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BILL NO. 250  
 INTRODUCED BY *FAGG* *Huerfano*, *Diwan* *Loewen*  
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 A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE  
 "UNIFORM MOTOR VEHICLE ACCIDENT REPARATIONS ACT OF 1975";  
 PROVIDING FOR REPARATION BENEFITS FOR PERSONS IN MOTOR  
 VEHICLE ACCIDENTS WITH LIMITATIONS UPON THE CAPACITY TO SUE  
 IN TORT TO SPECIFIED LIABILITY INSTANCES; PROVIDING FOR A  
 SYSTEM OF SECURITY AND INSURANCE FOR REPARATION BENEFITS AND  
 RESIDUAL TORT LIABILITY; AMENDING SECTION 32-1203, R.C.M.  
 1947; REPEALING SECTIONS 40-4403, 53-418 THROUGH 53-420, AND  
 53-428 THROUGH 53-438, R.C.M. 1947; AND PROVIDING AN  
 EFFECTIVE DATE."  
 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This act shall be known and  
 may be cited as the "Uniform Motor Vehicle Accident  
 Reparations Act of 1975".

Section 2. Definitions. As used in this act:

(1) "Added reparation benefits" means benefits  
 provided by optional added reparation insurance.

(2) "Basic reparation benefits" means benefits  
 providing reimbursement for net loss suffered through injury  
 arising out of the maintenance or use of a motor vehicle,  
 subject, where applicable, to the limits (section 14),

1 deductibles (sections 15 and 18), exclusions (sections 13,  
 2 15, and 16), disqualifications (sections 22 and 23), and  
 3 other conditions provided in this act.  
 4 (3) "Basic reparation insured" means:  
 5 (a) a person identified by name as an insured in a  
 6 contract of basic reparation insurance complying with this  
 7 act (section 8 (4)); and  
 8 (b) while residing in the same household with a named  
 9 insured, the following persons not identified by name as an  
 10 insured in any other contract of basic reparation insurance  
 11 complying with this act: a spouse or other relative of a  
 12 named insured, and a minor in the custody of a named insured  
 13 or of a relative residing in the same household with a named  
 14 insured. A person resides in the same household if he  
 15 usually makes his home in the same family unit, even though  
 16 he temporarily lives elsewhere.  
 17 (4) "Injury" and "injury to person" mean bodily harm,  
 18 sickness, disease or death.  
 19 (5) "Loss" means accrued economic detriment consisting  
 20 only of allowable expense, work loss, replacement service  
 21 loss, and, if injury causes death, survivor's economic loss  
 22 and survivor's replacement services loss. Noneconomic  
 23 detriment is not loss. However, economic detriment is loss  
 24 although caused by pain and suffering or physical  
 25 impairment.

1 (a) "Allowable expense" means reasonable charges  
 2 incurred for reasonably needed products, services and  
 3 accommodations, including those for medical care,  
 4 rehabilitation, rehabilitative occupational training, and  
 5 other remedial treatment and care. The term includes a  
 6 total charge not in excess of five hundred dollars (\$500)  
 7 for expenses in any way related to funeral, cremation, and  
 8 burial. It does not include that portion of a charge for a  
 9 room in a hospital, clinic, convalescent or nursing care  
 10 home, or any other institutions engaged in nursing care and  
 11 related services, in excess of a reasonable and customary  
 12 charge for semiprivate accommodations, unless intensive care  
 13 is medically required.

14 (b) "Work loss" means loss of income from work the  
 15 injured person would have performed if he had not been  
 16 injured, and expenses reasonably incurred by him in  
 17 obtaining services in lieu of those he would have performed  
 18 for income, reduced by any income from substitute work  
 19 actually performed by him or by income he would have earned  
 20 in available appropriate substitute work he was capable of  
 21 performing but unreasonably failed to undertake.

22 (c) "Replacement services loss" means expenses  
 23 reasonably incurred in obtaining ordinary and necessary  
 24 services in lieu of those the injured person would have  
 25 performed, not for income but for the benefit of himself or

1 his family, if he had not been injured.

2 (d) "Survivor's economic loss" means loss after  
 3 decedent's death of contributions of things of economic  
 4 value to his survivors, not including services they would  
 5 have received from the decedent if he had not suffered the  
 6 fatal injury, less expenses of the survivors avoided by  
 7 reason of decedent's death.

8 (e) "Survivor's replacement services loss" means  
 9 expenses reasonably incurred by survivors after decedent's  
 10 death in obtaining ordinary and necessary services in lieu  
 11 of those the decedent would have performed for their benefit  
 12 if he had not suffered the fatal injury, less expenses of  
 13 the survivors avoided by reason of the decedent's death and  
 14 not subtracted in calculating survivor's economic loss.

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

25 (7) "Motor vehicle" means:

1 (a) a vehicle of a kind required to be registered  
2 under the laws of this state except a snowmobile or vehicle  
3 not primarily designed for operation upon a public roadway  
4 while being operated under the provisions of section  
5 53-119.1, or

6 (b) a vehicle, including a trailer, designed for  
7 operation upon a public roadway by other than muscular  
8 power, except a vehicle used exclusively upon stationary  
9 rails or tracks.

10 (8) "Public roadway" means a way open to the use of  
11 the public for purposes of automobile travel.

12 (9) "Net loss" means loss less benefits or advantages,  
13 from sources other than basic and added reparation  
14 insurance, required to be subtracted from loss in  
15 calculating net loss (section 12).

16 (10) "Noneconomic detriment" means pain, suffering,  
17 inconvenience, physical impairment, and other nonpecuniary  
18 damage recoverable under the tort law of Montana. The term  
19 does not include punitive or exemplary damages.

20 (11) "Owner" means a person, other than a lienholder  
21 or secured party, who owns or has title to a motor vehicle  
22 or is entitled to the use and possession of a motor vehicle  
23 subject to a security interest held by another person. The  
24 term does not include a lessee under a lease not intended as  
25 security.

1 (12) "Reparation obligor" means an insurer,  
2 self-insurer, or obligated government providing basic or  
3 added reparation benefits under this act.

4 (13) "Survivor" means a person identified in section  
5 92-2824 as one entitled to receive benefits by reason of the  
6 death of another person.

7 (14) Other definitions appearing in this act and the  
8 sections in which they appear are:

9 (a) basic reparation insurance - section 8 (9);

10 (b) obligated government - section 8 (7);

11 (c) secured vehicle - section 8 (8);

12 (d) security covering the vehicle - section 8 (8);

13 (e) self-insurer - section 8 (7).

14 Section 3. Right to basic reparation benefits. (1)  
15 If the accident causing injury occurs in Montana, every  
16 person suffering loss from injury arising out of maintenance  
17 or use of a motor vehicle has a right to basic reparation  
18 benefits.

