25,000) per person and fifty thousand dollars  
 15 (\$50,000) per accident, plus one thousand dollars (\$1,000)  
 16 medical payments insurance, plus uninsured motorists  
 17 coverage of twenty-five thousand dollars (\$25,000) per  
 18 person and fifty thousand dollars (\$50,000) per accident.  
 19 Actuarially commensurate adjustments shall be required in  
 20 the case of other combinations of coverage.

21 (2) Any person convicted of violating this section  
 22 shall be guilty of a misdemeanor. Every day that a  
 23 violation continues shall be deemed a separate offense.  
 24 Further, any person convicted of violating any provision of  
 25 this section shall thereafter be prohibited from engaging in

HB 111

1 any business as an insurer in this state for a period of  
 2 five years. The attorney general shall, at the request of  
 3 the commissioner, initiate in the name of the state  
 4 appropriate action in a court of law to enforce the  
 5 provisions of this section.

6 (3) Notwithstanding the provisions of subsection (1)  
 7 of this section, if the commissioner finds that the mandated  
 8 reduction in premium rates would jeopardize the financial  
 9 soundness or solidity of any insurer, or require it to  
 10 suffer an underwriting loss on that line of business in this  
 11 state he shall permit such an insurer to charge such rates  
 12 as are necessary to avoid such condition. The commissioner  
 13 may hold a public hearing prior to making a determination  
 14 pursuant to this subdivision.

15 (4) The commissioner shall review all automobile  
 16 coverage rates on an annual basis. If the commissioner  
 17 finds that the rates of any insurer, for coverages required  
 18 or permitted by this act, are excessive, he shall issue such  
 19 order as he deems appropriate to establish a reasonable  
 20 competitive rate, and such order may include provisions for  
 21 an appropriate premium adjustment or rebate on outstanding  
 22 policies.

23 Section 31. Sections 40-4403, and 53-418 through  
 24 53-458, R.C.M. 1947, are repealed.

25 Section 32. Severability. It is the intent of the

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

7 Section 33. This act is effective January 1, 1976.  
 8 Accidents occurring before that date are not covered by or  
 9 subject to this act.

-End-



Approved by Committee  
on Judiciary

1 HOUSE BILL NO. 111  
 2 INTRODUCED BY BRAND  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE  
 5 COMPENSATION OF VICTIMS OF MOTOR VEHICLE ACCIDENTS;  
 6 REQUIRING SECURITY BY MOTOR VEHICLE OWNERS; PROVIDING FOR  
 7 CERTAIN MANDATORY MINIMUM INSURANCE OR SELF-INSURANCE  
 8 PROTECTION BENEFITS PAYABLE REGARDLESS OF FAULT IN CASES OF  
 9 PERSONAL INJURY; PROVIDING FOR A LIMITATION OF GENERAL  
 10 DAMAGES; EXPANDING UNINSURED MOTORISTS COVERAGE, PROVIDING  
 11 SMALL CLAIMS ARBITRATION AND PENALTIES FOR FAILURE TO SHOW  
 12 PROOF OF SECURITY; PROVIDING FOR CERTAIN DEDUCTIBLES;  
 13 PROVIDING FOR SUBROGATION, INTERCOMPANY ARBITRATION, AND  
 14 OFFSET OF BENEFITS PAID AGAINST JUDGMENTS; PROVIDING AN  
 15 ASSIGNED CLAIMS PLAN; PROVIDING PENALTIES; REPEALING  
 16 SECTIONS 40-4403 AND 53-418 THROUGH 53-458, R.C.M. 1947; AND  
 17 PROVIDING AN EFFECTIVE DATE."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. This act may be cited as the "Montana  
21 No-Fault Insurance Act".

22 Section 2. Purpose. The detrimental impact of  
23 automobile accidents on uncompensated injured persons, upon  
24 the orderly and efficient administration of justice in the  
25 state, and in various other ways requires that this act be

1 adopted to effect the following purposes:  
 2 (1) To relieve the severe economic distress of  
 3 uncompensated victims of automobile accidents within this  
 4 state by requiring automobile insurers to offer and  
 5 automobile owners to maintain automobile insurance policies  
 6 or other pledges of indemnity which will provide prompt  
 7 payment of specified basic economic loss benefits to victims  
 8 of automobile accidents without regard to whose fault caused  
 9 the accident;  
 10 (2) To prevent the overcompensation of those  
 11 automobile accident victims suffering minor injuries by  
 12 restricting the right to recover general damages to cases of  
 13 serious injury;  
 14 (3) To encourage appropriate medical and  
 15 rehabilitation treatment of the automobile accident victim  
 16 by assuring prompt payment for such treatment;  
 17 (4) To speed the administration of justice, to ease  
 18 the burden of litigation on the courts of this state, and to  
 19 create a system of small claims arbitration to decrease the  
 20 expense of and to simplify litigation, and to create a  
 21 system of mandatory intercompany arbitration to assure a  
 22 prompt and proper allocation of the costs of insurance  
 23 benefits between motor vehicle insurers;  
 24 (5) To correct imbalances and abuses in the operation  
 25 of the automobile accident tort liability system, to provide

SECOND READING

H. B. 111 is not run in its entirety; please refer to white  
copy for entire text. Amendments are on pages 26, 27 & 28.

1 consequences described in subsection (3) of that section and  
 2 a civil action has been commenced in the manner prescribed  
 3 in applicable laws or rules of civil procedure to recover  
 4 damages for noneconomic detriment.

5 (2) A person may bring a negligence action for  
 6 economic loss not paid or payable by an economic loss  
 7 obligor because of daily or weekly dollar limitations of  
 8 section (4), the seven-day services exclusion of section  
 9 (4), the limitations of benefits contained in section (4),  
 10 subsection (1), or an exclusion from coverage by sections  
 11 (18) to (20).

12 ~~(3) In an action described in subsection (1), no~~  
 13 ~~person shall recover damages for noneconomic detriment~~  
 14 ~~unless:~~

15 ~~(a) the sum of the following exceeds two thousand~~  
 16 ~~dollars (\$2,000):~~

17 ~~(i) reasonable medical expense benefits paid,~~  
 18 ~~payable, or payable but for any applicable deductible, plus~~

19 ~~(ii) the value of free medical or surgical care or~~  
 20 ~~ordinary and necessary nursing services performed by a~~  
 21 ~~relative of the injured person or a member of his household,~~  
 22 ~~plus~~

23 ~~(iii) the amount by which the value of reimbursable~~  
 24 ~~medical services or products exceeds the amount of benefit~~  
 25 ~~paid, payable, or payable but for an applicable deductible~~

1 ~~for those services or products if the injured person was~~  
 2 ~~charged less than the average reasonable amount charged in~~  
 3 ~~this state for similar services or products, minus~~

4 ~~(iv) the amount of medical expense benefits paid,~~  
 5 ~~payable, or payable but for an applicable deductible for~~  
 6 ~~diagnostic X-rays and for a procedure or treatment for~~  
 7 ~~rehabilitation and not for remedial purposes or a course of~~  
 8 ~~rehabilitative occupational training, or~~

9 ~~(b) the injury results in:~~

10 ~~(i) permanent disfigurement,~~

11 ~~(ii) permanent injury,~~

12 ~~(iii) death, or~~

13 ~~(iv) disability for sixty (60) days or more,~~

14 ~~(c) for the purposes of clause (a) evidence of the~~  
 15 ~~reasonable value of medical services and products shall be~~  
 16 ~~admissible in any action brought in this state,~~

17 ~~(d) for the purposes of clause (b) disability means~~  
 18 ~~the inability to engage in substantially all of the injured~~  
 19 ~~person's usual and customary daily activities.~~

20 (4) (3) Nothing in this section shall impair or limit  
 21 the liability of a person in the business of manufacturing,  
 22 distributing, retailing, repairing, servicing, or  
 23 maintaining motor vehicles arising from a defect in a motor  
 24 vehicle caused or not corrected by an act or omission in  
 25 manufacture, inspection, repair, service, or maintenance of

1 a vehicle in the course of his business.

2 ~~45~~ (4) Nothing in this section shall impair or limit  
3 tort liability or limit the damages recoverable from any  
4 person for negligent acts or omissions other than those  
5 committed in the operation, ownership, maintenance, or use  
6 of a motor vehicle.

7 Section 12. Mandatory arbitration of certain claims;  
8 supreme court to promulgate rules of procedure. (1) The  
9 supreme court and the several courts of general trial  
10 jurisdiction of this state may, on or before January 1,  
11 1976, by rules of court or other constitutionally  
12 permissible device, provide for the submission to  
13 arbitration, upon mutual consent of all parties to the  
14 action, of all cases at issue where a claim in an amount of  
15 five thousand dollars (\$5,000) or less is made by a motor  
16 vehicle accident victim, whether in an action to recover  
17 economic loss or noneconomic detriment for the allegedly  
18 negligent operation, maintenance, or use of a motor vehicle  
19 within this state, or against any reparation obligor for  
20 benefits as provided in this act.

21 (2) The rules of court may provide that cases which  
22 are not at issue, whether or not suit has been filed, may be  
23 referred to arbitration by agreement of reference signed by  
24 counsel for both sides, or by the parties themselves. Such  
25 agreement of reference shall define the issues to be

1 arbitrated and, shall also contain any stipulations with  
2 respect to facts submitted or agreed or defenses waived. In  
3 such cases, the agreement of reference shall take the place  
4 of the pleadings in the case and be filed of record.

5 Section 13. Indemnity; arbitration between obligors;  
6 subrogation. (1) A reparation obligor paying or obligated  
7 to pay basic or optional economic loss benefits shall be  
8 entitled to indemnity subject to the limits of the  
9 applicable residual liability coverage from a reparation  
10 obligor providing such coverage to a person whose negligence  
11 was the direct and proximate cause of the injury for which  
12 the basic economic loss benefits were paid or payable to the  
13 extent that the insured would have been liable for damages  
14 but for the deduction provisions of section (11), subsection  
15 (1), and only if a commercial vehicle was involved in the  
16 accident causing the injury.

17 (2) To the extent permitted by section (11),  
18 subsection (1), a reparation obligor paying or obligated to  
19 pay basic or optional economic loss benefits shall be  
20 subrogated to the extent of benefits paid or payable to any  
21 cause of action to recover damages for economic loss which  
22 the person to whom the basic or optional economic loss  
23 benefits were paid or payable has brought under the terms of  
24 section (11), subsection (3) of this act against another  
25 person whose negligence was the direct and proximate cause

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23 automobile accidents on uncompensated injured persons, upon  
24 the orderly and efficient administration of justice in the  
25 state, and in various other ways requires that this act be

1 adopted to effect the following purposes:

2 (1) To relieve the severe economic distress of  
3 uncompensated victims of automobile accidents within this  
4 state by requiring automobile insurers to offer and  
5 automobile owners to maintain automobile insurance policies  
6 or other pledges of indemnity which will provide prompt  
7 payment of specified basic economic loss benefits to victims  
8 of automobile accidents without regard to whose fault caused  
9 the accident;

10 (2) To prevent the overcompensation of those  
11 automobile accident victims suffering minor injuries by  
12 restricting the right to recover general damages to cases of  
13 serious injury;

14 (3) To encourage appropriate medical and  
15 rehabilitation treatment of the automobile accident victim  
16 by assuring prompt payment for such treatment;

17 (4) To speed the administration of justice, to ease  
18 the burden of litigation on the courts of this state, and to  
19 create a system of small claims arbitration to decrease the  
20 expense of and to simplify litigation, and to create a  
21 system of mandatory intercompany arbitration to assure a  
22 prompt and proper allocation of the costs of insurance  
23 benefits between motor vehicle insurers;

24 (5) To correct imbalances and abuses in the operation  
25 of the automobile accident tort liability system, to provide

1 offsets to avoid duplicate recovery, to require medical  
 2 examination and disclosure, and to govern the effect of  
 3 advance payments prior to final settlement of liability.

4 Section 3. Definitions. The following words and  
 5 phrases, shall, for the purpose of this act, have the  
 6 meanings ascribed to them, except where the context clearly  
 7 indicates a different meaning:

8 (1) "Motor vehicle" means every vehicle, other than a  
 9 motorcycle or other vehicle with fewer than four wheels,  
 10 which (a) is required to be registered pursuant to law, and  
 11 (b) is designed to be self-propelled by an engine or motor  
 12 for use primarily upon public roads, highways, or streets in  
 13 the transportation of persons or property, or (c) is a  
 14 trailer, when connected to or being towed by a motor  
 15 vehicle.

16 (2) "Maintenance or use of a motor vehicle" means  
 17 maintenance or use of a motor vehicle as a vehicle,  
 18 including, incident to its maintenance or use as a vehicle,  
 19 occupying, entering into, and alighting from it.  
 20 Maintenance or use of a motor vehicle does not include (a)  
 21 conduct within the course of a business of repairing,  
 22 servicing, or otherwise maintaining motor vehicles unless  
 23 the conduct occurs off the business premises, or (b) conduct  
 24 in the course of loading and unloading the vehicle unless  
 25 the conduct occurs while occupying, entering into, or

1 alighting from it.

2 (3) "Owner" means a person who holds legal title to a  
 3 motor vehicle, or in the event that a motor vehicle is the  
 4 subject of a security agreement or lease with option to  
 5 purchase and the debtor or lessee is entitled to the  
 6 immediate use or possession of the vehicle, then the debtor  
 7 or lessee shall be deemed the owner for the purposes of this  
 8 act.

9 (4) "Insured" means an insured under a plan of  
 10 reparation security as provided by this act, including the  
 11 named insured and the following persons not identified by  
 12 name as an insured while (a) residing in the same household  
 13 with the named insured and (b) not identified by name in any  
 14 other contract for a plan of reparation security complying  
 15 with this act as an insured:

- 16 (a) a spouse,
- 17 (b) other relative of a named insured or
- 18 (c) a minor in the custody of a named insured or of a  
 19 relative residing in the same household with a named  
 20 insured.

21 A person resides in the same household with the named  
 22 insured if that person usually makes his home in the same  
 23 family unit, even though he temporarily lives elsewhere.

24 (5) "Income" means salary, wages, tips, commissions,  
 25 professional fees, and other earnings from work or tangible

1 things of economic value produced through work in  
 2 individually owned businesses, farms, ranches, or other  
 3 work.

4 (6) "Loss" means economic detriment resulting from the  
 5 accident causing the injury, consisting only of medical  
 6 expense, income loss, replacement services loss and, if the  
 7 injury causes death, funeral expense, survivor's economic  
 8 loss and survivor's replacement services loss. Noneconomic  
 9 detriment is not loss; however, economic detriment is loss  
 10 although caused by pain and suffering or physical or mental  
 11 impairment.

12 (7) "Noneconomic detriment" means all dignitary losses  
 13 suffered by any person as a result of injury arising out of  
 14 the ownership, maintenance, or use of a motor vehicle  
 15 including pain and suffering, loss of consortium, and  
 16 inconvenience.

17 (8) "Reparation obligor" means an insurer or  
 18 self-insurer obligated to provide the benefits required by  
 19 this act, including natural persons, firms, partnerships,  
 20 associations, corporations, governmental units, trusts, and  
 21 syndicates.

22 (9) "Basic economic loss benefits" means benefits as  
 23 described in section (4).

24 (10) "Injury" means bodily harm to a person and death  
 25 resulting from such harm.

1 (11) "Commercial vehicle" means:  
 2 (a) any motor vehicle used as a common carrier,  
 3 (b) any motor vehicle, other than a passenger vehicle  
 4 or a station wagon, as those terms are defined by law, or  
 5 (c) any motor vehicle while used in the for-hire  
 6 transportation of property.

7 (12) "Motorcycle" means a self-propelled vehicle  
 8 designed to travel on fewer than four wheels which has an  
 9 engine rated at greater than five horsepower.

10 (13) Except where otherwise indicated, "commissioner"  
 11 means the commissioner of insurance of the state of Montana.  
 12 Section 4. Basic economic loss benefits - inclusions.

13 (1) Basic economic loss benefits shall provide  
 14 reimbursement for all loss suffered through injury arising  
 15 out of the maintenance or use of a motor vehicle, subject to  
 16 any applicable deductibles, exclusions, disqualifications,  
 17 and other conditions, and shall provide a maximum of thirty  
 18 thousand dollars (\$30,000) for loss arising out of the  
 19 injury of any one person, consisting of:

20 (a) Twenty thousand dollars (\$20,000) for medical  
 21 expense loss arising out of injury to any one person; and

22 (b) A total of ten thousand dollars (\$10,000) for  
 23 income loss, replacement services loss, funeral expense  
 24 loss, survivor's economic loss, and survivor's replacement  
 25 services loss arising out of the injury to any one person.