19 (2) If the accident causing injury occurs outside  
20 Montana, the following persons and their survivors suffering  
21 loss from injury arising out of maintenance or use of a  
22 motor vehicle have a right to basic reparation benefits:

23 (a) basic reparation insureds; and

24 (b) the driver and other occupants of a secured  
25 vehicle, other than: a vehicle which is regularly used in

1 the course of the business of transporting persons or  
 2 property and which is one of five (5) or more vehicles under  
 3 common ownership; or a vehicle owned by an obligated  
 4 government other than Montana, its political subdivisions,  
 5 municipal corporations, or public agencies.

6 Section 4. Obligations to pay basic reparation  
 7 benefits. (1) Basic reparation benefits shall be paid  
 8 without regard to fault.

9 (2) Basic reparation obligors and the assigned claims  
 10 plan shall pay basic reparation benefits, under the terms  
 11 and conditions stated in this act, for loss from injury  
 12 arising out of maintenance or use of a motor vehicle. This  
 13 obligation exists without regard to immunity from liability  
 14 or suit which might otherwise be applicable.

15 Section 5. Priority of applicability of security for  
 16 payment of basic reparation benefits. (1) In case of  
 17 injury to the driver or other occupant of a motor vehicle,  
 18 if the accident causing the injury occurs while the vehicle  
 19 is being used in the business of transporting persons or  
 20 property, the security for payment of basic reparation  
 21 benefits is the security covering the vehicle or, if none,  
 22 the security under which the injured person is a basic  
 23 reparation insured.

24 (2) In case of injury to an employee, or to his spouse  
 25 or other relative residing in the same household, if the

1 accident causing the injury occurs while the injured person  
 2 is driving or occupying a motor vehicle furnished by the  
 3 employer, the security for payment of basic reparation  
 4 benefits is the security covering the vehicle or, if none,  
 5 the security under which the injured person is a basic  
 6 reparation insured.

7 (3) In all other cases, the following priorities  
 8 apply:

9 (a) the security for payment of basic reparation  
 10 benefits applicable to injury to a basic reparation insured  
 11 is the security under which the injured person is a basic  
 12 reparation insured;

13 (b) the security for payment of basic reparation  
 14 benefits applicable to injury to the driver or other  
 15 occupant of an involved motor vehicle who is not a basic  
 16 reparation insured is the security covering that vehicle;

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

24 (4) If two (2) or more obligations to pay basic  
 25 reparation benefits are applicable to an injury under the

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

10 Section 6. Partial abolition of tort liability. (1)  
 11 Tort liability with respect to accidents occurring in this  
 12 state and arising from the ownership, maintenance, or use of  
 13 a motor vehicle is abolished except as to:

14 (a) liability of the owner of a motor vehicle involved  
 15 in an accident in this state if security covering the  
 16 vehicle was not provided at the time of the accident;

17 (b) liability of a person in the business of  
 18 repairing, servicing, or otherwise maintaining motor  
 19 vehicles arising from a defect in a motor vehicle caused or  
 20 not corrected by an act or omission in repair, servicing, or  
 21 other maintenance of the vehicle in the course of his  
 22 business;

23 (c) liability of a person for intentionally causing  
 24 harm to person or property;

25 (d) liability of a person for harm to property other

1 than a motor vehicle and its contents;

2 (e) liability of a person in the business of parking  
 3 or storing motor vehicles arising in the course of that  
 4 business for harm to a motor vehicle and its contents;

5 (f) damages for any work loss, replacement services  
 6 loss, survivor's economic loss, and survivor's replacement  
 7 services loss, not recoverable as basic reparation benefits  
 8 by reason of the limitation contained in the provisions on  
 9 standard weekly limit on those losses (section 14), that  
 10 occur after the injured person is disabled by the injury for  
 11 more than six (6) months or after his death caused by the  
 12 injury; and

13 (g) damages for noneconomic detriment, but only if the  
 14 accident causes death, significant permanent injury, or  
 15 serious permanent disfigurement or the injured person  
 16 receives needed medical care, including products, services,  
 17 and accommodations the reasonable value of which exceeds  
 18 five thousand dollars (\$5,000).

19 (2) For purposes of this section and the provisions on  
 20 reparation obligor's right of reimbursement and indemnity  
 21 (section 7), a person does not intentionally cause harm  
 22 merely because his act or failure to act is intentional or  
 23 done with his realization that it created a grave risk of  
 24 harm.

25 Section 7. Reparation obligor's rights of

1 reimbursement, subrogation, and indemnity. (1) A  
 2 reparation obligor does not have and may not directly or  
 3 indirectly contract for a right of reimbursement from or  
 4 subrogation to the proceeds of a claim for relief or cause  
 5 of action for noneconomic detriment (section 6 (1) (g)) of a  
 6 recipient of basic or added reparation benefits.

7 (2) Except as provided in subsection (1), whenever a  
 8 person who receives or is entitled to receive basic or added  
 9 reparation benefits for an injury has a claim or cause of  
 10 action against any other person for breach of an obligation  
 11 or duty causing the injury, the reparation obligor is  
 12 subrogated to the rights of the claimant, and has a claim  
 13 for relief or cause of action, separate from that of the  
 14 claimant, to the extent that: elements of damage  
 15 compensated for by basic or added reparation insurance are  
 16 recoverable; and the reparation obligor has paid or become  
 17 obligated to pay accrued or future basic or added reparation  
 18 benefits.

19 (3) A reparation obligor has a right of indemnity  
 20 against a person who has converted a motor vehicle involved  
 21 in an accident, or a person who has intentionally caused  
 22 injury to person or harm to property, for basic and added  
 23 reparation benefits paid to other persons for the injury or  
 24 harm caused by the conduct of that person, for the cost of  
 25 processing claims for those benefits, and for reasonable

1 attorneys' fees and other expenses of enforcing the right of  
 2 indemnity. For purposes of this subsection, a person is not  
 3 a converter if he uses the motor vehicle in the good faith  
 4 belief that he is legally entitled to do so.

5 Section 8. Security covering motor vehicle. (1) This  
 6 state, its political subdivisions, municipal corporations,  
 7 and public agencies shall continuously provide pursuant to  
 8 subsection (4) security for the payment of basic reparation  
 9 benefits in accordance with this act for injury arising from  
 10 maintenance or use of motor vehicles owned by those entities  
 11 and operated with their permission.

12 (2) The United States and its public agencies and any  
 13 other state, its political subdivisions, municipal  
 14 corporations, and public agencies may provide pursuant to  
 15 subsection (4) security for the payment of basic reparation  
 16 benefits in accordance with this act for injury arising from  
 17 maintenance or use of motor vehicles owned by those  
 18 entities and operated with their permission.

19 (3) Except for entities described in subsections (1)  
 20 and (2), every owner of a motor vehicle registered in  
 21 Montana, or operated in Montana by him or with his  
 22 permission, shall continuously provide with respect to the  
 23 motor vehicle while it is either present or registered in  
 24 Montana, and any other person may provide with respect to  
 25 any motor vehicle, by a contract of insurance or by

1 qualifying as a self-insurer, security for the payment of  
 2 basic reparation benefits in accordance with this act and  
 3 security for payment of tort liabilities, arising from  
 4 maintenance or use of the motor vehicle.