1           (2) Medical expense benefits shall reimburse all  
 2 reasonable expenses for necessary medical, surgical, x-ray,  
 3 optical, dental, chiropractic, and rehabilitative services,  
 4 including prosthetic devices, prescription drugs, necessary  
 5 ambulance, hospital, extended care, and nursing services.  
 6 "Extended care facility" means a place where skilled nursing  
 7 care and related services are provided for patients who  
 8 require post-hospitalization, in-patient medical, nursing,  
 9 or therapy services. Hospital room and board benefits may  
 10 be limited, except for intensive care facilities, to the  
 11 regular daily semi-private room rates customarily charged by  
 12 the institution in which the recipient of benefits is  
 13 confined. Such benefits shall also include necessary  
 14 remedial treatment and services recognized and permitted  
 15 under the laws of this state for an injured person who  
 16 relies upon spiritual means through prayer alone for healing  
 17 in accordance with his religious beliefs. Medical expense  
 18 loss includes medical expenses accrued prior to the death of  
 19 a person notwithstanding the fact that benefits are paid or  
 20 payable to the decedent's survivors. Medical expense  
 21 benefits for rehabilitative services shall be subject to the  
 22 provisions of section (5).

23           (3) Income loss benefits shall reimburse eighty-five  
 24 percent (85%) of the injured person's loss of present and  
 25 future gross income from inability to work proximately

1 caused by the nonfatal injury subject to a maximum of two  
 2 hundred dollars (\$200) per week. Compensation for loss of  
 3 income from work shall be reduced by any income from  
 4 substitute work actually performed by the injured person or  
 5 by income the injured person would have earned in available  
 6 appropriate substitute work which he was capable of  
 7 performing but unreasonably failed to undertake.

8           For the purposes of this section "inability to work"  
 9 shall mean disability which continuously prevents the  
 10 injured person from engaging in any substantial gainful  
 11 occupation or employment, for wage or profit, for which he  
 12 is or may by training become reasonably qualified.

13           (4) Funeral and burial benefits shall be reasonable  
 14 expenses not in excess of one thousand two hundred fifty  
 15 dollars (\$1,250).

16           (5) Replacement service loss benefits shall reimburse  
 17 all expenses reasonably incurred by or on behalf of the  
 18 nonfatally injured person in obtaining usual and necessary  
 19 substitute services in lieu of those that, had he not been  
 20 injured, the injured person would have performed not for  
 21 income but for the direct benefit of himself or his  
 22 household; if the nonfatally injured person normally, as a  
 23 full time responsibility, provides care and maintenance of a  
 24 home with or without children, the benefit to be provided  
 25 under this clause shall be the reasonable value of such care

1 and maintenance or the reasonable expenses incurred in  
 2 obtaining usual and necessary substitute care and  
 3 maintenance of the home, whichever is greater. These  
 4 benefits shall be subject to a maximum of fifteen dollars  
 5 (\$15) per day. All replacement services loss sustained on  
 6 the date of injury and the first seven (7) days thereafter  
 7 is excluded in calculating replacement services loss.

8 (6) Survivors economic loss benefits, in the event of  
 9 death occurring within one (1) year of the date of the  
 10 accident, caused by and arising out of injuries received in  
 11 the accident, shall reimburse loss after decedent's death of  
 12 contributions of money or tangible things of economic value,  
 13 not including services, subject to a maximum of two hundred  
 14 dollars (\$200) per week that his surviving dependents would  
 15 have received for their support during their dependency from  
 16 the decedent had he not suffered the injury causing death.

17 For the purposes of definition under this act, the  
 18 following described persons shall be presumed to be  
 19 dependents of a deceased person: (a) a wife is dependent on  
 20 a husband with whom she lives at the time of his death; (b)  
 21 a husband is dependent on a wife with whom he lives at the  
 22 time of her death; (c) any child while under the age of  
 23 eighteen (18) years, or while over that age but physically  
 24 or mentally incapacitated from earning, is dependent on the  
 25 parent with whom he is living or from whom he is receiving

1 support regularly at the time of the death of such parent.  
 2 In all other cases, questions of the existence and extent of  
 3 dependency shall be determined in accordance with the facts  
 4 at the time of the death.

5 Payments to the surviving spouse shall be terminated in  
 6 the event such surviving spouse remarries or dies. Payments  
 7 to a dependent child who is not physically or mentally  
 8 incapacitated from earning shall be terminated in the event  
 9 he attains majority, marries or becomes otherwise  
 10 emancipated, or dies.

11 (7) Survivors replacement services loss benefits shall  
 12 reimburse expenses reasonably incurred by surviving  
 13 dependents after the date of the decedent's death in  
 14 obtaining ordinary and necessary services in lieu of those  
 15 the deceased would have performed for their benefit had he  
 16 not suffered the injury causing death, minus expenses of the  
 17 survivors avoided by reason of the decedent's death. These  
 18 benefits shall be subject to a maximum of two hundred  
 19 dollars (\$200) per week.

20 (8) "Basic economic loss benefits" do not include  
 21 benefits for physical damage done to property or motor  
 22 vehicles, including their contents.

23 Section 5. Rehabilitation treatment and occupational  
 24 training. (1) A reparation obligor is responsible for the  
 25 cost of a procedure or treatment for rehabilitation or a



1 course of rehabilitative occupational training if the  
 2 procedure, treatment, or training is reasonable and  
 3 appropriate for the particular case, its cost is reasonable  
 4 in relation to its probable rehabilitative effects, and it  
 5 is likely to contribute substantially to medical or  
 6 occupational rehabilitation.

7 (2) An injured person who has undertaken a procedure  
 8 or treatment for rehabilitation or a course of  
 9 rehabilitative occupational training, other than medical  
 10 rehabilitation procedure or treatment, shall notify the  
 11 reparation obligor that he has undertaken the procedure,  
 12 treatment, or training within sixty (60) days after a  
 13 rehabilitation expense exceeding one thousand dollars  
 14 (\$1,000) has been incurred for the procedure, treatment, or  
 15 training, unless the reparation obligor knows or has reason  
 16 to know of the undertaking. If the injured person does not  
 17 give the required notice within the prescribed time, the  
 18 reparation obligor is responsible only for one thousand  
 19 dollars (\$1,000) or the expense incurred after the notice is  
 20 given and within the sixty (60) days before the notice,  
 21 whichever is greater, unless failure to give timely notice  
 22 is the result of excusable neglect.

23 (3) If the injured person notifies the reparation  
 24 obligor of a proposed specified procedure or treatment for  
 25 rehabilitation, or a proposed specified course of

1 rehabilitative occupational training, and the reparation  
 2 obligor does not promptly thereafter accept responsibility  
 3 for its cost, the injured person may make a motion in an  
 4 action to adjudicate his claim, or, if no action is pending,  
 5 bring an action in the district court, for a determination  
 6 that the reparation obligor is responsible for its costs. A  
 7 reparation obligor may make a motion in an action to  
 8 adjudicate the injured person's claim, or, if no action is  
 9 pending, bring an action in the district court, for a  
 10 determination that it is not responsible for the cost of a  
 11 procedure, treatment, or course of training which the  
 12 injured person has undertaken or proposes to undertake. A  
 13 determination by the court that the reparation obligor is  
 14 not responsible for the cost of a procedure, treatment, or  
 15 course of training is not res judicata as to the propriety  
 16 of any other proposal or the injured person's right to other  
 17 benefits. This subdivision does not preclude an action by  
 18 the reparation obligor or the injured person for declaratory  
 19 relief under any other law of this state, nor an action by  
 20 the injured person to recover basic economic loss benefits.

21 (4) If an injured person unreasonably refuses to  
 22 accept a rehabilitative procedure, treatment, or course of  
 23 occupational training, a reparation obligor may make a  
 24 motion in an action to adjudicate the injured person's  
 25 claim, or if no action is pending, may bring an action in

1 the district court, for a determination that future benefits  
 2 will be reduced or terminated to limit recovery of benefits  
 3 to an amount equal to benefits that in reasonable  
 4 probability would be due if the injured person had submitted  
 5 to the procedure, treatment, or training, and for other  
 6 reasonable orders. In determining whether an injured person  
 7 has reasonable ground for refusal to undertake the  
 8 procedure, treatment, or training, the court shall consider  
 9 all relevant factors, including the risks to the injured  
 10 person, the extent of the probable benefit, the place where  
 11 the procedure, treatment, or training is offered, the extent  
 12 to which the procedure, treatment, or training is recognized  
 13 as standard and customary, and whether the imposition of  
 14 sanctions because of the person's refusal would abridge his  
 15 right to the free exercise of his religion.

16 Section 6. Right to benefits. (1) If the accident  
 17 causing injury occurs in this state, every person suffering  
 18 loss from injury arising out of maintenance or use of a  
 19 motor vehicle has a right to basic economic loss benefits.

20 (2) If the accident causing injury occurs outside this  
 21 state, the following persons and their surviving dependents  
 22 suffering loss from injury arising out of maintenance or use  
 23 of a motor vehicle have a right to basic economic loss  
 24 benefits:

25 (a) insureds, and

1 (b) the driver and other occupants of a secured  
 2 vehicle, other than (i) a vehicle which is regularly used in  
 3 the course of the business of transporting persons or  
 4 property and which is one of five or more vehicles under  
 5 common ownership, or (ii) a vehicle owned by a government  
 6 other than this state, its political subdivisions, municipal  
 7 corporations, or public agencies.

8 (3) For the purposes of this act, injuries suffered by  
 9 a person while on, mounting, or alighting from a motorcycle  
 10 do not arise out of the maintenance or use of a motor  
 11 vehicle although a motor vehicle is involved in the accident  
 12 causing the injury.

13 Section 7. Priority of applicability of security for  
 14 payment of basic economic loss benefits. (1) In case of  
 15 injury to the driver or other occupant of a motor vehicle,  
 16 if the accident causing the injury occurs while the vehicle  
 17 is being used in the business of transporting persons or  
 18 property, the security for payment of basic economic loss  
 19 benefits is the security covering the vehicle or, if none,  
 20 the security under which the injured person is an insured.

21 (2) In case of injury to an employee, or to his  
 22 spouse, or other relative residing in the same household, if  
 23 the accident causing the injury occurs while the injured  
 24 person is driving or occupying a motor vehicle furnished by  
 25 the employer, the security for payment of basic economic

1 loss benefits is the security covering the vehicle or, if  
 2 none, the security under which the injured person is an  
 3 insured.

4 (3) In the case of any other person whose injury  
 5 arises from the maintenance or use of a motor vehicle  
 6 described in subsection (1) or (2) who is not a driver or  
 7 occupant of another involved motor vehicle, the security for  
 8 the payment of basic economic loss benefits is the security  
 9 covering the vehicle, or if none, the security under which  
 10 the injured person is an insured.

11 (4) In all other cases, the following priorities  
 12 apply:

13 (a) The security for payment of basic economic loss  
 14 benefits applicable to injury to an insured is the security  
 15 under which the injured person is an insured.

16 (b) The security for payment of basic economic loss  
 17 benefits applicable to injury to the driver or other  
 18 occupant of an involved motor vehicle who is not an insured  
 19 is the security covering that vehicle.

20 (c) The security for payment of basic economic loss  
 21 benefits applicable to injury to a person not otherwise  
 22 covered who is not the driver or other occupant of an  
 23 involved motor vehicle is the security covering any involved  
 24 motor vehicle. An unoccupied parked vehicle is not an  
 25 involved motor vehicle unless it was parked so as to cause

1 unreasonable risk of injury.

2 (5) If two or more obligations to pay basic economic  
 3 loss benefits are applicable to an injury under the  
 4 priorities set out in this section, benefits are payable  
 5 only once and the reparation obligor against whom a claim is  
 6 asserted shall process and pay the claim as if wholly  
 7 responsible, but he is thereafter entitled to recover  
 8 contribution pro rata for the basic economic loss benefits  
 9 paid and the costs of processing the claim. Where  
 10 contribution is sought among reparation obligors responsible  
 11 under clause (c) of subsection (4), proration shall be based  
 12 on the number of involved motor vehicles.

13 (6) Where a reparation obligor pays basic economic  
 14 loss benefits which another reparation obligor is obligated  
 15 to pay under the priority provided in this section, the  
 16 reparation obligor that pays is subrogated to all rights of  
 17 the person to whom benefits are paid.

18 Section 8. Reparation security compulsory. (1) Every  
 19 owner of a motor vehicle of a type which is required to be  
 20 registered or licensed or is principally garaged in this  
 21 state shall provide and maintain a plan of reparation  
 22 security under provisions approved by the commissioner,  
 23 insuring against loss resulting from liability imposed by  
 24 law for injury and property damage sustained by any person  
 25 arising out of the ownership, maintenance, operation, or use

1 of an automobile. Such coverage shall provide for basic  
 2 economic loss benefits and residual liability coverage in  
 3 amounts not less than those specified in section (9),  
 4 subsection (3). The nonresident owner of a motor vehicle  
 5 which is not required to be registered or licensed, or which  
 6 is not principally garaged in this state, shall maintain  
 7 such security in effect continuously throughout the period  
 8 of the operation, maintenance, or use of such motor vehicle  
 9 within this state with respect to accidents occurring in  
 10 this state.

11 (2) The security required by this act may be provided  
 12 by a policy of insurance complying with this act which is  
 13 issued by or on behalf of an insurer authorized to transact  
 14 business in this state or, if the vehicle is registered in  
 15 another state, by a policy of insurance issued by or on  
 16 behalf of an insurer authorized to transact business in  
 17 either this state or the state in which the vehicle is  
 18 registered or by qualifying as a self-insurer.

19 (5) Self-insurance, subject to approval of the  
 20 commissioner, is effected by filing with the commissioner in  
 21 satisfactory form:

22 (a) a continuing undertaking by the owner or other  
 23 appropriate person to pay tort liabilities or basic economic  
 24 loss benefits, or both, and to perform all other obligations  
 25 imposed by this act;

1 (b) evidence that appropriate provision exists for  
 2 prompt administration of all claims, benefits, and  
 3 obligations provided by this act; and

4 (c) evidence that reliable financial arrangements,  
 5 deposits, or commitments exist providing assurance,  
 6 substantially equivalent to that afforded by a policy of  
 7 insurance complying with this act, for payment of tort  
 8 liabilities, basic economic loss benefits, and all other  
 9 obligations imposed by this act.

10 (4) The state of Montana or any agency thereof and any  
 11 political subdivision of the state or agency thereof shall  
 12 provide security by lawfully obligating itself to pay  
 13 benefits in accordance with this act, either as a  
 14 self-insurer pursuant to subsection (3), or through purchase  
 15 of a plan of reparation security.

16 (5) Every owner of a motorcycle registered or required  
 17 to be registered in this state or operated in this state by  
 18 him or with his permission shall provide and maintain  
 19 security for the payment of tort liabilities arising out of  
 20 the maintenance or use of the motorcycle in this state.  
 21 Security may be provided by a contract of liability  
 22 insurance complying with section (9), subsection (3), or by  
 23 qualifying as a self-insurer in the manner provided in  
 24 subsection (3) of this section.

25 (6) A person providing security pursuant to subsection

1 (3) is a "self-insurer".

2 (7) "Security covering the vehicle" is the insurance  
3 or other security so provided. The vehicle for which the  
4 security is so provided is the "secured vehicle".

5 (8) "Plan of reparation security" includes a contract,  
6 self-insurance, or other legal means under which there is an  
7 obligation to pay the benefits described in section (9).

8 Section 9. Mandatory offer of insurance benefits.

9 (1) On and after January 1, 1976, no insurance policy  
10 providing benefits for injuries arising out of the  
11 maintenance or use of a motor vehicle shall be issued,  
12 renewed, continued, delivered, issued for delivery, or  
13 executed in this state with respect to any motor vehicle  
14 registered or principally garaged in this state unless  
15 coverage is provided therein or supplemental thereto, under  
16 provisions approved by the commissioner, requiring the  
17 insurer to pay, regardless of the fault of the insured,  
18 basic economic loss benefits.

19 A plan of reparation security shall state the name and  
20 address of the named insured, the coverage afforded by the  
21 policy, the premium charged, the term and limits of  
22 liability, and shall contain an agreement or endorsement  
23 that insurance is provided thereunder in accordance with and  
24 subject to the provisions of this act.

25 (2) Each plan of reparation security shall provide for

1 payment of basic economic loss benefits.