5 (4) Security may be provided by a contract of  
 6 insurance or by qualifying as a self-insurer or obligated  
 7 government in compliance with this act.

8 (5) Self-insurance, subject to approval of the office  
 9 of the insurance commissioner, is effected by filing with  
 10 the department in satisfactory form:

11 (a) a continuing undertaking by the owner or other  
 12 appropriate person to pay tort liabilities of basic  
 13 reparation benefits, or both, and to perform all other  
 14 obligations imposed by this act;

15 (b) evidence that appropriate provision exists for  
 16 prompt and efficient administration of all claims, benefits,  
 17 and obligations provided by this act; and

18 (c) evidence that reliable financial arrangements,  
 19 deposits, or commitments exist providing assurance  
 20 substantially equivalent to those afforded by a policy of  
 21 insurance complying with this act, for payment of tort  
 22 liabilities, basic reparation benefits, and all other  
 23 obligations imposed by this act.

24 (6) An entity described in subsection (1) or (2) may  
 25 provide security by lawfully obligating itself to pay basic

1 reparation benefits in accordance with this act.

2 (7) A person providing security pursuant to subsection  
 3 (5) is a "self-insurer". An entity described in subsection  
 4 (1) or (2) that has provided security pursuant to subsection  
 5 (4) is an "obligated government".

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

9 (9) "Basic reparation insurance" includes a contract,  
 10 self-insurance, or other legal means under which the  
 11 obligation to pay basic reparation benefits arises.

12 (10) A motor vehicle may not be registered in this  
 13 state unless evidence satisfactory to the division of motor  
 14 vehicles is furnished that security has been provided as  
 15 required by this section.

16 Section 9. Obligations upon termination of security.  
 17 (1) An owner of a motor vehicle registered in this state  
 18 who ceases to maintain security as required by the  
 19 provisions on security (section 8) shall immediately  
 20 surrender the registration certificate and license plates  
 21 for the vehicle to the division of motor vehicles and may  
 22 not operate or permit operation of the vehicle in this state  
 23 until security has again been provided and proof of the  
 24 security furnished as required by this act.

25 (2) An insurer who has issued a contract of insurance

1 and knows or has reason to believe the contract is for the  
 2 purpose of providing security (section 8 (4)) shall  
 3 immediately give notice to the division of motor vehicles of  
 4 the termination of the insurance.

5 (3) If the office of the insurance commissioner  
 6 withdraws approval of security provided by a self-insurer or  
 7 knows that the conditions for self-insurance have ceased to  
 8 exist, he shall immediately give notice thereof to the  
 9 division of motor vehicles.

10 (4) The requirements of subsections (2) and (3) may be  
 11 waived or modified by rule of the division of motor  
 12 vehicles.

13 Section 10. Included coverages. (1) An insurance  
 14 contract which purports to provide coverage for basic  
 15 reparation benefits or is sold with representation that it  
 16 provides security covering a motor vehicle (section 8) has  
 17 the legal effect of including all coverages required by this  
 18 act.

19 (2) Notwithstanding any contrary provision in it,  
 20 every contract of liability insurance for injury, wherever  
 21 issued, covering ownership, maintenance, or use of a motor  
 22 vehicle, except a contract which provides coverage only for  
 23 liability in excess of required minimum tort liability  
 24 coverage (section 11), includes basic reparation benefit  
 25 coverages and required minimum security for tort liabilities

1 required by this act, while it is in this state, and  
 2 qualifies, as security covering the vehicle.

3 (3) An insurer authorized to transact or transacting  
 4 business in this state may not exclude, in any contract of  
 5 liability insurance for injury, wherever issued, covering  
 6 ownership, maintenance, or use of a motor vehicle, except a  
 7 contract providing coverage only for liability in excess of  
 8 required minimum tort liability coverage under (section 11),  
 9 the basic reparation benefit coverages and required minimum  
 10 security for tort liabilities required by this act, while  
 11 the vehicle is in this state.

12 Section 11. Required minimum tort liability insurance  
 13 and territorial coverage. (1) The requirement of security  
 14 for payment of tort liabilities (section 8) is fulfilled by  
 15 providing:

16 (a) liability coverage of not less than twenty-five  
 17 thousand dollars (\$25,000) for all damages arising out of  
 18 bodily injury sustained by any one person as a result of any  
 19 one accident applicable to each person sustaining injury  
 20 caused by accident arising out of ownership, maintenance,  
 21 use, loading, or unloading, of the secured vehicle;

22 (b) liability coverage of not less than ten thousand  
 23 dollars (\$10,000) for all damages arising out of injury to  
 24 or destruction of property, including the loss of use  
 25 thereof, as a result of any one accident arising out of



1 ownership, maintenance, use, loading, or unloading, of the  
2 secured vehicle; and

3 (c) that the liability coverage applies to accidents  
4 during the contract period in a territorial area not less  
5 than the United States of America, its territories and  
6 possessions, and Canada.

7 (2) Subject to the provisions on approval of terms and  
8 forms (section 18), the requirement of security for payment  
9 of tort liabilities (section 8) may be provided by a  
10 contract the coverage of which is secondary or in excess to  
11 other applicable valid and collectible liability insurance.  
12 To the extent the secondary or excess coverage applies to  
13 liability within the minimum security required by this act,  
14 it must be subject to conditions consistent with the system  
15 of compulsory liability insurance established by this act.

16 Section 12. Calculation of net loss. (1) All  
17 benefits or advantages a person receives or is entitled to  
18 receive because of the injury from social security,  
19 workmen's compensation, and any state-required temporary,  
20 nonoccupational disability insurance are subtracted in  
21 calculating net loss.

22 (2) If a benefit or advantage received to compensate  
23 for loss of income because of injury, whether from basic  
24 reparation benefits or from any source of benefits or  
25 advantages subtracted under subsection (1), is not taxable

1 income, the income tax saving that is attributable to his  
2 loss of income because of injury is subtracted in  
3 calculating net loss. Subtraction may not exceed fifteen  
4 percent (15%) of the loss of income and shall be in a lesser  
5 amount if the claimant furnishes to the insurer reasonable  
6 proof of a lower value of the income tax advantage.

7 Section 13. Standard replacement services loss  
8 exclusion. All replacement services loss sustained on the  
9 date of injury and the first seven (7) days thereafter is  
10 excluded in calculating basic reparation benefits.

11 Section 14. Standard weekly limit on benefits for  
12 certain losses. Basic reparation benefits payable for work  
13 loss, survivor's economic loss, replacement services loss,  
14 and survivor's replacement services loss arising from injury  
15 to one person and attributable to the calendar week during  
16 which the accident causing injury occurs and to each  
17 calendar week thereafter may not exceed two hundred dollars  
18 (\$200). If the injured person's earnings or work are  
19 seasonal or irregular, the weekly limit shall be equitably  
20 adjusted or apportioned on an annual basis.