2 (3) (a) Each plan of reparation security shall also  
3 contain stated limits of liability, exclusive of interest  
4 and costs, with respect to each vehicle for which coverage  
5 is thereby granted, of not less than twenty-five thousand  
6 dollars (\$25,000) because of bodily injury to one person in  
7 any one accident and, subject to said limit for one person,  
8 of not less than fifty thousand dollars (\$50,000) because of  
9 injury to two or more persons in any one accident, and, if  
10 the accident has resulted in injury to or destruction of  
11 property, of not less than ten thousand dollars (\$10,000)  
12 because of such injury to or destruction of property of  
13 others in any one accident.

14 (b) Under residual liability insurance the reparation  
15 obligor shall be liable to pay, on behalf of the insured,  
16 sums which the insured is legally obligated to pay as  
17 damages because of bodily injury and property damage arising  
18 out of the ownership, maintenance, or use of a motor vehicle  
19 if the injury or damage occurs within this state, the United  
20 States of America, its territories or possessions, or  
21 Canada. A reparation obligor shall also be liable to pay  
22 sums which another reparation obligor is entitled to recover  
23 under the indemnity provisions of section (13).

24 (c) Every plan of reparation security shall be subject  
25 to the following provisions which need not be contained

1 therein:

2 (i) The liability of the reparation obligor with  
 3 respect to the residual liability coverage required by this  
 4 clause shall become absolute whenever injury or damage  
 5 occurs; such liability may not be cancelled or annulled by  
 6 any agreement between the reparation obligor and the insured  
 7 after the occurrence of the injury or damage; no statement  
 8 made by the insured or on his behalf and no violation of  
 9 said policy shall defeat or void said policy.

10 (ii) The satisfaction by the insured of a judgment for  
 11 such injury or damage shall not be a condition precedent to  
 12 the right or duty of the reparation obligor to make payment  
 13 on account of such injury or damage.

14 (iii) The reparation obligor shall have the right to  
 15 settle any claim covered by the residual liability insurance  
 16 policy, and if such settlement is made in good faith, the  
 17 amount thereof shall be deductible from the limits of  
 18 liability for the accident out of which such claim arose.

19 (4) (a) On and after January 1, 1976, no plan of  
 20 reparation security may be renewed, delivered, or issued for  
 21 delivery, or executed in this state with respect to any  
 22 motor vehicle registered or principally garaged in this  
 23 state unless coverage is provided therein or supplemental  
 24 thereto, in the amounts of twenty-five thousand dollars  
 25 (\$25,000) because of injury to or the death of one person in

1 any accident, and subject to the said limit for one person,  
 2 fifty thousand dollars (\$50,000) because of bodily injury to  
 3 or the death of two or more persons in any one accident, for  
 4 the protection of persons insured thereunder who are legally  
 5 entitled to recover damages from owners or operators of  
 6 uninsured motor vehicles and hit-and-run motor vehicles  
 7 because of injury.

8 (b) Every owner of a motor vehicle registered or  
 9 principally garaged in this state shall maintain uninsured  
 10 motor vehicle coverage as provided in this subsection.

11 (c) "Uninsured motor vehicle" means any motor vehicle  
 12 for which a plan of reparation security meeting the  
 13 requirements of this act is not in effect.

14 (d) No recovery shall be permitted under the uninsured  
 15 motor vehicle provisions of this section for basic economic  
 16 loss benefits paid or payable, or which would be payable but  
 17 for any applicable deductible.

18 (5) At appropriately reduced premium rates reparation  
 19 obligors shall offer the following deductibles, applicable  
 20 only to claims arising out of injury to basic economic loss  
 21 insureds:

22 (a) a deductible in the amount of one hundred dollars  
 23 (\$100) to all medical expense benefits otherwise payable,  
 24 except that if two or more insureds to whom the deductible  
 25 is applicable are injured in the same accident, the

1 aggregate amount of the deductible applicable to all of them  
2 shall not exceed the specified deductible, which amount,  
3 where necessary shall be allocated equally among them, and

4 (b) a deductible in the amount of two hundred dollars  
5 (\$200) to all disability and income loss benefits otherwise  
6 payable as a result of an injury to any one insured in one  
7 accident.

8 (6) Reparation obligors shall offer the following  
9 optional coverages in addition to compulsory coverages:

10 (a) medical expense benefits subject to a maximum  
11 payment of ten thousand dollars (\$10,000);

12 (b) medical expense benefits subject to a maximum  
13 payment of twenty thousand dollars (\$20,000);

14 (c) residual liability coverage of not less than  
15 twenty-five thousand dollars (\$25,000) for damages for  
16 injury to one person in any one accident arising out of the  
17 maintenance or use of a motor vehicle, subject to a  
18 limitation of fifty thousand dollars (\$50,000) for damages  
19 arising out of any one accident;

20 (d) basic economic loss benefits to all persons  
21 purchasing liability coverage for injuries arising out of  
22 the maintenance or use of a motorcycle; and

23 (e) underinsured motorist coverage whereby subject to  
24 the terms and conditions of such coverage the reparation  
25 obligor agrees to pay its insureds for such uncompensated

1 damages as they are legally entitled to recover on account  
2 of a motor vehicle accident because the total damages they  
3 are legally entitled to recover exceed the residual  
4 liability limit of the owner of the other vehicle, to the  
5 extent of the residual liability limits on the motor vehicle  
6 of the person legally entitled to recover or such smaller  
7 limits as he may select less the amount paid by reparation  
8 obligor of the person against whom he is entitled to  
9 recover. His reparation obligor shall be subrogated to any  
10 amounts it pays and upon payment shall have an assignment of  
11 the judgment if any against the other person to the extent  
12 of the money it pays.

13 (7) Nothing in this act shall be construed as  
14 preventing the insurer from offering other benefits or  
15 coverages in addition to those required to be offered under  
16 this section.

17 (8) Any coverage issued by a participating member of  
18 the Montana automobile insurance plan shall comply with the  
19 provisions of this section, any provisions of law or of the  
20 contract notwithstanding.

21 Section 10. Insurers' certification of basic coverage.

22 (1) Every insurer licensed to write motor vehicle accident  
23 reparation and liability insurance in this state shall, on  
24 or before January 1, 1976, or as a condition to such  
25 licensing, file with the commissioner and thereafter

1 maintain a written certification that it will afford at  
2 least the minimum security provided by section (9) to all  
3 policyholders, except that in the case of nonresident  
4 policyholders it need only certify that security is provided  
5 with respect to accidents occurring in this state.

6 (2) Notwithstanding any contrary provision in it,  
7 every contract of liability insurance for injury, wherever  
8 issued, covering obligations arising from ownership,  
9 maintenance, or use of a motor vehicle, except a contract  
10 which provides coverage only for liability in excess of  
11 required minimum tort liability coverages, includes basic  
12 economic loss benefit coverages and residual liability  
13 coverages required by this act, while the vehicle is in this  
14 state, and qualifies as security covering the vehicle.

15 Section 11. Deduction of collateral benefits from tort  
16 recovery; limitation on right to recover damages. (1) With  
17 respect to a cause of action in negligence accruing as a  
18 result of injury arising out of the operation, ownership,  
19 maintenance, or use of a motor vehicle with respect to which  
20 security has been provided as required by this act, there  
21 shall be deducted from any recovery the value of basic or  
22 optional economic loss benefits paid or payable or which  
23 would be payable but for any applicable deductible. This  
24 subdivision shall not bar subrogation and indemnity  
25 recoveries under section (13), if the injury had the

1 consequences described in subsection (3) of that section and  
2 a civil action has been commenced in the manner prescribed  
3 in applicable laws or rules of civil procedure to recover  
4 damages for noneconomic detriment.

5 (2) A person may bring a negligence action for  
6 economic loss not paid or payable by an economic loss  
7 obligor because of daily or weekly dollar limitations of  
8 section (4), the seven-day services exclusion of section  
9 (4), the limitations of benefits contained in section (4),  
10 subsection (1), or an exclusion from coverage by sections  
11 (18) to (20).

12 ~~(2) In an action described in subsection (1), no~~  
13 ~~person shall recover damages for noneconomic detriment~~  
14 ~~unless:~~

15 ~~(a) the sum of the following exceeds two thousand~~  
16 ~~dollars (\$2,000):~~

17 ~~(i) reasonable medical expense benefits paid,~~  
18 ~~payable, or payable but for any applicable deductible, plus~~

19 ~~(ii) the value of free medical or surgical care or~~  
20 ~~ordinary and necessary nursing services performed by a~~  
21 ~~relative of the injured person or a member of his household,~~  
22 ~~plus~~

23 ~~(iii) the amount by which the value of reimbursable~~  
24 ~~medical services or products exceeds the amount of benefit~~  
25 ~~paid, payable, or payable but for an applicable deductible~~



~~for those services or products if the injured person was charged less than the average reasonable amount charged in this state for similar services or products, minus~~

~~(iv) the amount of medical expense benefits paid, payable, or payable but for an applicable deductible for diagnostic X-rays and for a procedure or treatment for rehabilitation and not for remedial purposes or a course of rehabilitative occupational training, or~~

~~(b) the injury results in:~~

~~(i) permanent disfigurement;~~

~~(ii) permanent injury;~~

~~(iii) death; or~~

~~(iv) disability for sixty (60) days or more;~~

~~(c) For the purposes of clause (a) evidence of the reasonable value of medical services and products shall be admissible in any action brought in this state;~~

~~(d) For the purposes of clause (b) disability means the inability to engage in substantially all of the injured person's usual and customary daily activities;~~

~~(4) (3) Nothing in this section shall impair or limit the liability of a person in the business of manufacturing, distributing, retailing, repairing, servicing, or maintaining motor vehicles arising from a defect in a motor vehicle caused or not corrected by an act or omission in manufacture, inspection, repair, service, or maintenance of~~

a vehicle in the course of his business.

~~(5) (4) Nothing in this section shall impair or limit tort liability or limit the damages recoverable from any person for negligent acts or omissions other than those committed in the operation, ownership, maintenance, or use of a motor vehicle.~~

Section 12. Mandatory arbitration of certain claims; supreme court to promulgate rules of procedure. (1) The supreme court and the several courts of general trial jurisdiction of this state may, on or before January 1, 1976, by rules of court or other constitutionally permissible device, provide for the submission to arbitration, upon mutual consent of all parties to the action, of all cases at issue where a claim in an amount of five thousand dollars (\$5,000) or less is made by a motor vehicle accident victim, whether in an action to recover economic loss or noneconomic detriment for the allegedly negligent operation, maintenance, or use of a motor vehicle within this state, or against any reparation obligor for benefits as provided in this act.

(2) The rules of court may provide that cases which are not at issue, whether or not suit has been filed, may be referred to arbitration by agreement of reference signed by counsel for both sides, or by the parties themselves. Such agreement of reference shall define the issues to be

1 arbitrated and, shall also contain any stipulations with  
 2 respect to facts submitted or agreed or defenses waived. In  
 3 such cases, the agreement of reference shall take the place  
 4 of the pleadings in the case and be filed of record.

5 Section 13. Indemnity; arbitration between obligors;  
 6 subrogation. (1) A reparation obligor paying or obligated  
 7 to pay basic or optional economic loss benefits shall be  
 8 entitled to indemnity subject to the limits of the  
 9 applicable residual liability coverage from a reparation  
 10 obligor providing such coverage to a person whose negligence  
 11 was the direct and proximate cause of the injury for which  
 12 the basic economic loss benefits were paid or payable to the  
 13 extent that the insured would have been liable for damages  
 14 but for the deduction provisions of section (11), subsection  
 15 (1), and only if a commercial vehicle was involved in the  
 16 accident causing the injury.

17 (2) To the extent permitted by section (11),  
 18 subsection (3), a reparation obligor paying or obligated to  
 19 pay basic or optional economic loss benefits shall be  
 20 subrogated to the extent of benefits paid or payable to any  
 21 cause of action to recover damages for economic loss which  
 22 the person to whom the basic or optional economic loss  
 23 benefits were paid or payable has brought under the terms of  
 24 section (11), subsection (3) of this act against another  
 25 person whose negligence was the direct and proximate cause

1 of the injury for which the basic economic loss benefits  
 2 were paid or payable.

3 (3) The right of indemnity provided in subsection (1)  
 4 shall be enforceable only through mandatory good faith and  
 5 binding arbitration procedures to be established by rule of  
 6 the commissioner of insurance. These procedures shall  
 7 utilize determinations of comparative negligence. No  
 8 evidence nor the decision in such an arbitration proceeding  
 9 shall be admissible in any action by any party.

10 (4) Nothing in this act shall limit or abridge the  
 11 subrogation rights of a reparation obligor providing  
 12 collision coverage to a policyholder, but any obligor  
 13 required to submit a claim described in subsection (1) to  
 14 arbitration shall joint any claim it has against the other  
 15 party to that proceeding as a result of automotive property  
 16 damage to its insured arising out of the same accident as  
 17 the primary claim.

18 (5) No reparation obligor shall include in its  
 19 contract any provision which would require a person to  
 20 commence a negligence action as a condition precedent to the  
 21 payment of basic economic loss benefits or which permits the  
 22 reparation obligor to determine whether such an action will  
 23 be commenced. No reparation obligor shall contract for a  
 24 right of reimbursement or subrogation greater than or in  
 25 addition to those permitted by this act.

1 (6) Arbitration proceedings need not await final  
 2 payment of benefits, and the award, if any, shall include  
 3 provision for reimbursement of subsequent benefits, but no  
 4 question of fact decided by a prior award shall be  
 5 reconsidered in any such subsequent arbitration hearing.

6 Section 14. Reparation obligor's duty to respond to  
 7 claims. (1) Basic economic loss benefits are payable  
 8 monthly as loss accrues. Loss accrues not when injury  
 9 occurs, but as income loss, replacement services loss,  
 10 survivor's economic loss, survivor's replacement services  
 11 loss, or medical or funeral expense is incurred. Benefits  
 12 are overdue if not paid within thirty (30) days after the  
 13 reparation obligor receives reasonable proof of the fact and  
 14 amount of loss realized, unless the reparation obligor  
 15 elects to accumulate claims for periods not exceeding  
 16 thirty-one (31) days and pays them within fifteen (15) days  
 17 after the period of accumulation. If reasonable proof is  
 18 supplied as to only part of a claim, and the part totals one  
 19 hundred dollars (\$100) or more, the part is overdue if not  
 20 paid within the time provided by this section. Medical or  
 21 funeral expense benefits may be paid by the reparation  
 22 obligor directly to persons supplying products, services, or  
 23 accommodations to the claimant.

24 (2) Overdue payments shall bear simple interest at the  
 25 rate of ten percent (10%) per annum.

1 (3) A claim for basic economic loss benefits shall be  
 2 paid without deduction for the benefits which are to be  
 3 subtracted pursuant to section (21), if these benefits have  
 4 not been paid to the claimant before the reparation benefits  
 5 are overdue or the claim is paid. The obligor is entitled  
 6 to reimbursement from the person obligated to make the  
 7 payments or from the claimant who actually receives the  
 8 payments.

9 (4) A reparation obligor may bring an action to  
 10 recover benefits which are not payable, but are in fact paid,  
 11 because of an intentional misrepresentation of a material  
 12 fact, upon which the reparation obligor relies, by the  
 13 claimant or by a person providing products or services for  
 14 which basic economic loss benefits are payable. The action  
 15 may be brought only against the person providing the  
 16 products or services, unless the claimant has intentionally  
 17 misrepresented the facts or knew of the misrepresentation.  
 18 A reparation obligor may offset amounts he is entitled to  
 19 recover from the claimant under this subdivision against any  
 20 basic economic loss benefits otherwise due him.

21 (5) A reparation obligor who rejects a claim for  
 22 benefits shall give to the claimant prompt written notice of  
 23 the rejection, specifying the reason. If a claim is  
 24 rejected for a reason other than that the person is not  
 25 entitled to the basic economic loss benefits claimed, the

1 written notice shall inform the claimant that he may file  
2 his claim with the assigned claims bureau and shall give the  
3 name and address of the bureau.

4 Section 15. Application for benefits under plan of  
5 security. (1) A plan of reparation security may prescribe  
6 a period of not less than six (6) months after the date of  
7 accident within which an insured or any other person  
8 entitled to claim basic economic loss benefits, or anyone  
9 acting on their behalf, must notify the reparation obligor  
10 or its agent, of the accident and the possibility of a claim  
11 for economic loss benefits in order to be eligible for such  
12 benefits. Such notice may be given in any reasonable  
13 fashion.