21 Section 15. Optional deductibles and exclusions. At  
22 appropriately reduced premium rates, basic reparation  
23 insurers shall offer each of the following deductibles and  
24 exclusions, applicable only to claims of basic reparation  
25 insureds and, in case of death of a basic reparation

1 insured, of his survivors:

2 (1) a deductible in the amount of one hundred dollars  
3 (\$100) from all basic reparation benefits otherwise payable,  
4 except that if two (2) or more basic reparation insureds to  
5 whom the deductible is applicable under the contract of  
6 insurance are injured in the same accident, the aggregate  
7 amount of the deductible applicable to all of them shall not  
8 exceed the specified deductible, which amount where  
9 necessary shall be allocated equally among them;

10 (2) an exclusion, in the calculation of net loss, of  
11 ten percent (10%) of work loss and survivor's economic loss;

12 (3) an exclusion, in calculation of net loss, of all  
13 replacement services loss and survivor's replacement  
14 services loss; and

15 (4) a deductible, in the amount of one thousand  
16 dollars (\$1,000) per accident from all basic reparation  
17 benefits otherwise payable for injury to a person which  
18 occurs while he is operating or is a passenger on a  
19 two-wheeled motor vehicle, or other motorcycle type vehicle.

20 Section 16. Property damage exclusion. Basic  
21 reparation benefits do not include benefits for harm to  
22 property.

23 Section 17. Benefits provided by optional added  
24 reparation insurance. (1) Basic reparation insurers may  
25 offer optional added reparation coverages providing other

1 benefits as compensation for injury or harm arising from  
2 ownership, maintenance, or use of a motor vehicle, including  
3 benefits for loss excluded by limits on hospital charges and  
4 funeral, cremation, and burial expenses, loss excluded by  
5 limits on work loss, replacement services loss, survivor's  
6 economic loss, and survivor's replacement services loss,  
7 benefits for harm to property, loss of use of motor  
8 vehicles, and noneconomic detriment. The office of the  
9 insurance commissioner may adopt rules requiring that  
10 specific optional added reparation coverages be offered by  
11 insurers writing basic reparation insurance.

12 (2) Basic reparation insurers shall offer the  
13 following optional added reparation coverages for physical  
14 damage to motor vehicles:

15 (a) a coverage for all collision or upset damage,  
16 subject to a deductible of one hundred dollars (\$100);

17 (b) a coverage for all collision or upset damage to  
18 the extent that the insured has a valid claim in tort  
19 against another identified person or would have had such a  
20 valid claim but for the abolition of tort liability for  
21 damages for harm to motor vehicles (section 6 (1) (d)); and

22 (c) the same coverage as in paragraph (b), but subject  
23 to a deductible of one hundred dollars (\$100).

24 (3) Subject to section 18, basic reparation insurers  
25 may offer other optional added reparation coverages for harm

1 to motor vehicles or their contents, or both, or other like  
2 coverages subject to different deductibles or without  
3 deductibles.

4 (4) An insurer of the insured's choice may write  
5 separate coverages for harm to motor vehicles.

6 (5) All added reparation coverages offered apply to  
7 injuries or harm arising out of accidents and occurrences  
8 during the contract period in a territorial area not less  
9 than the United States, its territories and possessions, and  
10 Canada.

11 Section 18. Approval of terms and forms. Terms and  
12 conditions of contracts and certificates or other evidence  
13 of insurance coverage sold or issued in Montana providing  
14 motor vehicle tort liability, basic and added reparation  
15 insurance coverages, and of forms used by insurers offering  
16 these coverages, are subject to approval and regulation by  
17 the office of the insurance commissioner. The office of the  
18 insurance commissioner shall approve only terms and  
19 conditions consistent with the purposes of this act and fair  
20 and equitable to all persons whose interests may be  
21 affected. The office of the insurance commissioner may  
22 limit by rule the variety of coverages available in order to  
23 give insurance purchasers reasonable opportunity to compare  
24 the cost of insuring with various insurers.

25 Section 19. Assigned claims. (1) A person entitled

1 to basic reparation benefits because of injury covered by  
2 this act may obtain them through the assigned claims plan  
3 established pursuant to the provisions relating thereto  
4 (section 20) and in accordance with the provisions on time  
5 for presenting claims under the assigned claims plan  
6 (section 21) if:

7 (a) basic reparation insurance is not applicable to  
8 the injury for a reason other than those specified in the  
9 provisions on converted vehicles (section 22) and  
10 intentional injuries (section 23);

11 (b) basic reparation insurance is not applicable to  
12 the injury because the injured person converted a motor  
13 vehicle while he was under fifteen (15) years of age;

14 (c) basic reparation insurance applicable to the  
15 injury cannot be identified;

16 (d) basic reparation insurance applicable to the  
17 injury is inadequate to provide the contracted-for benefits  
18 because of financial inability of a reparation obligor to  
19 fulfill its obligation; or

20 (e) a claim for basic reparation benefits is rejected  
21 by a reparation obligor for a reason other than that the  
22 person is not entitled under this act to the basic  
23 reparation benefits claimed.

24 (2) If a claim qualifies for assignment under  
25 paragraphs (c), (d), or (e) of subsection (1), the assigned

1 claims bureau or any reparation obligor to whom the claim is  
 2 assigned is subrogated to all rights of the claimant against  
 3 any reparation obligor, its successor in interest or  
 4 substitute, legally obligated to provide basic reparation  
 5 benefits to the claimant, for basic reparation benefits  
 6 provided by the assignee.

7 (3) Except in case of a claim assigned under  
 8 subsection (1) (d), if a person receives basic reparation  
 9 benefits through the assigned claims plan, all benefits or  
 10 advantages he receives or is entitled to receive as a result  
 11 of the injury, other than by way of succession at death,  
 12 death benefits from life insurance or in discharge of  
 13 familial obligations of support, are subtracted in  
 14 calculating net loss.

15 (4) An assigned claim of a person who does not comply  
 16 with the requirement of providing security (section 8 (c)  
 17 and (a)) for the payment of basic reparation benefits, or of  
 18 a person as to whom the security is invalidated because of  
 19 his fraud or willful misconduct, is subject to all the  
 20 optional deductibles and exclusions to the maximum required  
 21 to be offered under this act (section 15 (1)) and, a  
 22 deduction in the amount of five hundred dollars (\$500) for  
 23 each year or part thereof of the period of his continuous  
 24 failure to provide security, applicable to any benefits  
 25 otherwise payable.

1 Section 20. Assigned claims plan. (1) Reparation  
 2 obligors providing basic reparation insurance in this state  
 3 may organize and maintain, subject to approval and  
 4 regulation by the office of the insurance commissioner, an  
 5 assigned claims bureau and an assigned claims plan and adopt  
 6 rules for their operation and for assessment of costs on a  
 7 fair and equitable basis consistent with this act. If they  
 8 do not organize and continuously maintain an assigned claims  
 9 bureau and an assigned claims plan in a manner considered by  
 10 the office of the insurance commissioner to be consistent  
 11 with this act, the insurance commissioner shall organize and  
 12 maintain an assigned claims bureau and an assigned claims  
 13 plan. Each reparation obligor providing basic reparation  
 14 insurance in this state shall participate in the assigned  
 15 claims bureau and the assigned claims plan. Costs incurred  
 16 shall be allocated fairly and equitably among the reparation  
 17 obligors.

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

1 obligations, as if the assignee had written the applicable  
2 reparation insurance, undertaken the self-insurance, or  
3 lawfully obligated itself to pay reparation benefits.

4 Section 21. Time for presenting claims under assigned  
5 claims plan. (1) Except as provided in subsection (2), a  
6 person authorized to obtain basic reparation benefits  
7 through the assigned claims plan shall notify the bureau of  
8 his claim within the time that would have been allowed for  
9 commencing an action for those benefits, under section 29,  
10 if there had been identifiable coverage in effect and  
11 applicable to the claim.

12 (2) If timely action for basic reparation benefits is  
13 commenced against a reparation obligor who is unable to  
14 fulfill his obligations because of financial inability, a  
15 person authorized to obtain basic reparation benefits  
16 through the assigned claims plan shall notify the bureau of  
17 his claim within six (6) months after discovery of the  
18 financial inability.

19 Section 22. Converted motor vehicles. Except as  
20 provided for assigned claims (section 19 (1) (b)), a person  
21 who converts a motor vehicle is disqualified from basic or  
22 added reparation benefits, including benefits otherwise due  
23 him as a survivor, from any source other than an insurance  
24 contract under which the converter is a basic or added  
25 reparation insured, for injuries arising from maintenance or

1 use of the converted vehicle. If the converter dies from  
2 the injuries, his survivors are not entitled to basic or  
3 added reparation benefits from any source other than an  
4 insurance contract under which the converter is a basic  
5 reparation insured. For the purpose of this section, a  
6 person is not a converter if he uses the motor vehicle in  
7 the good faith belief that he is legally entitled to do so.

8 Section 23. Intentional injuries. A person  
9 intentionally causing or attempting to cause injury to  
10 himself or another person is disqualified from basic or  
11 added reparation benefits for injury arising from his acts,  
12 including benefits otherwise due him as a survivor. If a  
13 person dies as a result of intentionally causing or  
14 attempting to cause injury to himself, his survivors are not  
15 entitled to basic or added reparation benefits for loss  
16 arising from his death. A person intentionally causes or  
17 attempts to cause injury if he acts or fails to act for the  
18 purpose of causing injury or with knowledge that injury is  
19 substantially certain to follow. A person does not  
20 intentionally cause or attempt to cause injury merely  
21 because his act or failure to act is intentional or done  
22 with his realization that it creates a grave risk of causing  
23 injury, or if the act or omission causing the injury is for  
24 the purpose of averting bodily harm to himself or another  
25 person.

1           Section 24. Reparation obligor's duty to respond to  
 2 claims. (1) Basic and added reparation benefits are payable  
 3 monthly as loss accrues. Loss accrues not when injury  
 4 occurs, but as work loss, replacement services loss,  
 5 survivor's economic loss, survivor's replacement services  
 6 loss, or allowable expense is incurred. Benefits are  
 7 overdue if not paid within thirty (30) days after the  
 8 reparation obligor receives reasonable proof of the fact and  
 9 amount of loss realized, unless the reparation obligor  
 10 elects to accumulate claims for periods not exceeding  
 11 thirty-one (31) days and pays them within fifteen (15) days  
 12 after the period of accumulation. If reasonable proof is  
 13 supplied as to only part of a claim, and the part totals one  
 14 hundred dollars (\$100) or more, the part is overdue if not  
 15 paid within the time provided by this section. Allowable  
 16 expense benefits may be paid by the reparation obligor  
 17 directly to persons supplying products, services, or  
 18 accommodations to the claimant.

19           (2) Overdue payments bear interest at the rate of  
 20 eighteen percent (18%) a year.

21           (3) A claim for basic or added reparation benefits  
 22 shall be paid without deduction for the benefits which are  
 23 to be subtracted pursuant to the provisions on calculation  
 24 of net loss (section 12 (1)) and to the exclusions  
 25 authorized under section 15 (2) (a), if these benefits have

1 not been paid to the claimant before the reparation benefits  
 2 are overdue or the claim is paid. The reparation obligor is  
 3 entitled to reimbursement from the person obligated to make  
 4 the payments or from the claimant who actually received the  
 5 payments.

6           (4) A reparation obligor may bring an action to  
 7 recover benefits which are not payable, but are in fact  
 8 paid, because of an intentional misrepresentation of a  
 9 material fact, upon which the reparation obligor relies, by  
 10 the insured or by a person providing an item of allowable  
 11 expense. The action may be brought only against the person  
 12 providing the item of allowable expense, unless the insured  
 13 has intentionally misrepresented the facts or knew of the  
 14 misrepresentation. An insurer may offset amounts he is  
 15 entitled to recover from the insured under this subsection  
 16 against any basic or added reparation benefits otherwise  
 17 due.

18           (5) A reparation obligor who rejects a claim for basic  
 19 reparation benefits shall give to the claimant prompt  
 20 written notice of the rejection, specifying the reason. If  
 21 a claim is rejected for a reason other than the person is  
 22 not entitled to the basic reparation benefits claimed, the  
 23 written notice shall inform the claimant that he may file  
 24 his claim with the assigned claims bureau and shall give the  
 25 name and address of the bureau.

1 Section 25. Fees of claimant's attorney. (1) If  
 2 overdue benefits are recovered in an action against the  
 3 reparation obligor or paid by the reparation obligor after  
 4 receipt of notice of the attorney's representation, a  
 5 reasonable attorney's fee for advising and representing a  
 6 claimant on a claim or in an action for basic reparation  
 7 benefits shall be paid by the reparation obligor to the  
 8 attorney. No part of the fee for representing the claimant  
 9 in connection with these benefits is a charge against  
 10 benefits otherwise due the claimant. All or part of the fee  
 11 may be deducted from the benefits otherwise due the claimant  
 12 if any significant part of his claim for benefits was  
 13 fraudulent or so excessive as to have no reasonable  
 14 foundation.

15 (2) In any action brought against the insured by the  
 16 reparation obligor, the court may award the insured's  
 17 attorney a reasonable attorney's fee for defending the  
 18 action.

19 Section 26. Fees of reparation obligor's attorney. A  
 20 reparation obligor shall be allowed a reasonable attorney's  
 21 fee for defending a claim for benefits that is fraudulent or  
 22 so excessive as to have no reasonable foundation. The fee  
 23 may be treated as an offset to benefits due or which  
 24 thereafter accrue. The reparation obligor may recover from  
 25 the claimant any part of the fee not offset or otherwise

1 paid.