14 (2) A plan of reparation security may provide that in  
15 any instance where a lapse occurs in the period of  
16 disability or in the medical treatment of a person with  
17 respect to whose injury basic economic loss benefits have  
18 been paid and a person subsequently claims additional  
19 benefits based upon an alleged recurrence of the injury for  
20 which the original claim for benefits was made, the obligor  
21 may require reasonable medical proof of such alleged  
22 recurrence; provided, that in no event shall the aggregate  
23 benefits payable to any person exceed the maximum limits  
24 specified in the plan of security, and provided further that  
25 such coverages may contain a provision terminating

1 eligibility for benefits after a prescribed period of lapse  
2 of disability and medical treatment, which period shall not  
3 be less than one (1) year.

4 Section 16. Cooperation of person claiming benefits.  
5 (1) Medical examinations and discovery of condition of  
6 claimant. Any person with respect to whose injury benefits  
7 are claimed under a plan of reparation security shall, upon  
8 request of the reparation obligor from whom recovery is  
9 sought, submit to a physical examination by a physician or  
10 physicians selected by the obligor as may reasonably be  
11 required.

12 The costs of any examinations requested by the obligor  
13 shall be borne entirely by the requesting obligor. Such  
14 examinations shall be conducted within the city, town, or  
15 statutory city of residence of the injured person. If there  
16 is no qualified physician to conduct the examination within  
17 the city, town, or statutory city of residence of the  
18 injured person, then such examination shall be conducted at  
19 another place of the closest proximity to the injured  
20 person's residence. Obligors are authorized to include  
21 reasonable provisions in policies for mental and physical  
22 examination of those injured persons.

23 If requested by the person examined, a party causing an  
24 examination to be made shall deliver to him a copy of every  
25 written report concerning the examination rendered by an

1 examining physician, at least one of which reports must set  
 2 out in detail the findings and conclusions of such examining  
 3 physician.

4 An injured person shall also do all things reasonably  
 5 necessary to enable the obligor to obtain medical reports  
 6 and other needed information to assist in determining the  
 7 nature and extent of the injured person's injuries and loss,  
 8 and the medical treatment received by him. If the claimant  
 9 refuses to cooperate in responding to requests for  
 10 examination and information as authorized by this section,  
 11 evidence of such noncooperation shall be admissible in any  
 12 suit or arbitration filed for damages for such personal  
 13 injuries or for the benefits provided by this act.

14 (2) Any person receiving benefits under this act shall  
 15 participate and cooperate, as reasonably required under the  
 16 coverage, in any and all arbitration proceedings as provided  
 17 in section (13) by or on behalf of the obligor paying the  
 18 benefits, and the obligor may require in the furnishing of  
 19 proof of loss the claimant's statement that he shall so  
 20 participate and cooperate as consideration for the payment  
 21 of such benefits. However, no claimant may be required by  
 22 any obligor which has paid or is obligated to pay benefits  
 23 as herein provided to personally attend an arbitration  
 24 proceeding which shall take place more than fifty (50) miles  
 25 from the usual residence of the claimant; and provided that

1 in no event shall the claimant have to attend such an  
 2 arbitration proceeding if, at the time scheduled for that  
 3 meeting, travel thereto by the claimant is not recommended  
 4 by a physician treating the claimant for his injuries. Any  
 5 claimant required to personally attend an arbitration  
 6 proceeding shall be compensated by the reparation obligor  
 7 requiring his attendance for actual income loss and expenses  
 8 reasonably incurred.

9 Section 17. Economic loss benefits; exemptions from  
 10 legal attachment. All economic loss benefits provided by  
 11 this act, whether paid or payable to any claimant shall not  
 12 be subject to garnishment, sequestration, attachment, or  
 13 execution, or any other legal process which would deny their  
 14 receipt and use by that person; provided, however, that this  
 15 section shall not apply to any person who has provided  
 16 treatment or services, as described in section (4),  
 17 subsection (2), to the victim of a motor vehicle accident.

18 Section 18. Converted motor vehicles. A person who  
 19 converts a motor vehicle is disqualified from basic or  
 20 optional economic loss benefits, including benefits  
 21 otherwise due him as a survivor, from any source other than  
 22 an insurance contract under which the converter is an  
 23 insured, for injuries arising from maintenance or use of the  
 24 converted vehicle. If the converter dies from the injuries,  
 25 his survivors are not entitled to basic or optional economic

1 loss benefits from any source other than an insurance  
 2 contract under which the converter is a basic economic loss  
 3 insured. For the purpose of this section, a person is not a  
 4 converter if he uses the motor vehicle in the good faith  
 5 belief that he is legally entitled to do so.

6 Section 19. Races. A person who is injured in the  
 7 course of an officiated racing or speed contest, or in  
 8 practice or preparation therefor is disqualified from basic  
 9 or optional economic loss benefits. His survivors are not  
 10 entitled to basic or optional economic loss benefits for  
 11 loss arising from his death.

12 Section 20. Intentional injuries. A person  
 13 intentionally causing or attempting to cause injury to  
 14 himself or another person is disqualified from basic or  
 15 optional economic loss benefits for injury arising from his  
 16 acts, including benefits otherwise due him as a survivor.  
 17 If a person dies as a result of intentionally causing or  
 18 attempting to cause injury to himself, his survivors are not  
 19 entitled to basic or optional economic loss benefits for  
 20 loss arising from his death. A person intentionally causes  
 21 or attempts to cause injury if he acts or fails to act for  
 22 the purpose of causing injury or with knowledge that injury  
 23 is substantially certain to follow. A person does not  
 24 intentionally cause or attempt to cause injury (1) merely  
 25 because his act or failure to act is intentional or done

1 with his realization that it creates a grave risk of causing  
 2 injury or (2) if the act or omission causing the injury is  
 3 for the purpose of averting bodily harm to himself or  
 4 another person.

5 Section 21. Benefits primary; subtractions;  
 6 coordination. (1) Basic economic loss benefits shall be  
 7 primary with respect to benefits, except for those paid or  
 8 payable under a workmen's compensation law, which any person  
 9 receives or is entitled to receive from any other source as  
 10 a result of injury arising out of the maintenance or use of  
 11 a motor vehicle.

12 (2) Benefits paid or payable under a workmen's  
 13 compensation law because of the injury or death shall be  
 14 subtracted in computing basic economic loss benefits, but  
 15 only to the extent that they exceed any deductible  
 16 applicable to the basic economic loss benefits.

17 (3) Any legally constituted entity, other than a  
 18 reparation obligor obligated to pay benefits under a plan of  
 19 reparation security or an insurer or employer obligated to  
 20 pay benefits under a workmen's compensation law, may  
 21 coordinate any benefits it is obligated to pay for loss  
 22 incurred as a result of injury arising out of the  
 23 maintenance or use of a motor vehicle with basic economic  
 24 loss benefits.

25 (4) Notwithstanding subsection (3), no entity may

1 coordinate benefits unless it provides those persons whom  
 2 purchase benefits from it with an equitable reduction or  
 3 savings in the direct or indirect cost of the purchased  
 4 benefits. If the benefits to be coordinated are provided to  
 5 an individual through a group, program, contract, or other  
 6 arrangement for which another person pays in whole or in  
 7 part, the entity coordinating benefits shall return to the  
 8 individual or use for his benefit any reduction or savings  
 9 in the direct or indirect cost of the benefits.

10 Section 22. Duplicate claims; obligor subrogated. A  
 11 reparation obligor paying or obligated to pay basic economic  
 12 loss benefits is subrogated to any claim based on an  
 13 intentional tort or on strict or statutory liability against  
 14 any person whose act or omission caused the injury. This  
 15 right of subrogation shall exist only to the extent that  
 16 basic economic loss benefits are paid and only to the extent  
 17 that recovery on the claim would produce a duplication of  
 18 benefits or reimbursement of the same loss.

19 Section 23. Assigned claims plan. (1) Reparation  
 20 obligors providing basic economic loss insurance in this  
 21 state may organize and maintain, subject to approval and  
 22 regulation by the commissioner, an assigned claims bureau  
 23 and an assigned claims plan, and adopt rules for their  
 24 operation and for the assessment of costs on a fair and  
 25 equitable basis consistent with this act. If such obligors

1 do not organize and continuously maintain an assigned claims  
 2 bureau and an assigned claims plan in a manner considered by  
 3 the commissioner of insurance to be consistent with this  
 4 act, he shall organize and maintain an assigned claims  
 5 bureau and an assigned claims plan. Each reparation obligor  
 6 providing basic economic loss insurance in this state shall  
 7 participate in the assigned claims bureau and the assigned  
 8 claims plan. Costs incurred shall be allocated fairly and  
 9 equitably among the reparation obligors.

10 (2) The assigned claims bureau shall promptly assign  
 11 each claim and notify the claimant of the identity and  
 12 address of the assignee-obligor of the claim. Claims shall  
 13 be assigned so as to minimize inconvenience to claimants.  
 14 The assignee thereafter has rights and obligations as if he  
 15 had issued a policy of basic economic loss insurance  
 16 complying with this act, applicable to the injury or, in  
 17 case of financial inability of a reparation obligor to  
 18 perform its obligations, as if the assignee had written the  
 19 applicable reparation insurance, undertaken the  
 20 self-insurance, or lawfully obligated itself to pay basic  
 21 economic loss benefits.

22 Section 24. Persons entitled to participate in  
 23 assigned claims plan. (1) A person entitled to basic  
 24 economic loss benefits because of injury covered by this act  
 25 may obtain basic economic loss benefits through the assigned

1 claims plan or bureau established pursuant to section (23)  
 2 and in accordance with the provisions for making assigned  
 3 claims provided in this act if:

4 (a) Basic economic loss benefits are not applicable to  
 5 the injury for some reason other than those specified in  
 6 sections (18), (19), or (20);

7 (b) The plan of reparation security applicable to the  
 8 injury cannot be identified; or

9 (c) A claim for basic economic loss benefits is  
 10 rejected by a reparation obligor on some ground other than  
 11 the person is not entitled to basic economic loss benefits  
 12 under this act.

13 (2) If a claim qualifies for assignment under  
 14 subsection (1) of this section, the assigned claims bureau  
 15 or any reparation obligor to whom the claim is assigned  
 16 shall be, as provided in section (23), subrogated to all of  
 17 the rights of the claimant against any person, including  
 18 another obligor, who is legally obligated to provide  
 19 economic loss benefits to the claimant, for economic loss  
 20 benefits provided by the obligor to whom the claim was  
 21 assigned.

22 (3) A person shall not be entitled to basic economic  
 23 loss benefits through the assigned claims plan with respect  
 24 to injury which was sustained if at the time of such injury  
 25 the injured person was the owner of a private passenger

1 motor vehicle for which security is required under this act  
 2 and he failed to have such security in effect. Persons  
 3 claiming benefits as a result of injury to members of the  
 4 owner's household shall also be disqualified from benefits  
 5 if those members knew or reasonably should have known that  
 6 security covering the vehicle was not provided as required  
 7 by this act.

8 Section 25. Notification to assigned claims bureau. A  
 9 person authorized to obtain basic economic loss benefits  
 10 through the assigned claims plan shall notify the bureau of  
 11 his claim within one (1) year of the date on which he  
 12 receives written authorization to participate in such plan.  
 13 If timely action for basic economic loss benefits is  
 14 commenced against a reparation obligor who is unable to  
 15 fulfill his obligations under this act, a claim through the  
 16 assigned claims plan may be made within a reasonable time  
 17 after discovery of such inability.

18 Section 26. Claims against wrong insurer. If timely  
 19 action for economic loss benefits is commenced against a  
 20 reparation obligor and benefits are denied because of a  
 21 determination that the obligor's coverage is not applicable  
 22 to the claimant under the provisions of section (7) on the  
 23 priority of applicability of security a claim against a  
 24 proper obligor or assigned claims plan may be made not later  
 25 than ninety (90) days after such determination becomes final



1 or the last date on which the action could otherwise have  
2 been commenced, whichever is later.

3 Section 27. Penalties for failure to provide security  
4 for basic reparation benefits. (1) Every owner of a motor  
5 vehicle for which security has not been provided as required  
6 by section (8), shall be liable in tort without limitation.

7 (2) Any owner of a motor vehicle with respect to which  
8 security is required under this act, who operates such motor  
9 vehicle or permits it to be operated upon a public highway,  
10 street, or road in this state without having in full force  
11 and effect security complying with the terms of section (8),  
12 is guilty of a misdemeanor.

13 (3) Any other person who operates such motor vehicle  
14 upon a public highway, street, or road in this state with  
15 knowledge that the owner does not have such security in full  
16 force and effect is guilty of a misdemeanor.

17 (4) Any operator of a motor vehicle who is convicted  
18 of a misdemeanor under the terms of this section shall have  
19 his operator's license revoked for not less than six (6)  
20 months nor more than twelve (12) months. If such operator  
21 is also an owner of the motor vehicle, his motor vehicle  
22 registration shall also be revoked for not less than six (6)  
23 months nor more than twelve (12) months.

24 (5) When a nonresident's operating privilege is  
25 suspended pursuant to this section, the attorney general or

1 his designee shall transmit a copy of the record of such  
2 action to the official in charge of the issuance of licenses  
3 in the state in which the nonresident resides.

4 (6) Upon receipt of such notification that the  
5 operating privilege of a resident of this state has been  
6 suspended or revoked in any other state pursuant to a law  
7 providing for its suspension or revocation for failure to  
8 deposit security for the payment of judgments arising out of  
9 a motor vehicle accident, or for failure to provide security  
10 covering a vehicle if required by the laws of that state,  
11 the attorney general shall suspend the license of the  
12 resident until he furnishes evidence of compliance with the  
13 laws of this state and if applicable the laws of the other  
14 state.

15 Section 26. Rules of attorney general. (1) The  
16 attorney general shall have the power and perform the duties  
17 imposed upon him by this act and may adopt rules to  
18 implement and provide effective administration of the  
19 provisions requiring security and governing termination of  
20 security.

21 (2) The attorney general may by rule provide that  
22 motor vehicles owned by certain persons may not be  
23 registered in this state unless satisfactory evidence is  
24 furnished that security has been provided as required by  
25 section (8). If a person who is required to furnish

1 evidence ceases to maintain security, he shall immediately  
 2 surrender the registration certificate and license plates  
 3 for the vehicle. These requirements may be imposed if:

4 (a) The registrant has not previously registered a  
 5 motor vehicle in this state; or

6 (b) An owner or operator of the vehicle has previously  
 7 failed to comply with the security requirements of this act  
 8 or of prior law; or

9 (c) The driving record of an owner or operator of the  
 10 vehicle evidences his continuing disregard of the laws of  
 11 this state enacted to protect the public safety; or

12 (d) Other circumstances indicate that such action is  
 13 necessary to effectuate the purposes of this act.

14 Section 29. Obligor's notification of lapse,  
 15 cancellation, or failure to renew policy of coverage. If  
 16 the required plan of reparation security of an owner or  
 17 named insured is cancelled, and notification of such fact is  
 18 given to the insured as required by law, a copy of such  
 19 notice shall within thirty (30) days after coverage has  
 20 expired be sent to the attorney general. If, on or before  
 21 the end of that thirty (30) day period, the insured owner of  
 22 a motor vehicle has not presented the attorney general or  
 23 his authorized agent with evidence of required security  
 24 which shall have taken effect upon the expiration of the  
 25 previous coverage, or if the insured owner or registrant has

1 not instituted an objection to his obligor's cancellation,  
 2 he shall immediately surrender the registration certificate  
 3 and motor vehicle license plates to the attorney general and  
 4 may not operate or permit operation of the vehicle in this  
 5 state until security is again provided and proof of security  
 6 furnished as required by this act.

7 Section 30. Automobile insurance rates - penalties.

8 (1) The policy premiums charged by each insurer in  
 9 connection with the compulsory plan of reparation security  
 10 required by this act for private passenger motor vehicles  
 11 shall be at least thirty percent (30%) below such insurer's  
 12 policy premiums in effect on December 31, 1974, for  
 13 liability insurance with limits of twenty-five thousand  
 14 dollars (\$25,000) per person and fifty thousand dollars  
 15 (\$50,000) per accident, plus one thousand dollars (\$1,000)  
 16 medical payments insurance, plus uninsured motorists  
 17 coverage of twenty-five thousand dollars (\$25,000) per  
 18 person and fifty thousand dollars (\$50,000) per accident.  
 19 Actuarially commensurate adjustments shall be required in  
 20 the case of other combinations of coverage.

21 (2) Any person convicted of violating this section  
 22 shall be guilty of a misdemeanor. Every day that a  
 23 violation continues shall be deemed a separate offense.  
 24 Further, any person convicted of violating any provision of  
 25 this section shall thereafter be prohibited from engaging in

1 any business as an insurer in this state for a period of  
 2 five years. The attorney general shall, at the request of  
 3 the commissioner, initiate in the name of the state  
 4 appropriate action in a court of law to enforce the  
 5 provisions of this section.