2 Section 27. Lump sum and installment settlement. (1)  
 3 If the reasonable anticipated net loss subject to the  
 4 settlement does not exceed two thousand five hundred dollars  
 5 (\$2,500), a claim of an individual for basic or added  
 6 reparation benefits arising from injury, including a claim  
 7 for future loss other than allowable expense, may be  
 8 discharged by a settlement for an agreed amount payable in  
 9 installment, or in a lump sum. If the reasonable  
 10 anticipated net loss subject to the settlement exceeds two  
 11 thousand five hundred dollars (\$2,500), the settlement may  
 12 be made with approval of the district court upon a finding  
 13 by the court that the settlement is in the best interest of  
 14 the claimant. Upon approval of the settlement, the court  
 15 may make appropriate orders concerning the safeguarding and  
 16 disposing of the proceeds of the settlement. A settlement  
 17 agreement may also provide that the reparation obligor shall  
 18 pay the reasonable cost of appropriate medical treatment or  
 19 procedures, with reference to a specified condition, to be  
 20 performed in the future.

21 (2) A settlement agreement for an amount payable in  
 22 installments may be modified as to amounts to be paid in the  
 23 future, if it is shown that a material and substantial  
 24 change of circumstances has occurred or that there is newly  
 25 discovered evidence concerning the claimant's physical

1 condition, loss, or rehabilitation, which could not have  
2 been known previously or discovered in the exercise of  
3 reasonable diligence.

4 (3) A settlement agreement may be set aside if it is  
5 procured by fraud or its terms are unconscionable.

6 Section 28. Judgments for future benefits. (1) In an  
7 action by a claimant, a lump sum or installment judgment may  
8 be entered for basic or added reparation benefits, other  
9 than allowable expense, that would accrue after the date of  
10 the award. A judgment for benefits for allowable expense  
11 that would accrue after the date of the award may not be  
12 entered. In an action for reparation benefits or to enforce  
13 rights under this act, however, the court may enter a  
14 judgment declaring that the reparation obligor is liable for  
15 the reasonable cost of appropriate medical treatment or  
16 procedures, with reference to a specified condition, to be  
17 performed in the future if it is ascertainable or foreseeable  
18 that treatment will be required as a result of the injury  
19 for which the claim is made.

20 (2) At the instance of the claimant, a court may  
21 commute future losses, other than allowable expense, to a  
22 fixed sum, but only upon finding of one or more of the  
23 following:

24 (a) that the award will promote the health and  
25 contribute to the rehabilitation of the injured person;

1 (b) that the present value of all benefits other than  
2 allowable expense to accrue thereafter does not exceed one  
3 thousand dollars (\$1,000); or

4 (c) that the parties consent and the award is in the  
5 best interest of the claimant.

6 (3) An installment judgment for benefits, other than  
7 allowable expense, that will accrue thereafter may be  
8 entered only for a period as to which the court can  
9 reasonably determine future net loss. An installment  
10 judgment may be modified as to amounts to be paid in the  
11 future upon a finding that a material and substantial change  
12 of circumstances has occurred, or that there is newly  
13 discovered evidence concerning the claimant's physical  
14 condition, loss, or rehabilitation, which could not have  
15 been known previously or discovered in the exercise of  
16 reasonable diligence.

17 (4) The court may make appropriate orders concerning  
18 the safeguarding and disposing of funds collected under the  
19 judgment.

20 (5) Appeals from a judgment for basic or added  
21 reparation benefits may be taken in accordance with rules of  
22 civil procedure of this state.

23 Section 29. Limitation of actions. (1) If no basic  
24 or added reparation benefits have been paid for loss arising  
25 otherwise than from death, an action therefor may be



1 commenced not later than two (2) years after the injured  
 2 person suffers the loss and either knows, or in the exercise  
 3 of reasonable diligence should know, that the loss was  
 4 caused by the accident, or not later than four (4) years  
 5 after the accident, whichever is earlier. If basic or added  
 6 reparation benefits have been paid for loss arising  
 7 otherwise than from death, an action for further benefits,  
 8 other than survivor's benefits, by either the same or  
 9 another claimant, may be commenced not later than two (2)  
 10 years after the last payment of benefits.

11 (2) If no basic or added reparation benefits have been  
 12 paid to the decedent or his survivors, an action for  
 13 survivor's benefits may be commenced not later than one (1)  
 14 year after the death or four (4) years after the accident  
 15 from which death results, whichever is earlier. If  
 16 survivor's benefits have been paid to any survivor, an  
 17 action for further survivor's benefits by either the same or  
 18 another claimant may be commenced not later than two (2)  
 19 years after the last payment of benefits. If basic or added  
 20 reparation benefits have been paid for loss suffered by an  
 21 injured person before his death resulting from the injury,  
 22 an action for survivor's benefits may be commenced not later  
 23 than one (1) year after the death or four (4) years after  
 24 last payment of benefits, whichever is earlier.

25 (3) If timely action for basic reparation benefits is

1 commenced against a reparation obligor and benefits are  
 2 denied because of a determination that the reparation  
 3 obligor's coverage is not applicable to the claimant under  
 4 the provisions on priority of applicability of basic  
 5 reparation security (section 5), an action against the  
 6 applicable reparation obligor or the assigned claims bureau  
 7 may be commenced not later than sixty (60) days after the  
 8 determination becomes final or the last date on which the  
 9 action could otherwise have been commenced, whichever is  
 10 later.

11 (4) Except as subsections (1), (2), or (3) prescribe a  
 12 longer period, an action by a claimant on an assigned claim  
 13 which has been timely presented (section 21) may be  
 14 commenced not later than sixty (60) days after the claimant  
 15 receives written notice of rejection of the claim by the  
 16 reparation obligor to which it was assigned.

17 (5) A calendar month during which a person does not  
 18 suffer loss for which he is entitled to basic or added  
 19 reparation benefits is not a part of the time limited for  
 20 commencing an action, except that the months excluded for  
 21 this reason may not exceed one hundred twenty (120).

22 (6) If a person entitled to basic or added reparation  
 23 benefits is under legal disability when the right to bring  
 24 an action for the benefits first accrues, the period of his  
 25 disability is not a part of the time limited for

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1 commencement of the action.

2 Section 30. Assignment of benefits. An assignment of  
3 or agreement to assign any right to benefits under this act  
4 for loss accruing in the future is unenforceable except as  
5 to benefits for:

6 (1) work loss to secure payment of alimony,  
7 maintenance, or child support; and

8 (2) allowable expense to the extent the benefits are  
9 for the cost of products, services, or accommodations  
10 provided or to be provided by the assignee.

11 Section 31. Deduction and set-off. Except as otherwise  
12 provided in this act, basic reparation benefits shall be  
13 paid without deduction or set-off.

14 Section 32. Exemption of benefits. (1) Basic or  
15 added reparation benefits for allowable expense are exempt  
16 from garnishment, attachment, execution, and any other  
17 process or claim, except upon a claim of a creditor who has  
18 provided products, services, or accommodations to the extent  
19 benefits are for allowable expense for those products,  
20 services, or accommodations.

21 (2) Basic reparation benefits other than those for  
22 allowable expense are exempt from garnishment, attachment,  
23 execution, and any other process or claim to the extent that  
24 wages or earnings are exempt under any applicable law  
25 exempting wages or earnings from process or claims.