6 (3) Notwithstanding the provisions of subsection (1)  
 7 of this section, if the commissioner finds that the mandated  
 8 reduction in premium rates would jeopardize the financial  
 9 soundness or solidity of any insurer, or require it to  
 10 suffer an underwriting loss on that line of business in this  
 11 state he shall permit such an insurer to charge such rates  
 12 as are necessary to avoid such condition. The commissioner  
 13 may hold a public hearing prior to making a determination  
 14 pursuant to this subdivision.

15 (4) The commissioner shall review all automobile  
 16 coverage rates on an annual basis. If the commissioner  
 17 finds that the rates of any insurer, for coverages required  
 18 or permitted by this act, are excessive, he shall issue such  
 19 order as he deems appropriate to establish a reasonable  
 20 competitive rate, and such order may include provisions for  
 21 an appropriate premium adjustment or rebate on outstanding  
 22 policies.

23 Section 31. Sections 40-4403, and 53-418 through  
 24 53-458, R.C.M. 1947, are repealed.

25 Section 32. Severability. It is the intent of the

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

7 Section 33. This act is effective January 1, 1976.  
 8 Accidents occurring before that date are not covered by or  
 9 subject to this act.

-End-

March 24, 1975

SENATE COMMITTEE ON JUDICIARY

AMENDMENTS TO HOUSE BILL NO. 111

That House Bill No. 111, third reading, be amended as follows:

1. Amend page 7, section 4, line 3.  
Following: "chiropractic,"  
Insert: "osteopathic,"
2. Amend page 8, section 4, line 2.  
Following: "week"  
Insert: "for a period of at least 26 weeks"
3. Amend page 16, section 8, lines 18 through line 7 on page 19.  
Following: line 17  
Strike: Section 8 in its entirety  
Renumber: All subsequent sections
4. Amend page 26, section 11, line 11.  
Following: line 11  
Insert: "(3) In an action described in subsection (1), no person shall recover damages for noneconomic detriment unless:  
(a) the sum of the following exceeds one thousand dollars (\$1,000):  
(i) reasonable medical expense benefits paid, payable, or payable but for any applicable deductible, plus  
(ii) the value of free medical or surgical care or ordinary and necessary nursing services performed by a relative of the injured person or a member of his household, plus  
(iii) the amount by which the value of reimbursable medical services or products exceeds the amount of benefit paid, payable, or payable but for an applicable deductible for those services or products if the injured person was charged less than the average reasonable amount charged in this state for similar services or products, minus  
(iv) the amount of medical expense benefits paid, payable or payable but for an applicable deductible for diagnostic X rays and for a procedure or treatment for rehabilitation and not for remedial purposes or a course of rehabilitative occupational training, or

- (b) the injury results in:
  - (i) permanent disfigurement;
  - (ii) permanent injury;
  - (iii) death, or
  - (iv) disability for thirty (30) days or more.

(c) For the purposes of clause (a) evidence of the reasonable value of medical services and products shall be admissible in any action brought in this state.

(d) For the purposes of clause (b) "disability" means the inability to engage in substantially all of the injured person's usual and customary daily activities."

Renumber: All subsequent subsections

5. Amend page 46, section 30, lines 7 through line 22 on page 47.

Following: line 6

Strike: Section 30 in its entirety

Renumber: All subsequent sections

1 HOUSE BILL NO. 111  
2 INTRODUCED BY BRAND

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE  
5 COMPENSATION OF VICTIMS OF MOTOR VEHICLE ACCIDENTS;  
6 REQUIRING SECURITY BY MOTOR VEHICLE OWNERS; PROVIDING FOR  
7 CERTAIN MANDATORY MINIMUM INSURANCE OR SELF-INSURANCE  
8 PROTECTION BENEFITS PAYABLE REGARDLESS OF FAULT IN CASES OF  
9 PERSONAL INJURY; PROVIDING FOR A LIMITATION OF GENERAL  
10 DAMAGES; EXPANDING UNINSURED MOTORISTS COVERAGE, PROVIDING  
11 SMALL CLAIMS ARBITRATION AND PENALTIES FOR FAILURE TO SHOW  
12 PROOF OF SECURITY; PROVIDING FOR CERTAIN DEDUCTIBLES;  
13 PROVIDING FOR SUBROGATION, INTERCOMPANY ARBITRATION, AND  
14 OFFSET OF BENEFITS PAID AGAINST JUDGMENTS; PROVIDING AN  
15 ASSIGNED CLAIMS PLAN; PROVIDING PENALTIES; REPEALING  
16 SECTIONS 40-4403 AND 53-418 THROUGH 53-458, R.C.M. 1947; AND  
17 PROVIDING AN EFFECTIVE DATE."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. This act may be cited as the "Montana  
21 No-Fault Insurance Act".

22 Section 2. Purpose. The detrimental impact of  
23 automobile accidents on uncompensated injured persons, upon  
24 the orderly and efficient administration of justice in the  
25 state, and in various other ways requires that this act be

1 adopted to effect the following purposes:

2 (1) To relieve the severe economic distress of  
3 uncompensated victims of automobile accidents within this  
4 state by requiring automobile insurers to offer and  
5 automobile owners to maintain automobile insurance policies  
6 or other pledges of indemnity which will provide prompt  
7 payment of specified basic economic loss benefits to victims  
8 of automobile accidents without regard to whose fault caused  
9 the accident;

10 (2) To prevent the overcompensation of those  
11 automobile accident victims suffering minor injuries by  
12 restricting the right to recover general damages to cases of  
13 serious injury;

14 (3) To encourage appropriate medical and  
15 rehabilitation treatment of the automobile accident victim  
16 by assuring prompt payment for such treatment;

17 (4) To speed the administration of justice, to ease  
18 the burden of litigation on the courts of this state, and to  
19 create a system of small claims arbitration to decrease the  
20 expense of and to simplify litigation, and to create a  
21 system of mandatory intercompany arbitration to assure a  
22 prompt and proper allocation of the costs of insurance  
23 benefits between motor vehicle insurers;

24 (5) To correct imbalances and abuses in the operation  
25 of the automobile accident tort liability system, to provide

1 offsets to avoid duplicate recovery, to require medical  
 2 examination and disclosure, and to govern the effect of  
 3 advance payments prior to final settlement of liability.

4 Section 3. Definitions. The following words and  
 5 phrases, shall, for the purpose of this act, have the  
 6 meanings ascribed to them, except where the context clearly  
 7 indicates a different meaning:

8 (1) "Motor vehicle" means every vehicle, other than a  
 9 motorcycle or other vehicle with fewer than four wheels,  
 10 which (a) is required to be registered pursuant to law, and  
 11 (b) is designed to be self-propelled by an engine or motor  
 12 for use primarily upon public roads, highways, or streets in  
 13 the transportation of persons or property, or (c) is a  
 14 trailer, when connected to or being towed by a motor  
 15 vehicle.

16 (2) "Maintenance or use of a motor vehicle" means  
 17 maintenance or use of a motor vehicle as a vehicle,  
 18 including, incident to its maintenance or use as a vehicle,  
 19 occupying, entering into, and alighting from it.  
 20 Maintenance or use of a motor vehicle does not include (a)  
 21 conduct within the course of a business of repairing,  
 22 servicing, or otherwise maintaining motor vehicles unless  
 23 the conduct occurs off the business premises, or (b) conduct  
 24 in the course of loading and unloading the vehicle unless  
 25 the conduct occurs while occupying, entering into, or

1 alighting from it.

2 (3) "Owner" means a person who holds legal title to a  
 3 motor vehicle, or in the event that a motor vehicle is the  
 4 subject of a security agreement or lease with option to  
 5 purchase and the debtor or lessee is entitled to the  
 6 immediate use or possession of the vehicle, then the debtor  
 7 or lessee shall be deemed the owner for the purposes of this  
 8 act.

9 (4) "Insured" means an insured under a plan of  
 10 reparation security as provided by this act, including the  
 11 named insured and the following persons not identified by  
 12 name as an insured while (a) residing in the same household  
 13 with the named insured and (b) not identified by name in any  
 14 other contract for a plan of reparation security complying  
 15 with this act as an insured:

- 16 (a) a spouse,
- 17 (b) other relative of a named insured or
- 18 (c) a minor in the custody of a named insured or of a  
 19 relative residing in the same household with a named  
 20 insured.

21 A person resides in the same household with the named  
 22 insured if that person usually makes his home in the same  
 23 family unit, even though he temporarily lives elsewhere.

24 (5) "Income" means salary, wages, tips, commissions,  
 25 professional fees, and other earnings from work or tangible

1 things of economic value produced through work in  
 2 individually owned businesses, farms, ranches, or other  
 3 work.

4 (6) "Loss" means economic detriment resulting from the  
 5 accident causing the injury, consisting only of medical  
 6 expense, income loss, replacement services loss and, if the  
 7 injury causes death, funeral expense, survivor's economic  
 8 loss and survivor's replacement services loss. Noneconomic  
 9 detriment is not loss; however, economic detriment is loss  
 10 although caused by pain and suffering or physical or mental  
 11 impairment.

12 (7) "Noneconomic detriment" means all dignitary losses  
 13 suffered by any person as a result of injury arising out of  
 14 the ownership, maintenance, or use of a motor vehicle  
 15 including pain and suffering, loss of consortium, and  
 16 inconvenience.

17 (8) "Reparation obligor" means an insurer or  
 18 self-insurer obligated to provide the benefits required by  
 19 this act, including natural persons, firms, partnerships,  
 20 associations, corporations, governmental units, trusts, and  
 21 syndicates.

22 (9) "Basic economic loss benefits" means benefits as  
 23 described in section (4).

24 (10) "Injury" means bodily harm to a person and death  
 25 resulting from such harm.

1 (11) "Commercial vehicle" means:  
 2 (a) any motor vehicle used as a common carrier,  
 3 (b) any motor vehicle, other than a passenger vehicle  
 4 or a station wagon, as those terms are defined by law, or  
 5 (c) any motor vehicle while used in the for-hire  
 6 transportation of property.

7 (12) "Motorcycle" means a self-propelled vehicle  
 8 designed to travel on fewer than four wheels which has an  
 9 engine rated at greater than five horsepower.

10 (13) Except where otherwise indicated, "commissioner"  
 11 means the commissioner of insurance of the state of Montana.

12 Section 4. Basic economic loss benefits - inclusions.

13 (1) Basic economic loss benefits shall provide  
 14 reimbursement for all loss suffered through injury arising  
 15 out of the maintenance or use of a motor vehicle, subject to  
 16 any applicable deductibles, exclusions, disqualifications,  
 17 and other conditions, and shall provide a maximum of thirty  
 18 thousand dollars (\$30,000) for loss arising out of the  
 19 injury of any one person, consisting of:

20 (a) Twenty thousand dollars (\$20,000) for medical  
 21 expense loss arising out of injury to any one person; and

22 (b) A total of ten thousand dollars (\$10,000) for  
 23 income loss, replacement services loss, funeral expense  
 24 loss, survivor's economic loss, and survivor's replacement  
 25 services loss arising out of the injury to any one person.



1 (2) Medical expense benefits shall reimburse all  
 2 reasonable expenses for necessary medical, surgical, x-ray,  
 3 optical, dental, chiropractic, OSTEOPATHIC, and  
 4 rehabilitative services, including prosthetic devices,  
 5 prescription drugs, necessary ambulance, hospital, extended  
 6 care, and nursing services. "Extended care facility" means  
 7 a place where skilled nursing care and related services are  
 8 provided for patients who require post-hospitalization,  
 9 in-patient medical, nursing, or therapy services. Hospital  
 10 room and board benefits may be limited, except for intensive  
 11 care facilities, to the regular daily semi-private room  
 12 rates customarily charged by the institution in which the  
 13 recipient of benefits is confined. Such benefits shall also  
 14 include necessary remedial treatment and services recognized  
 15 and permitted under the laws of this state for an injured  
 16 person who relies upon spiritual means through prayer alone  
 17 for healing in accordance with his religious beliefs.  
 18 Medical expense loss includes medical expenses accrued prior  
 19 to the death of a person notwithstanding the fact that  
 20 benefits are paid or payable to the decedent's survivors.  
 21 Medical expense benefits for rehabilitative services shall  
 22 be subject to the provisions of section (5).

23 (3) Income loss benefits shall reimburse eighty-five  
 24 percent (85%) of the injured person's loss of present and  
 25 future gross income from inability to work proximately

1 caused by the nonfatal injury subject to a maximum of two  
 2 hundred dollars (\$200) per week FOR A PERIOD OF AT LEAST 26  
 3 WEEKS. Compensation for loss of income from work shall be  
 4 reduced by any income from substitute work actually  
 5 performed by the injured person or by income the injured  
 6 person would have earned in available appropriate substitute  
 7 work which he was capable of performing but unreasonably  
 8 failed to undertake.

9 For the purposes of this section "inability to work"  
 10 shall mean disability which continuously prevents the  
 11 injured person from engaging in any substantial gainful  
 12 occupation or employment, for wage or profit, for which he  
 13 is or may by training become reasonably qualified.

14 (4) Funeral and burial benefits shall be reasonable  
 15 expenses not in excess of one thousand two hundred fifty  
 16 dollars (\$1,250).

17 (5) Replacement service loss benefits shall reimburse  
 18 all expenses reasonably incurred by or on behalf of the  
 19 nonfatally injured person in obtaining usual and necessary  
 20 substitute services in lieu of those that, had he not been  
 21 injured, the injured person would have performed not for  
 22 income but for the direct benefit of himself or his  
 23 household; if the nonfatally injured person normally, as a  
 24 full time responsibility, provides care and maintenance of a  
 25 home with or without children, the benefit to be provided

1 under this clause shall be the reasonable value of such care  
 2 and maintenance or the reasonable expenses incurred in  
 3 obtaining usual and necessary substitute care and  
 4 maintenance of the home, whichever is greater. These  
 5 benefits shall be subject to a maximum of fifteen dollars  
 6 (\$15) per day. All replacement services loss sustained on  
 7 the date of injury and the first seven (7) days thereafter  
 8 is excluded in calculating replacement services loss.

9 (6) Survivors economic loss benefits, in the event of  
 10 death occurring within one (1) year of the date of the  
 11 accident, caused by and arising out of injuries received in  
 12 the accident, shall reimburse loss after decedent's death of  
 13 contributions of money or tangible things of economic value,  
 14 not including services, subject to a maximum of two hundred  
 15 dollars (\$200) per week that his surviving dependents would  
 16 have received for their support during their dependency from  
 17 the decedent had he not suffered the injury causing death.

18 For the purposes of definition under this act, the  
 19 following described persons shall be presumed to be  
 20 dependents of a deceased person: (a) a wife is dependent on  
 21 a husband with whom she lives at the time of his death; (b)  
 22 a husband is dependent on a wife with whom he lives at the  
 23 time of her death; (c) any child while under the age of  
 24 eighteen (18) years, or while over that age but physically  
 25 or mentally incapacitated from earning, is dependent on the

1 parent with whom he is living or from whom he is receiving  
 2 support regularly at the time of the death of such parent.  
 3 In all other cases, questions of the existence and extent of  
 4 dependency shall be determined in accordance with the facts  
 5 at the time of the death.

6 Payments to the surviving spouse shall be terminated in  
 7 the event such surviving spouse remarries or dies. Payments  
 8 to a dependent child who is not physically or mentally  
 9 incapacitated from earning shall be terminated in the event  
 10 he attains majority, marries or becomes otherwise  
 11 emancipated, or dies.

12 (7) Survivors replacement services loss benefits shall  
 13 reimburse expenses reasonably incurred by surviving  
 14 dependents after the date of the decedent's death in  
 15 obtaining ordinary and necessary services in lieu of those  
 16 the deceased would have performed for their benefit had he  
 17 not suffered the injury causing death, minus expenses of the  
 18 survivors avoided by reason of the decedent's death. These  
 19 benefits shall be subject to a maximum of two hundred  
 20 dollars (\$200) per week.

21 (8) "Basic economic loss benefits" do not include  
 22 benefits for physical damage done to property or motor  
 23 vehicles, including their contents.

24 Section 5. Rehabilitation treatment and occupational  
 25 training. (1) A reparation obligor is responsible for the

1 cost of a procedure or treatment for rehabilitation or a  
 2 course of rehabilitative occupational training if the  
 3 procedure, treatment, or training is reasonable and  
 4 appropriate for the particular case, its cost is reasonable  
 5 in relation to its probable rehabilitative effects, and it  
 6 is likely to contribute substantially to medical or  
 7 occupational rehabilitation.