1 Section 33. Mental or physical examinations. (1) If  
2 the mental or physical condition of a person is material to  
3 a claim for past or future basic or added reparation  
4 benefits, the reparation obligor may petition the district  
5 court for an order directing the person to submit to a  
6 mental or physical examination by a physician. Upon notice  
7 to the person to be examined and all persons having an  
8 interest, the court may make the order for good cause shown.  
9 The order shall specify the time, place, manner, conditions,  
10 scope of the examination, and the physician by whom it is to  
11 be made.

12 (2) If requested by the person examined, the  
13 reparation obligor causing a mental or physical examination  
14 to be made shall deliver to the person examined a copy of a  
15 detailed written report of the examining physician setting  
16 out his findings, including results of all tests made,  
17 diagnoses, and conclusions, and reports of earlier  
18 examinations of the same conditions. By requesting and  
19 obtaining a report of the examination ordered or by taking  
20 the deposition of the physician, the person examined waives  
21 any privilege he may have, in relation to the claim for  
22 basic or added reparation benefits, regarding the testimony  
23 of every other person who has examined or may thereafter  
24 examine him respecting the same condition. This subsection  
25 does not preclude discovery of a report of an examining

1 physician, taking a deposition of the physician, or other  
2 discovery procedures in accordance with any rule of court or  
3 other provision of law. This subsection applies to  
4 examinations made by agreement of the person examined and  
5 the reparation obligor, unless the agreement provides  
6 otherwise.

7 (3) If any person refuses to comply with an order  
8 entered under this section the court may make any just order  
9 as to the refusal but may not find a person in contempt for  
10 failure to submit to a mental or physical examination.

11 Section 34. Disclosure of facts about injured person.

12 (1) Upon request of a basic or added reparation claimant or  
13 reparation obligor, information relevant to a claim for  
14 basic or added reparation benefits shall be disclosed as  
15 follows:

16 (a) An employer shall furnish a statement of the work  
17 record and earnings of an employee upon whose injury the  
18 claim is based. The statement shall cover the period  
19 specified by the claimant or reparation obligor making the  
20 request and may include a reasonable period before, and the  
21 entire period after, the injury.

22 (b) The claimant shall deliver to the reparation  
23 obligor a copy of every written report, previously or  
24 thereafter made, relevant to the claim, and available to  
25 him, concerning any medical treatment or examination of a

1 person upon whose injury the claim is based and the names  
2 and addresses of physicians and medical care facilities  
3 rendering diagnoses or treatment in regard to the injury or  
4 to a relevant past injury, and the claimant shall authorize  
5 the reparation obligor to inspect and copy relevant records  
6 of physicians and of hospitals, clinics, and other medical  
7 facilities.

8 (c) A physician or hospital, clinic, or other medical  
9 facility furnishing examinations, services, or  
10 accommodations to an injured person in connection with a  
11 condition alleged to be connected with an injury upon which  
12 a claim is based, upon authorization of the claimant, shall  
13 furnish a written report of the history, condition,  
14 diagnoses, medical tests, treatment, and dates and cost of  
15 treatment of the injured person, and permit inspection and  
16 copying of all records and reports as to the history,  
17 condition, treatment, and dates and cost of treatment.

18 (2) Any person other than the claimant providing  
19 information under this section may charge the person  
20 requesting the information for the reasonable cost of  
21 providing it.

22 (3) In case of dispute as to the right of a claimant  
23 or reparation obligor to discover information required to be  
24 disclosed, the claimant or reparation obligor may petition  
25 the district court for an order for discovery including the

1 right to take written or oral depositions. Upon notice to  
 2 all persons having an interest, the order may be made for  
 3 good cause shown. It shall specify the time, place, manner,  
 4 conditions, and scope of the discovery. To protect against  
 5 annoyance, embarrassment, or oppression, the court may enter  
 6 an order refusing discovery or specifying conditions of  
 7 discovery and directing payment of costs and expenses of the  
 8 proceeding, including reasonable attorneys' fees.

9 Section 35. Rehabilitation treatment and occupational  
 10 training. (1) A basic reparation obligor is responsible for  
 11 the cost of a procedure or treatment for rehabilitation or a  
 12 course of rehabilitative occupational training if the  
 13 procedure, treatment, or training is reasonable and  
 14 appropriate for the particular case, its cost is reasonable  
 15 in relation to its probable rehabilitative effects, and it  
 16 is likely to contribute substantially to rehabilitation,  
 17 even though it will not enhance the injured person's earning  
 18 capacity.

19 (2) An injured person who has undertaken a procedure  
 20 or treatment for rehabilitation or a course of  
 21 rehabilitative occupational training, other than medical  
 22 rehabilitation procedure or treatment, shall notify the  
 23 basic reparation obligor that he has undertaken the  
 24 procedure, treatment, or training within sixty (60) days  
 25 after an allowable expense exceeding one thousand dollars

1 (\$1,000) has been incurred for the procedure, treatment, or  
 2 training, unless the basic reparation obligor knows or has  
 3 reason to know of the undertaking. If the injured person  
 4 does not give the required notice within the prescribed  
 5 time, the basic reparation obligor is responsible only for  
 6 one thousand dollars (\$1,000) or the expense incurred after  
 7 the notice is given and within the sixty (60) days before  
 8 the notice, whichever is greater, unless failure to give  
 9 timely notice is the result of excusable neglect.

10 (3) If the injured person notifies the reparation  
 11 obligor of a proposed specified procedure or treatment for  
 12 rehabilitation, or a proposed specified course of  
 13 rehabilitative occupational training, and the reparation  
 14 obligor does not promptly thereafter accept responsibility  
 15 for its cost, the injured person may move the court in an  
 16 action to adjudicate his claim, or, if no action is pending,  
 17 bring an action in the district court, for a determination  
 18 that the reparation obligor is responsible for its cost. A  
 19 reparation obligor may move the court in an action to  
 20 adjudicate the injured person's claim, or, if no action is  
 21 pending, bring an action in the district court, for a  
 22 determination that it is not responsible for the cost of a  
 23 procedure, treatment, or course of training which the  
 24 injured person has undertaken or proposes to undertake. A  
 25 determination by the court that the reparation obligor is

1 not responsible for the cost of a procedure, treatment, or  
 2 course of training is not res judicata as to the propriety  
 3 of any other proposal or the injured person's right to other  
 4 benefits. This subsection does not preclude an action by  
 5 the basic reparation obligor or the injured person for  
 6 declaratory relief under any other law of Montana, nor an  
 7 action by the injured person to recover basic reparation  
 8 benefits.

9 (4) If an injured person unreasonably refuses to  
 10 accept a rehabilitative procedure, treatment, or course of  
 11 occupational training, a basic reparation obligor may move  
 12 the court, in an action to adjudicate the injured person's  
 13 claim, or if no action is pending, may bring an action in  
 14 the district court, for a determination that future benefits  
 15 will be reduced or terminated to limit recovery of benefits  
 16 to an amount equal to benefits that in reasonable  
 17 probability would be due if the injured person had submitted  
 18 to the procedure, treatment, or training, and for other  
 19 reasonable orders. In determining whether an injured person  
 20 has reasonable ground for refusal to undertake the  
 21 procedure, treatment, or training, the court shall consider  
 22 all relevant factors, including the risks to the injured  
 23 person, the extent of the probable benefit, the place where  
 24 the procedure, treatment, or training is offered, the extent  
 25 to which the procedure, treatment, or training is recognized

1 as standard and customary, and whether the imposition of  
 2 sanctions because of the person's refusal would abridge his  
 3 right to the free exercise of his religion.