8 (2) An injured person who has undertaken a procedure  
 9 or treatment for rehabilitation or a course of  
 10 rehabilitative occupational training, other than medical  
 11 rehabilitation procedure or treatment, shall notify the  
 12 reparation obligor that he has undertaken the procedure,  
 13 treatment, or training within sixty (60) days after a  
 14 rehabilitation expense exceeding one thousand dollars  
 15 (\$1,000) has been incurred for the procedure, treatment, or  
 16 training, unless the reparation obligor knows or has reason  
 17 to know of the undertaking. If the injured person does not  
 18 give the required notice within the prescribed time, the  
 19 reparation obligor is responsible only for one thousand  
 20 dollars (\$1,000) or the expense incurred after the notice is  
 21 given and within the sixty (60) days before the notice,  
 22 whichever is greater, unless failure to give timely notice  
 23 is the result of excusable neglect.

24 (3) If the injured person notifies the reparation  
 25 obligor of a proposed specified procedure or treatment for

1 rehabilitation, or a proposed specified course of  
 2 rehabilitative occupational training, and the reparation  
 3 obligor does not promptly thereafter accept responsibility  
 4 for its cost, the injured person may make a motion in an  
 5 action to adjudicate his claim, or, if no action is pending,  
 6 bring an action in the district court, for a determination  
 7 that the reparation obligor is responsible for its costs. A  
 8 reparation obligor may make a motion in an action to  
 9 adjudicate the injured person's claim, or, if no action is  
 10 pending, bring an action in the district court, for a  
 11 determination that it is not responsible for the cost of a  
 12 procedure, treatment, or course of training which the  
 13 injured person has undertaken or proposes to undertake. A  
 14 determination by the court that the reparation obligor is  
 15 not responsible for the cost of a procedure, treatment, or  
 16 course of training is not res judicata as to the propriety  
 17 of any other proposal or the injured person's right to other  
 18 benefits. This subdivision does not preclude an action by  
 19 the reparation obligor or the injured person for declaratory  
 20 relief under any other law of this state, nor an action by  
 21 the injured person to recover basic economic loss benefits.

22 (4) If an injured person unreasonably refuses to  
 23 accept a rehabilitative procedure, treatment, or course of  
 24 occupational training, a reparation obligor may make a  
 25 motion in an action to adjudicate the injured person's

1 claim, or if no action is pending, may bring an action in  
 2 the district court, for a determination that future benefits  
 3 will be reduced or terminated to limit recovery of benefits  
 4 to an amount equal to benefits that in reasonable  
 5 probability would be due if the injured person had submitted  
 6 to the procedure, treatment, or training, and for other  
 7 reasonable orders. In determining whether an injured person  
 8 has reasonable ground for refusal to undertake the  
 9 procedure, treatment, or training, the court shall consider  
 10 all relevant factors, including the risks to the injured  
 11 person, the extent of the probable benefit, the place where  
 12 the procedure, treatment, or training is offered, the extent  
 13 to which the procedure, treatment, or training is recognized  
 14 as standard and customary, and whether the imposition of  
 15 sanctions because of the person's refusal would abridge his  
 16 right to the free exercise of his religion.

17 Section 6. Right to benefits. (1) If the accident  
 18 causing injury occurs in this state, every person suffering  
 19 loss from injury arising out of maintenance or use of a  
 20 motor vehicle has a right to basic economic loss benefits.

21 (2) If the accident causing injury occurs outside this  
 22 state, the following persons and their surviving dependents  
 23 suffering loss from injury arising out of maintenance or use  
 24 of a motor vehicle have a right to basic economic loss  
 25 benefits:

- 1 (a) insureds, and
- 2 (b) the driver and other occupants of a secured  
 3 vehicle, other than (i) a vehicle which is regularly used in  
 4 the course of the business of transporting persons or  
 5 property and which is one of five or more vehicles under  
 6 common ownership, or (ii) a vehicle owned by a government  
 7 other than this state, its political subdivisions, municipal  
 8 corporations, or public agencies.

9 (3) For the purposes of this act, injuries suffered by  
 10 a person while on, mounting, or alighting from a motorcycle  
 11 do not arise out of the maintenance or use of a motor  
 12 vehicle although a motor vehicle is involved in the accident  
 13 causing the injury.

14 Section 7. Priority of applicability of security for  
 15 payment of basic economic loss benefits. (1) In case of  
 16 injury to the driver or other occupant of a motor vehicle,  
 17 if the accident causing the injury occurs while the vehicle  
 18 is being used in the business of transporting persons or  
 19 property, the security for payment of basic economic loss  
 20 benefits is the security covering the vehicle or, if none,  
 21 the security under which the injured person is an insured.

22 (2) In case of injury to an employee, or to his  
 23 spouse, or other relative residing in the same household, if  
 24 the accident causing the injury occurs while the injured  
 25 person is driving or occupying a motor vehicle furnished by

1 the employer, the security for payment of basic economic  
 2 loss benefits is the security covering the vehicle or, if  
 3 none, the security under which the injured person is an  
 4 insured.

5 (3) In the case of any other person whose injury  
 6 arises from the maintenance or use of a motor vehicle  
 7 described in subsection (1) or (2) who is not a driver or  
 8 occupant of another involved motor vehicle, the security for  
 9 the payment of basic economic loss benefits is the security  
 10 covering the vehicle, or if none, the security under which  
 11 the injured person is an insured.

12 (4) In all other cases, the following priorities  
 13 apply:

14 (a) The security for payment of basic economic loss  
 15 benefits applicable to injury to an insured is the security  
 16 under which the injured person is an insured.

17 (b) The security for payment of basic economic loss  
 18 benefits applicable to injury to the driver or other  
 19 occupant of an involved motor vehicle who is not an insured  
 20 is the security covering that vehicle.

21 (c) The security for payment of basic economic loss  
 22 benefits applicable to injury to a person not otherwise  
 23 covered who is not the driver or other occupant of an  
 24 involved motor vehicle is the security covering any involved  
 25 motor vehicle. An unoccupied parked vehicle is not an

1 involved motor vehicle unless it was parked so as to cause  
 2 unreasonable risk of injury.

3 (5) If two or more obligations to pay basic economic  
 4 loss benefits are applicable to an injury under the  
 5 priorities set out in this section, benefits are payable  
 6 only once and the reparation obligor against whom a claim is  
 7 asserted shall process and pay the claim as if wholly  
 8 responsible, but he is thereafter entitled to recover  
 9 contribution pro rata for the basic economic loss benefits  
 10 paid and the costs of processing the claim. Where  
 11 contribution is sought among reparation obligors responsible  
 12 under clause (c) of subsection (4), proration shall be based  
 13 on the number of involved motor vehicles.

14 (6) Where a reparation obligor pays basic economic  
 15 loss benefits which another reparation obligor is obligated  
 16 to pay under the priority provided in this section, the  
 17 reparation obligor that pays is subrogated to all rights of  
 18 the person to whom benefits are paid.

19 ~~Section 4. Reparation security compulsory. (1) Every~~  
 20 ~~owner of a motor vehicle of a type which is required to be~~  
 21 ~~registered or licensed or is principally garaged in this~~  
 22 ~~state shall provide and maintain a plan of reparation~~  
 23 ~~security under provisions approved by the commissioner,~~  
 24 ~~insuring against loss resulting from liability imposed by~~  
 25 ~~law for injury and property damage sustained by any person~~

1 arising out of the ownership, maintenance, operation, or use  
 2 of an automobile. Such coverage shall provide for basic  
 3 economic loss benefits and residual liability coverage in  
 4 amounts not less than those specified in section (9),  
 5 subsection (3). The nonresident owner of a motor vehicle  
 6 which is not required to be registered or licensed, or which  
 7 is not principally garaged in this state, shall maintain  
 8 such security in effect continuously throughout the period  
 9 of the operation, maintenance, or use of such motor vehicle  
 10 within this state with respect to accidents occurring in  
 11 this state.

12 (2) The security required by this act may be provided  
 13 by a policy of insurance complying with this act which is  
 14 issued by or on behalf of an insurer authorized to transact  
 15 business in this state or, if the vehicle is registered in  
 16 another state, by a policy of insurance issued by or on  
 17 behalf of an insurer authorized to transact business in  
 18 either this state or the state in which the vehicle is  
 19 registered or by qualifying as a self insurer.

20 (3) Self insurance, subject to approval of the  
 21 commissioner, is effected by filing with the commissioner in  
 22 satisfactory form:

23 (a) a continuing undertaking by the owner or other  
 24 appropriate person to pay tort liabilities or basic economic  
 25 loss benefits, or both, and to perform all other obligations

1 imposed by this act;

2 (b) evidence that appropriate provision exists for  
 3 prompt administration of all claims, benefits, and  
 4 obligations provided by this act; and

5 (c) evidence that reliable financial arrangements,  
 6 deposits, or commitments exist providing assurance,  
 7 substantially equivalent to that afforded by a policy of  
 8 insurance complying with this act, for payment of tort  
 9 liabilities, basic economic loss benefits, and all other  
 10 obligations imposed by this act.

11 (4) The state of Montana or any agency thereof and any  
 12 political subdivision of the state or agency thereof shall  
 13 provide security by lawfully obligating itself to pay  
 14 benefits in accordance with this act, either as a  
 15 self insurer pursuant to subsection (3), or through purchase  
 16 of a plan of reparation security.

17 (5) Every owner of a motorcycle registered or required  
 18 to be registered in this state or operated in this state by  
 19 him or with his permission shall provide and maintain  
 20 security for the payment of tort liabilities arising out of  
 21 the maintenance or use of the motorcycle in this state.  
 22 Security may be provided by a contract of liability  
 23 insurance complying with section (9), subsection (3), or by  
 24 qualifying as a self insurer in the manner provided in  
 25 subsection (3) of this section.

~~(6) A person providing security pursuant to subsection (3) is a "self insurer".~~

~~(7) "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle".~~

~~(8) "Plan of reparation security" includes a contract, self insurance, or other legal means under which there is an obligation to pay the benefits described in section (9).~~

Section 9. Mandatory offer of insurance benefits.

(1) On and after January 1, 1976, no insurance policy providing benefits for injuries arising out of the maintenance or use of a motor vehicle shall be issued, renewed, continued, delivered, issued for delivery, or executed in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, under provisions approved by the commissioner, requiring the insurer to pay, regardless of the fault of the insured, basic economic loss benefits.

A plan of reparation security shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged, the term and limits of liability, and shall contain an agreement or endorsement that insurance is provided thereunder in accordance with and subject to the provisions of this act.

(2) Each plan of reparation security shall provide for payment of basic economic loss benefits.

(3) (a) Each plan of reparation security shall also contain stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is thereby granted, of not less than twenty-five thousand dollars (\$25,000) because of bodily injury to one person in any one accident and, subject to said limit for one person, of not less than fifty thousand dollars (\$50,000) because of injury to two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, of not less than ten thousand dollars (\$10,000) because of such injury to or destruction of property of others in any one accident.

(b) Under residual liability insurance the reparation obligor shall be liable to pay, on behalf of the insured, sums which the insured is legally obligated to pay as damages because of bodily injury and property damage arising out of the ownership, maintenance, or use of a motor vehicle if the injury or damage occurs within this state, the United States of America, its territories or possessions, or Canada. A reparation obligor shall also be liable to pay sums which another reparation obligor is entitled to recover under the indemnity provisions of section (13).

(c) Every plan of reparation security shall be subject

1 to the following provisions which need not be contained  
2 therein:

3 (i) The liability of the reparation obligor with  
4 respect to the residual liability coverage required by this  
5 clause shall become absolute whenever injury or damage  
6 occurs; such liability may not be cancelled or annulled by  
7 any agreement between the reparation obligor and the insured  
8 after the occurrence of the injury or damage; no statement  
9 made by the insured or on his behalf and no violation of  
10 said policy shall defeat or void said policy.

11 (ii) The satisfaction by the insured of a judgment for  
12 such injury or damage shall not be a condition precedent to  
13 the right or duty of the reparation obligor to make payment  
14 on account of such injury or damage.

15 (iii) The reparation obligor shall have the right to  
16 settle any claim covered by the residual liability insurance  
17 policy, and if such settlement is made in good faith, the  
18 amount thereof shall be deductible from the limits of  
19 liability for the accident out of which such claim arose.

20 (4) (a) On and after January 1, 1976, no plan of  
21 reparation security may be renewed, delivered, or issued for  
22 delivery, or executed in this state with respect to any  
23 motor vehicle registered or principally garaged in this  
24 state unless coverage is provided therein or supplemental  
25 thereto, in the amounts of twenty-five thousand dollars

1 (\$25,000) because of injury to or the death of one person in  
2 any accident, and subject to the said limit for one person,  
3 fifty thousand dollars (\$50,000) because of bodily injury to  
4 or the death of two or more persons in any one accident, for  
5 the protection of persons insured thereunder who are legally  
6 entitled to recover damages from owners or operators of  
7 uninsured motor vehicles and hit-and-run motor vehicles  
8 because of injury.

9 (b) Every owner of a motor vehicle registered or  
10 principally garaged in this state shall maintain uninsured  
11 motor vehicle coverage as provided in this subsection.

12 (c) "Uninsured motor vehicle" means any motor vehicle  
13 for which a plan or reparation security meeting the  
14 requirements of this act is not in effect.

15 (d) No recovery shall be permitted under the uninsured  
16 motor vehicle provisions of this section for basic economic  
17 loss benefits paid or payable, or which would be payable but  
18 for any applicable deductible.

19 (5) At appropriately reduced premium rates reparation  
20 obligors shall offer the following deductibles, applicable  
21 only to claims arising out of injury to basic economic loss  
22 insureds:

23 (a) a deductible in the amount of one hundred dollars  
24 (\$100) to all medical expense benefits otherwise payable,  
25 except that if two or more insureds to whom the deductible



1 is applicable are injured in the same accident, the  
 2 aggregate amount of the deductible applicable to all of them  
 3 shall not exceed the specified deductible, which amount,  
 4 where necessary shall be allocated equally among them, and

5 (b) a deductible in the amount of two hundred dollars  
 6 (\$200) to all disability and income loss benefits otherwise  
 7 payable as a result of an injury to any one insured in one  
 8 accident.

9 (6) Reparation obligors shall offer the following  
 10 optional coverages in addition to compulsory coverages:

11 (a) medical expense benefits subject to a maximum  
 12 payment of ten thousand dollars (\$10,000);

13 (b) medical expense benefits subject to a maximum  
 14 payment of twenty thousand dollars (\$20,000);

15 (c) residual liability coverage of not less than  
 16 twenty-five thousand dollars (\$25,000) for damages for  
 17 injury to one person in any one accident arising out of the  
 18 maintenance or use of a motor vehicle, subject to a  
 19 limitation of fifty thousand dollars (\$50,000) for damages  
 20 arising out of any one accident;

21 (d) basic economic loss benefits to all persons  
 22 purchasing liability coverage for injuries arising out of  
 23 the maintenance or use of a motorcycle; and

24 (e) underinsured motorist coverage whereby subject to  
 25 the terms and conditions of such coverage the reparation

1 obligor agrees to pay its insureds for such uncompensated  
 2 damages as they are legally entitled to recover on account  
 3 of a motor vehicle accident because the total damages they  
 4 are legally entitled to recover exceed the residual  
 5 liability limit of the owner of the other vehicle, to the  
 6 extent of the residual liability limits on the motor vehicle  
 7 of the person legally entitled to recover or such smaller  
 8 limits as he may select less the amount paid by reparation  
 9 obligor of the person against whom he is entitled to  
 10 recover. His reparation obligor shall be subrogated to any  
 11 amounts it pays and upon payment shall have an assignment of  
 12 the judgment if any against the other person to the extent  
 13 of the money it pays.

14 (7) Nothing in this act shall be construed as  
 15 preventing the insurer from offering other benefits or  
 16 coverages in addition to those required to be offered under  
 17 this section.

18 (8) Any coverage issued by a participating member of  
 19 the Montana automobile insurance plan shall comply with the  
 20 provisions of this section, any provisions of law or of the  
 21 contract notwithstanding.

22 Section 9. Insurers' certification of basic coverage.  
 23 (1) Every insurer licensed to write motor vehicle accident  
 24 reparation and liability insurance in this state shall, on  
 25 or before January 1, 1976, or as a condition to such

1   licensing, file with the commissioner and thereafter  
 2   maintain a written certification that it will afford at  
 3   least the minimum security provided by section (9) to all  
 4   policyholders, except that in the case of nonresident  
 5   policyholders it need only certify that security is provided  
 6   with respect to accidents occurring in this state.

7       (2) Notwithstanding any contrary provision in it,  
 8   every contract of liability insurance for injury, wherever  
 9   issued, covering obligations arising from ownership,  
 10   maintenance, or use of a motor vehicle, except a contract  
 11   which provides coverage only for liability in excess of  
 12   required minimum tort liability coverages, includes basic  
 13   economic loss benefit coverages and residual liability  
 14   coverages required by this act, while the vehicle is in this  
 15   state, and qualifies as security covering the vehicle.

16       Section 16. Deduction of collateral benefits from tort  
 17   recovery; limitation on right to recover damages. (1) With  
 18   respect to a cause of action in negligence accruing as a  
 19   result of injury arising out of the operation, ownership,  
 20   maintenance, or use of a motor vehicle with respect to which  
 21   security has been provided as required by this act, there  
 22   shall be deducted from any recovery the value of basic or  
 23   optional economic loss benefits paid or payable or which  
 24   would be payable but for any applicable deductible. This  
 25   subdivision shall not bar subrogation and indemnity

1   recoveries under section (13), if the injury had the  
 2   consequences described in subsection (3) of that section and  
 3   a civil action has been commenced in the manner prescribed  
 4   in applicable laws or rules of civil procedure to recover  
 5   damages for noneconomic detriment.

6       (2) A person may bring a negligence action for  
 7   economic loss not paid or payable by an economic loss  
 8   obligor because of daily or weekly dollar limitations of  
 9   section (4), the seven-day services exclusion of section  
 10   (4), the limitations of benefits contained in section (4),  
 11   subsection (1), or an exclusion from coverage by sections  
 12   (18) to (20).

13       (3) IN AN ACTION DESCRIBED IN SUBSECTION (1), NO  
 14   PERSON SHALL RECOVER DAMAGES FOR NONECONOMIC DETRIMENT  
 15   UNLESS:

16       (A) THE SUM OF THE FOLLOWING EXCEEDS ONE THOUSAND  
 17   DOLLARS (\$1,000):

18       (I) REASONABLE MEDICAL EXPENSE BENEFITS PAID,  
 19   PAYABLE, OR PAYABLE BUT FOR ANY APPLICABLE DEDUCTIBLE, PLUS

20       (II) THE VALUE OF FREE MEDICAL OR SURGICAL CARE OR  
 21   ORDINARY AND NECESSARY NURSING SERVICES PERFORMED BY A  
 22   RELATIVE OF THE INJURED PERSON OR A MEMBER OF HIS HOUSEHOLD,  
 23   PLUS

24       (III) THE AMOUNT BY WHICH THE VALUE OF REIMBURSABLE  
 25   MEDICAL SERVICES OR PRODUCTS EXCEEDS THE AMOUNT OF BENEFIT

1 PAID, PAYABLE, OR PAYABLE BUT FOR AN APPLICABLE DEDUCTIBLE  
 2 FOR THOSE SERVICES OR PRODUCTS IF THE INJURED PERSON WAS  
 3 CHARGED LESS THAN THE AVERAGE REASONABLE AMOUNT CHARGED IN  
 4 THIS STATE FOR SIMILAR SERVICES OR PRODUCTS, MINUS  
 5 (IV) THE AMOUNT OF MEDICAL EXPENSE BENEFITS PAID,  
 6 PAYABLE, OR PAYABLE BUT FOR AN APPLICABLE DEDUCTIBLE FOR  
 7 DIAGNOSTIC X-RAYS AND FOR A PROCEDURE OR TREATMENT FOR  
 8 REHABILITATION AND NOT FOR REMEDIAL PURPOSES OR A COURSE OF  
 9 REHABILITATIVE OCCUPATIONAL TRAINING, OR  
 10 (B) THE INJURY RESULTS IN:  
 11 (I) PERMANENT DISFIGUREMENT;  
 12 (II) PERMANENT INJURY;  
 13 (III) DEATH, OR  
 14 (IV) DISABILITY FOR THIRTY (30) DAYS OR MORE.  
 15 (C) FOR THE PURPOSES OF CLAUSE (A) EVIDENCE OF THE  
 16 REASONABLE VALUE OF MEDICAL SERVICES AND PRODUCTS SHALL BE  
 17 ADMISSIBLE IN ANY ACTION BROUGHT IN THIS STATE.  
 18 (D) FOR THE PURPOSES OF CLAUSE (B) "DISABILITY" MEANS  
 19 THE INABILITY TO ENGAGE IN SUBSTANTIALLY ALL OF THE INJURED  
 20 PERSON'S USUAL AND CUSTOMARY DAILY ACTIVITIES.  
 21 ~~(3) In an action described in subsection (1), no~~  
 22 ~~person shall recover damages for noneconomic detriment~~  
 23 ~~unless:~~  
 24 ~~(a) the sum of the following exceeds two thousand~~  
 25 ~~dollars (\$2,000):~~

1 ~~(i) reasonable medical expense benefits paid,~~  
 2 ~~payable, or payable but for any applicable deductible, plus~~  
 3 ~~(ii) the value of free medical or surgical care or~~  
 4 ~~ordinary and necessary nursing services performed by a~~  
 5 ~~relative of the injured person or a member of his household,~~  
 6 ~~plus~~  
 7 ~~(iii) the amount by which the value of reimbursable~~  
 8 ~~medical services or products exceeds the amount of benefit~~  
 9 ~~paid, payable, or payable but for an applicable deductible~~  
 10 ~~for those services or products if the injured person was~~  
 11 ~~charged less than the average reasonable amount charged in~~  
 12 ~~this state for similar services or products, minus~~  
 13 ~~(iv) the amount of medical expense benefits paid,~~  
 14 ~~payable, or payable but for an applicable deductible for~~  
 15 ~~diagnostic X-rays and for a procedure or treatment for~~  
 16 ~~rehabilitation and not for remedial purposes or a course of~~  
 17 ~~rehabilitative occupational training; or~~  
 18 ~~(b) the injury results in:~~  
 19 ~~(i) permanent disfigurement;~~  
 20 ~~(ii) permanent injury;~~  
 21 ~~(iii) death, or~~  
 22 ~~(iv) disability for sixty (60) days or more.~~  
 23 ~~(e) For the purposes of clause (a) evidence of the~~  
 24 ~~reasonable value of medical services and products shall be~~  
 25 ~~admissible in any action brought in this state.~~

1 ~~{d}--Per the purposes of clause--(b)--disability--means--the~~  
2 ~~inability--to--engage--in--substantially--all--of--the--injured~~  
3 ~~person's--usual--and--customary--daily--activities--~~

4 ~~{4}{3}~~(4) Nothing in this section shall impair or  
5 limit the liability of a person in the business of  
6 manufacturing, distributing, retailing, repairing,  
7 servicing, or maintaining motor vehicles arising from a  
8 defect in a motor vehicle caused or not corrected by an act  
9 or omission in manufacture, inspection, repair, service, or  
10 maintenance of a vehicle in the course of his business.

11 ~~{5}{4}~~(5) Nothing in this section shall impair or  
12 limit tort liability or limit the damages recoverable from  
13 any person for negligent acts or omissions other than those  
14 committed in the operation, ownership, maintenance, or use  
15 of a motor vehicle.

16 Section 11. Mandatory arbitration of certain claims --  
17 supreme court to promulgate rules of procedure. (1) The  
18 supreme court and the several courts of general trial  
19 jurisdiction of this state may, on or before January 1,  
20 1976, by rules of court or other constitutionally  
21 permissible device, provide for the submission to  
22 arbitration, upon mutual consent of all parties to the  
23 action, of all cases at issue where a claim in an amount of  
24 five thousand dollars (\$5,000) or less is made by a motor  
25 vehicle accident victim, whether in an action to recover

1 economic loss or noneconomic detriment for the allegedly  
2 negligent operation, maintenance, or use of a motor vehicle  
3 within this state, or against any reparation obligor for  
4 benefits as provided in this act.

5 (2) The rules of court may provide that cases which  
6 are not at issue, whether or not suit has been filed, may be  
7 referred to arbitration by agreement of reference signed by  
8 counsel for both sides, or by the parties themselves. Such  
9 agreement of reference shall define the issues to be  
10 arbitrated and, shall also contain any stipulations with  
11 respect to facts submitted or agreed or defenses waived. In  
12 such cases, the agreement of reference shall take the place  
13 of the pleadings in the case and be filed of record.

14 Section 12. Indemnity -- arbitration between obligors  
15 -- subrogation. (1) A reparation obligor paying or  
16 obligated to pay basic or optional economic loss benefits  
17 shall be entitled to indemnity subject to the limits of the  
18 applicable residual liability coverage from a reparation  
19 obligor providing such coverage to a person whose negligence  
20 was the direct and proximate cause of the injury for which  
21 the basic economic loss benefits were paid or payable to the  
22 extent that the insured would have been liable for damages  
23 but for the deduction provisions of section (11), subsection  
24 (1), and only if a commercial vehicle was involved in the  
25 accident causing the injury.

1 (2) To the extent permitted by section (11),  
 2 subsection (1), a reparation obligor paying or obligated to  
 3 pay basic or optional economic loss benefits shall be  
 4 subrogated to the extent of benefits paid or payable to any  
 5 cause of action to recover damages for economic loss which  
 6 the person to whom the basic or optional economic loss  
 7 benefits were paid or payable has brought under the terms of  
 8 section (11), subsection (3) of this act against another  
 9 person whose negligence was the direct and proximate cause  
 10 of the injury for which the basic economic loss benefits  
 11 were paid or payable.

12 (3) The right of indemnity provided in subsection (1)  
 13 shall be enforceable only through mandatory good faith and  
 14 binding arbitration procedures to be established by rule of  
 15 the commissioner of insurance. These procedures shall  
 16 utilize determinations of comparative negligence. No  
 17 evidence nor the decision in such an arbitration proceeding  
 18 shall be admissible in any action by any party.

19 (4) Nothing in this act shall limit or abridge the  
 20 subrogation rights of a reparation obligor providing  
 21 collision coverage to a policyholder, but any obligor  
 22 required to submit a claim described in subsection (1) to  
 23 arbitration shall joint any claim it has against the other  
 24 party to that proceeding as a result of automotive property  
 25 damage to its insured arising out of the same accident as

1 the primary claim.

2 (5) No reparation obligor shall include in its  
 3 contract any provision which would require a person to  
 4 commence a negligence action as a condition precedent to the  
 5 payment of basic economic loss benefits or which permits the  
 6 reparation obligor to determine whether such an action will  
 7 be commenced. No reparation obligor shall contract for a  
 8 right of reimbursement or subrogation greater than or in  
 9 addition to those permitted by this act.

10 (6) Arbitration proceedings need not await final  
 11 payment of benefits, and the award, if any, shall include  
 12 provision for reimbursement of subsequent benefits, but no  
 13 question of fact decided by a prior award shall be  
 14 reconsidered in any such subsequent arbitration hearing.

15 Section 13. Reparation obligor's duty to respond to  
 16 claims. (1) Basic economic loss benefits are payable  
 17 monthly as loss accrues. Loss accrues not when injury  
 18 occurs, but as income loss, replacement services loss,  
 19 survivor's economic loss, survivor's replacement services  
 20 loss, or medical or funeral expense is incurred. Benefits  
 21 are overdue if not paid within thirty (30) days after the  
 22 reparation obligor receives reasonable proof of the fact and  
 23 amount of loss realized, unless the reparation obligor  
 24 elects to accumulate claims for periods not exceeding  
 25 thirty-one (31) days and pays them within fifteen (15) days

1 after the period of accumulation. If reasonable proof is  
 2 supplied as to only part of a claim, and the part totals one  
 3 hundred dollars (\$100) or more, the part is overdue if not  
 4 paid within the time provided by this section. Medical or  
 5 funeral expense benefits may be paid by the reparation  
 6 obligor directly to persons supplying products, services, or  
 7 accommodations to the claimant.

8 (2) Overdue payments shall bear simple interest at the  
 9 rate of ten percent (10%) per annum.

10 (3) A claim for basic economic loss benefits shall be  
 11 paid without deduction for the benefits which are to be  
 12 subtracted pursuant to section (21), if these benefits have  
 13 not been paid to the claimant before the reparation benefits  
 14 are overdue or the claim is paid. The obligor is entitled  
 15 to reimbursement from the person obligated to make the  
 16 payments or from the claimant who actually receives the  
 17 payments.

18 (4) A reparation obligor may bring an action to  
 19 recover benefits which are not payable, but are in fact  
 20 paid, because of an intentional misrepresentation of a  
 21 material fact, upon which the reparation obligor relies, by  
 22 the claimant or by a person providing products or services  
 23 for which basic economic loss benefits are payable. The  
 24 action may be brought only against the person providing the  
 25 products or services, unless the claimant has intentionally

1 misrepresented the facts or knew of the misrepresentation.  
 2 A reparation obligor may offset amounts he is entitled to  
 3 recover from the claimant under this subdivision against any  
 4 basic economic loss benefits otherwise due him.

5 (5) A reparation obligor who rejects a claim for  
 6 benefits shall give to the claimant prompt written notice of  
 7 the rejection, specifying the reason. If a claim is  
 8 rejected for a reason other than that the person is not  
 9 entitled to the basic economic loss benefits claimed, the  
 10 written notice shall inform the claimant that he may file  
 11 his claim with the assigned claims bureau and shall give the  
 12 name and address of the bureau.

13 Section 14. Application for benefits under plan of  
 14 security. (1) A plan of reparation security may prescribe  
 15 a period of not less than six (6) months after the date of  
 16 accident within which an insured or any other person  
 17 entitled to claim basic economic loss benefits, or anyone  
 18 acting on their behalf, must notify the reparation obligor  
 19 or its agent, of the accident and the possibility of a claim  
 20 for economic loss benefits in order to be eligible for such  
 21 benefits. Such notice may be given in any reasonable  
 22 fashion.

23 (2) A plan of reparation security may provide that in  
 24 any instance where a lapse occurs in the period of  
 25 disability or in the medical treatment of a person with

1 respect to whose injury basic economic loss benefits have  
 2 been paid and a person subsequently claims additional  
 3 benefits based upon an alleged recurrence of the injury for  
 4 which the original claim for benefits was made, the obligor  
 5 may require reasonable medical proof of such alleged  
 6 recurrence; provided, that in no event shall the aggregate  
 7 benefits payable to any person exceed the maximum limits  
 8 specified in the plan of security, and provided further that  
 9 such coverages may contain a provision terminating  
 10 eligibility for benefits after a prescribed period of lapse  
 11 of disability and medical treatment, which period shall not  
 12 be less than one (1) year.

13 Section 15. Cooperation of person claiming benefits.  
 14 (1) Medical examinations and discovery of condition of  
 15 claimant. Any person with respect to whose injury benefits  
 16 are claimed under a plan of reparation security shall, upon  
 17 request of the reparation obligor from whom recovery is  
 18 sought, submit to a physical examination by a physician or  
 19 physicians selected by the obligor as may reasonably be  
 20 required.

21 The costs of any examinations requested by the obligor  
 22 shall be borne entirely by the requesting obligor. Such  
 23 examinations shall be conducted within the city, town, or  
 24 statutory city of residence of the injured person. If there  
 25 is no qualified physician to conduct the examination within

1 the city, town, or statutory city of residence of the  
 2 injured person, then such examination shall be conducted at  
 3 another place of the closest proximity to the injured  
 4 person's residence. Obligors are authorized to include  
 5 reasonable provisions in policies for mental and physical  
 6 examination of those injured persons.

7 If requested by the person examined, a party causing an  
 8 examination to be made shall deliver to him a copy of every  
 9 written report concerning the examination rendered by an  
 10 examining physician, at least one of which reports must set  
 11 out in detail the findings and conclusions of such examining  
 12 physician.

13 An injured person shall also do all things reasonably  
 14 necessary to enable the obligor to obtain medical reports  
 15 and other needed information to assist in determining the  
 16 nature and extent of the injured person's injuries and loss,  
 17 and the medical treatment received by him. If the claimant  
 18 refuses to cooperate in responding to requests for  
 19 examination and information as authorized by this section,  
 20 evidence of such noncooperation shall be admissible in any  
 21 suit or arbitration filed for damages for such personal  
 22 injuries or for the benefits provided by this act.

23 (2) Any person receiving benefits under this act shall  
 24 participate and cooperate, as reasonably required under the  
 25 coverage, in any and all arbitration proceedings as provided

1 in section (13) by or on behalf of the obligor paying the  
 2 benefits, and the obligor may require in the furnishing of  
 3 proof of loss the claimant's statement that he shall so  
 4 participate and cooperate as consideration for the payment  
 5 of such benefits. However, no claimant may be required by  
 6 any obligor which has paid or is obligated to pay benefits  
 7 as herein provided to personally attend an arbitration  
 8 proceeding which shall take place more than fifty (50) miles  
 9 from the usual residence of the claimant; and provided that  
 10 in no event shall the claimant have to attend such an  
 11 arbitration proceeding if, at the time scheduled for that  
 12 meeting, travel thereto by the claimant is not recommended  
 13 by a physician treating the claimant for his injuries. Any  
 14 claimant required to personally attend an arbitration  
 15 proceeding shall be compensated by the reparation obligor  
 16 requiring his attendance for actual income loss and expenses  
 17 reasonably incurred.

18 Section 16. Economic loss benefits -- exemptions from  
 19 legal attachment. All economic loss benefits provided by  
 20 this act, whether paid or payable to any claimant shall not  
 21 be subject to garnishment, sequestration, attachment, or  
 22 execution, or any other legal process which would deny their  
 23 receipt and use by that person; provided, however, that this  
 24 section shall not apply to any person who has provided  
 25 treatment or services, as described in section (4),

1 subsection (2), to the victims of a motor vehicle accident.

2 Section 17. Converted motor vehicles. A person who  
 3 converts a motor vehicle is disqualified from basic or  
 4 optional economic loss benefits, including benefits  
 5 otherwise due him as a survivor, from any source other than  
 6 an insurance contract under which the converter is an  
 7 insured, for injuries arising from maintenance or use of the  
 8 converted vehicle. If the converter dies from the injuries,  
 9 his survivors are not entitled to basic or optional economic  
 10 loss benefits from any source other than an insurance  
 11 contract under which the converter is a basic economic loss  
 12 insured. For the purpose of this section, a person is not a  
 13 converter if he uses the motor vehicle in the good faith  
 14 belief that he is legally entitled to do so.

15 Section 18. Races. A person who is injured in the  
 16 course of an officiated racing or speed contest, or in  
 17 practice or preparation therefor is disqualified from basic  
 18 or optional economic loss benefits. His survivors are not  
 19 entitled to basic or optional economic loss benefits for  
 20 loss arising from his death.

21 Section 19. Intentional injuries. A person  
 22 intentionally causing or attempting to cause injury to  
 23 himself or another person is disqualified from basic or  
 24 optional economic loss benefits for injury arising from his  
 25 acts, including benefits otherwise due him as a survivor.



1 If a person dies as a result of intentionally causing or  
 2 attempting to cause injury to himself, his survivors are not  
 3 entitled to basic or optional economic loss benefits for  
 4 loss arising from his death. A person intentionally causes  
 5 or attempts to cause injury if he acts or fails to act for  
 6 the purpose of causing injury or with knowledge that injury  
 7 is substantially certain to follow. A person does not  
 8 intentionally cause or attempt to cause injury (1) merely  
 9 because his act or failure to act is intentional or done  
 10 with his realization that it creates a grave risk of causing  
 11 injury or (2) if the act or omission causing the injury is  
 12 for the purpose of averting bodily harm to himself or  
 13 another person.

14 Section 20. Benefits primary -- subtractions --  
 15 coordination. (1) Basic economic loss benefits shall be  
 16 primary with respect to benefits, except for those paid or  
 17 payable under a workmen's compensation law, which any person  
 18 receives or is entitled to receive from any other source as  
 19 a result of injury arising out of the maintenance or use of  
 20 a motor vehicle.

21 (2) Benefits paid or payable under a workmen's  
 22 compensation law because of the injury or death shall be  
 23 subtracted in computing basic economic loss benefits, but  
 24 only to the extent that they exceed any deductible  
 25 applicable to the basic economic loss benefits.

1 (3) Any legally constituted entity, other than a  
 2 reparation obligor obligated to pay benefits under a plan of  
 3 reparation security or an insurer or employer obligated to  
 4 pay benefits under a workmen's compensation law, may  
 5 coordinate any benefits it is obligated to pay for loss  
 6 incurred as a result of injury arising out of the  
 7 maintenance or use of a motor vehicle with basic economic  
 8 loss benefits.

9 (4) Notwithstanding subsection (3), no entity may  
 10 coordinate benefits unless it provides those persons who  
 11 purchase benefits from it with an equitable reduction or  
 12 savings in the direct or indirect cost of the purchased  
 13 benefits. If the benefits to be coordinated are provided to  
 14 an individual through a group, program, contract, or other  
 15 arrangement for which another person pays in whole or in  
 16 part, the entity coordinating benefits shall return to the  
 17 individual or use for his benefit any reduction or savings  
 18 in the direct or indirect cost of the benefits.

19 Section 21. Duplicate claims -- obligor subrogated. A  
 20 reparation obligor paying or obligated to pay basic economic  
 21 loss benefits is subrogated to any claim based on an  
 22 intentional tort or on strict or statutory liability against  
 23 any person whose act or omission caused the injury. This  
 24 right of subrogation shall exist only to the extent that  
 25 basic economic loss benefits are paid and only to the extent

1 that recovery on the claim would produce a duplication of  
2 benefits or reimbursement of the same loss.

3 Section 22. Assigned claims plan. (1) Reparation  
4 obligors providing basic economic loss insurance in this  
5 state may organize and maintain, subject to approval and  
6 regulation by the commissioner, an assigned claims bureau  
7 and an assigned claims plan, and adopt rules for their  
8 operation and for the assessment of costs on a fair and  
9 equitable basis consistent with this act. If such obligors  
10 do not organize and continuously maintain an assigned claims  
11 bureau and an assigned claims plan in a manner considered by  
12 the commissioner of insurance to be consistent with this  
13 act, he shall organize and maintain an assigned claims  
14 bureau and an assigned claims plan. Each reparation obligor  
15 providing basic economic loss insurance in this state shall  
16 participate in the assigned claims bureau and the assigned  
17 claims plan. Costs incurred shall be allocated fairly and  
18 equitably among the reparation obligors.

19 (2) The assigned claims bureau shall promptly assign  
20 each claim and notify the claimant of the identity and  
21 address of the assignee-obligor of the claim. Claims shall  
22 be assigned so as to minimize inconvenience to claimants.  
23 The assignee thereafter has rights and obligations as if he  
24 had issued a policy of basic economic loss insurance  
25 complying with this act, applicable to the injury or, in

1 case of financial inability of a reparation obligor to  
2 perform its obligations, as if the assignee had written the  
3 applicable reparation insurance, undertaken the  
4 self-insurance, or lawfully obligated itself to pay basic  
5 economic loss benefits.

6 Section 23. Persons entitled to participate in  
7 assigned claims plan. (1) A person entitled to basic  
8 economic loss benefits because of injury covered by this act  
9 may obtain basic economic loss benefits through the assigned  
10 claims plan or bureau established pursuant to section (23)  
11 and in accordance with the provisions for making assigned  
12 claims provided in this act if:

13 (a) Basic economic loss benefits are not applicable to  
14 the injury for some reason other than those specified in  
15 sections (18), (19), or (20);

16 (b) The plan of reparation security applicable to the  
17 injury cannot be identified; or

18 (c) A claim for basic economic loss benefits is  
19 rejected by a reparation obligor on some ground other than  
20 the person is not entitled to basic economic loss benefits  
21 under this act.

22 (2) If a claim qualifies for assignment under  
23 subsection (1) of this section, the assigned claims bureau  
24 or any reparation obligor to whom the claim is assigned  
25 shall be, as provided in section (23), subrogated to all of

1 the rights of the claimant against any person, including  
 2 another obligor, who is legally obligated to provide  
 3 economic loss benefits to the claimant, for economic loss  
 4 benefits provided by the obligor to whom the claim was  
 5 assigned.

6 (3) A person shall not be entitled to basic economic  
 7 loss benefits through the assigned claims plan with respect  
 8 to injury which was sustained if at the time of such injury  
 9 the injured person was the owner of a private passenger  
 10 motor vehicle for which security is required under this act  
 11 and he failed to have such security in effect. Persons  
 12 claiming benefits as a result of injury to members of the  
 13 owner's household shall also be disqualified from benefits  
 14 if those members knew or reasonably should have known that  
 15 security covering the vehicle was not provided as required  
 16 by this act.

17 Section 24. Notification to assigned claims bureau. A  
 18 person authorized to obtain basic economic loss benefits  
 19 through the assigned claims plan shall notify the bureau of  
 20 his claim within one (1) year of the date on which he  
 21 receives written authorization to participate in such plan.  
 22 If timely action for basic economic loss benefits is  
 23 commenced against a reparation obligor who is unable to  
 24 fulfill his obligations under this act, a claim through the  
 25 assigned claims plan may be made within a reasonable time

1 after discovery of such inability.

2 Section 25. Claims against wrong insurer. If timely  
 3 action for economic loss benefits is commenced against a  
 4 reparation obligor and benefits are denied because of a  
 5 determination that the obligor's coverage is not applicable  
 6 to the claimant under the provisions of section (7) on the  
 7 priority of applicability of security a claim against a  
 8 proper obligor or assigned claims plan may be made not later  
 9 than ninety (90) days after such determination becomes final  
 10 or the last date on which the action could otherwise have  
 11 been commenced, whichever is later.

12 Section 26. Penalties for failure to provide security  
 13 for basic reparation benefits. (1) Every owner of a motor  
 14 vehicle for which security has not been provided as required  
 15 by section (8), shall be liable in tort without limitation.

16 (2) Any owner of a motor vehicle with respect to which  
 17 security is required under this act, who operates such motor  
 18 vehicle or permits it to be operated upon a public highway,  
 19 street, or road in this state without having in full force  
 20 and effect security complying with the terms of section (6),  
 21 is guilty of a misdemeanor.

22 (3) Any other person who operates such motor vehicle  
 23 upon a public highway, street, or road in this state with  
 24 knowledge that the owner does not have such security in full  
 25 force and effect is guilty of a misdemeanor.

1 (4) Any operator of a motor vehicle who is convicted  
 2 of a misdemeanor under the terms of this section shall have  
 3 his operator's license revoked for not less than six (6)  
 4 months nor more than twelve (12) months. If such operator  
 5 is also an owner of the motor vehicle, his motor vehicle  
 6 registration shall also be revoked for not less than six (6)  
 7 months nor more than twelve (12) months.

8 (5) When a nonresident's operating privilege is  
 9 suspended pursuant to this section, the attorney general or  
 10 his designee shall transmit a copy of the record of such  
 11 action to the official in charge of the issuance of licenses  
 12 in the state in which the nonresident resides.

13 (6) Upon receipt of such notification that the  
 14 operating privilege of a resident of this state has been  
 15 suspended or revoked in any other state pursuant to a law  
 16 providing for its suspension or revocation for failure to  
 17 deposit security for the payment of judgments arising out of  
 18 a motor vehicle accident, or for failure to provide security  
 19 covering a vehicle if required by the laws of that state,  
 20 the attorney general shall suspend the license of the  
 21 resident until he furnishes evidence of compliance with the  
 22 laws of this state and if applicable the laws of the other  
 23 state.

24 Section 27. Rules of attorney general. (1) The  
 25 attorney general shall have the power and perform the duties

1 imposed upon him by this act and may adopt rules to  
 2 implement and provide effective administration of the  
 3 provisions requiring security and governing termination of  
 4 security.

5 (2) The attorney general may by rule provide that  
 6 motor vehicles owned by certain persons may not be  
 7 registered in this state unless satisfactory evidence is  
 8 furnished that security has been provided as required by  
 9 section (8). If a person who is required to furnish  
 10 evidence ceases to maintain security, he shall immediately  
 11 surrender the registration certificate and license plates  
 12 for the vehicle. These requirements may be imposed if:

13 (a) The registrant has not previously registered a  
 14 motor vehicle in this state; or

15 (b) An owner or operator of the vehicle has previously  
 16 failed to comply with the security requirements of this act  
 17 or of prior law; or

18 (c) The driving record of an owner or operator of the  
 19 vehicle evidences his continuing disregard of the laws of  
 20 this state enacted to protect the public safety; or

21 (d) Other circumstances indicate that such action is  
 22 necessary to effectuate the purposes of this act.

23 Section 28. Obligor's notification or lapse,  
 24 cancellation, or failure to renew policy of coverage. If  
 25 the required plan of reparation security of an owner or

1 named insured is cancelled, and notification of such fact is  
 2 given to the insured as required by law, a copy of such  
 3 notice shall within thirty (30) days after coverage has  
 4 expired be sent to the attorney general. If, on or before  
 5 the end of that thirty (30) day period, the insured owner of  
 6 a motor vehicle has not presented the attorney general or  
 7 his authorized agent with evidence of required security  
 8 which shall have taken effect upon the expiration of the  
 9 previous coverage, or if the insured owner or registrant has  
 10 not instituted an objection to his obligor's cancellation,  
 11 he shall immediately surrender the registration certificate  
 12 and motor vehicle license plates to the attorney general and  
 13 may not operate or permit operation of the vehicle in this  
 14 state until security is again provided and proof of security  
 15 furnished as required by this act.

16 ~~Section 307--Automobile insurance rates----penalties~~  
 17 ~~{1}--The---policy---premiums---charged---by---each---insurer---in~~  
 18 ~~connection-with-the-compulsory-plan-of---reparation---security~~  
 19 ~~required---by---this---act-for-private-passenger-motor-vehicles~~  
 20 ~~shall-be-at-least-thirty-percent-{30}-below-such---insurer's~~  
 21 ~~policy---premiums---in---effect---on---December---31,---1974,---for~~  
 22 ~~liability-insurance---with---limits---of---twenty-five---thousand~~  
 23 ~~dollars---{25,000}---per---person---and---fifty-thousand-dollars~~  
 24 ~~{50,000}-per-accident, plus one thousand---dollars---{1,000}~~  
 25 ~~medical---payments---insurance,---plus---uninsured---motorists~~

1 ~~coverage---of---twenty-five---thousand---dollars---{25,000}---per~~  
 2 ~~person---and---fifty---thousand-dollars---{50,000}---per-accident,~~  
 3 ~~Actuarially-commensurate-adjustments-shall---be---required---in~~  
 4 ~~the-case-of-other-combinations-of-coverage~~

5 ~~{2}---Any---person---convicted---of---violating-this-section~~  
 6 ~~shall---be---guilty---of---a---misdemeanor,---Every---day---that---a~~  
 7 ~~violation---continues---shall---be---deemed---a---separate-offense,~~  
 8 ~~Further, any person convicted of violating any provision of~~  
 9 ~~this section shall thereafter be prohibited from engaging in~~  
 10 ~~any business---as---an---insurer---in---this---state---for---a---period---of~~  
 11 ~~five-years,---The-attorney-general-shall,---at---the---request---of~~  
 12 ~~the---commissioner,---initiate---in---the---name---of---the---state~~  
 13 ~~appropriate---action---in---a---court---of---law---to---enforce---the~~  
 14 ~~provisions-of-this-section~~

15 ~~{3}---Notwithstanding---the---provisions-of-subsection-{1}~~  
 16 ~~of-this-section, if the commissioner finds that the mandated~~  
 17 ~~reduction-in-premium-rates-would---jeopardize---the---financial~~  
 18 ~~soundness---or---solidity---of---any---insurer,---or---require---it---to~~  
 19 ~~suffer-an-underwriting-loss-on-that-line-of-business-in-this~~  
 20 ~~state-he-shall-permit-such-an-insurer-to-charge---such---rates~~  
 21 ~~as---are-necessary-to-avoid-such-condition,---The-commissioner~~  
 22 ~~may-hold-a-public-hearing-prior-to---making---a---determination~~  
 23 ~~pursuant-to-this-subdivision~~

24 ~~{4}---The---commissioner---shall---review---all---automobile~~  
 25 ~~coverage-rates-on-an-annual-basis,---if---the---commissioner~~

1 ~~finds that the rates of any insurer, for coverages required~~  
2 ~~or permitted by this act, are excessive, he shall issue such~~  
3 ~~order as he deems appropriate to establish a reasonable~~  
4 ~~competitive rate, and such order may include provisions for~~  
5 ~~an appropriate premium adjustment or rebate on outstanding~~  
6 ~~policies.~~

7 Section 30. Sections 40-4403, and 53-418 through  
8 53-458, R.C.M. 1947, are repealed.

9 Section 31. Severability. It is the intent of the  
10 legislature that if a part of this act is invalid, all valid  
11 parts that are severable from the invalid part remain in  
12 effect. If a part of this act is invalid in one or more of  
13 its applications, the part remains in effect in all valid  
14 applications that are severable from the invalid  
15 applications.

16 Section 32. This act is effective January 1, 1976.  
17 Accidents occurring before that date are not covered by or  
18 subject to this act.

-End-