4 Section 36. Availability of insurance. (1) The  
 5 office of insurance commissioner shall establish and  
 6 implement or approve and supervise a plan assuring that  
 7 liability and basic and added reparation insurance for motor  
 8 vehicles will be conveniently and expeditiously afforded,  
 9 subject only to payment or provisions for payment of the  
 10 premium, to all applicants for insurance required by this  
 11 act to provide security for payment of tort liabilities and  
 12 basic reparation benefits and who cannot conveniently obtain  
 13 insurance through ordinary methods at rates not in excess of  
 14 those applicable to applicants under the plan. The plan may  
 15 be by assignment of applicants among insurers, pooling,  
 16 other joint insuring or reinsuring arrangement, or any other  
 17 method that will reasonably accomplish the purposes of this  
 18 section, including any arrangement or undertaking by  
 19 insurers that results in all applicants being conveniently  
 20 afforded the insurance coverages on reasonable and not  
 21 unfairly discriminatory terms through ordinary markets.

22 (2) The plan shall make available optional added  
 23 reparation and tort liability coverages and other contract  
 24 provisions the office of insurance commissioner determines  
 25 are reasonably needed by applicants and are commonly

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1 afforded in voluntary markets. The plan shall provide for  
2 the availability of financing or installment payments of  
3 premiums on reasonable and customary terms and conditions.

4 (3) All insurers authorized in the state to write  
5 motor vehicle liability, basic reparation, or optional added  
6 reparation coverages the office of insurance commissioner  
7 requires to be offered under subsection (2), shall  
8 participate in the plan. The plan shall provide for  
9 equitable apportionment, among all participating insurers  
10 writing any insurance coverage required under the plan, of  
11 the financial burdens of insurance provided to applicants  
12 under the plan and costs of operation of the plan.

13 (4) Subject to supervision and approval of the office  
14 of insurance commissioner, insurers may consult and agree  
15 with each other and with other appropriate persons as to the  
16 organization, administration, and operation of the plan and  
17 as to rates and rate modifications for insurance coverages  
18 provided under the plan. Rates or rate modifications  
19 adopted or charged for insurance coverages provided under  
20 the plan shall be first adopted or approved by the office of  
21 insurance commissioner and be reasonable and not unfairly  
22 discriminatory among applicants for insurance under the  
23 plan.

24 (5) To carry out the objectives of this section the  
25 office of insurance commissioner may adopt rules, make

1 orders, enter into agreements with other governmental and  
2 private entities and persons, and form and operate or  
3 authorize the formation and operation of bureaus and other  
4 legal entities.

5 Section 37. Termination or modification of insurance  
6 or insurer. (1) This section applies only to contracts of  
7 insurance providing security under this act (section 8) for  
8 a motor vehicle which is registered in this state and is not  
9 one of five (5) or more motor vehicles under common  
10 ownership insured under a single insuring agreement.

11 (2) Except as permitted in subsection (3), any  
12 termination of insurance by an insurer, including any  
13 refusal by the insurer to renew the insurance at the  
14 expiration of its term and any modification by the insurer  
15 of the terms and conditions of insurance unfavorable to the  
16 insured, is ineffective, unless:

17 (a) written notice of intention to modify, not to  
18 renew, or otherwise to terminate the insurance has been  
19 mailed or delivered to the insured at least twenty (20) days  
20 before the effective date of the modification, expiration,  
21 or other termination of the insurance, and

22 (b) the insurer has expressly stipulated in the  
23 insuring agreement either that the insurance is for a stated  
24 term of at least one (1) year after the inception of  
25 coverage and may not be modified or terminated during the

1 term; or, if there is no stated term or the insurance is for  
2 a term of less than one (1) year, the insurance may be  
3 modified, not renewed, or otherwise terminated by the  
4 insurer only at specified dates or intervals which may not  
5 be less than one (1) year after the inception of coverage or  
6 thereafter less than one (1) year apart.

7 (3) If otherwise lawfully entitled to do so and  
8 written notice of termination is mailed or delivered to the  
9 insured at least fifteen (15) days before the effective date  
10 of the termination, an insurer may terminate insurance as  
11 follows:

12 (a) by cancellation or refusal to renew at any time  
13 within seventy-five (75) days after the inception of  
14 coverage, or

15 (b) for nonpayment of premium when due.

16 (4) An insurer who has canceled, refused to renew, or  
17 otherwise terminated insurance shall mail or deliver to the  
18 insured, within ten (10) days after receipt of a written  
19 request, a statement of the reasons for the cancellation,  
20 refusal to renew, or other termination of the insurance  
21 coverage.

22 (5) For purposes of this section only:

23 (a) "nonpayment of premium when due" includes the  
24 nonpayment when due of any installment of premium or of any  
25 financial obligation to any person who has financed the

1 payment of the premium under any premium finance plan,  
2 agreement, or arrangement; and

3 (b) a cancellation or refusal to renew by or at the  
4 direction of any person acting pursuant to any power or  
5 authority under any premium finance plan, agreement, or  
6 arrangement, whether or not with power of attorney or  
7 assignment from the insured, constitutes a cancellation or  
8 refusal to renew by the insurer.

9 (6) Except as otherwise stated in subsection (5), this  
10 section does not limit or apply to any termination,  
11 modification, or cancellation of the insurance, or to any  
12 suspension of insurance coverage, by or at the request of  
13 the insured.

14 (7) This section does not affect any right an insurer  
15 has under other law to rescind or otherwise terminate  
16 insurance because of fraud or other willful misconduct of  
17 the insured at the inception of the insuring transaction or  
18 the right of either party to reform the contract on the  
19 basis of mutual mistake of fact.

20 (8) An insurer, his authorized agents and employees,  
21 and any person furnishing information upon which he has  
22 relied, are not liable for any statement made in good faith  
23 pursuant to subsection (4).

24 Section 38. Penalties. An owner of a motor vehicle  
25 who operates the vehicle or permits it to be operated in

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1 this state when he knows or should know that he has failed  
2 to comply with the requirement that he provide security  
3 covering the vehicle (section 8) is guilty of a misdemeanor  
4 and upon conviction may be fined not more than three hundred  
5 dollars (\$300) or imprisoned for not more than ninety (90)  
6 days, or both.

7 Section 39. Equitable allocation of burdens among  
8 insurers. (1) Reparation obligors paying basic or added  
9 reparation benefits and owners of motor vehicles suffering  
10 uninsured physical damage to the vehicles are entitled to  
11 proportionate reimbursements from other reparation obligors  
12 in order that the allocation of the financial burden of  
13 losses will be reasonably consistent with the propensities  
14 of different vehicles to affect probability and severity of  
15 injury to persons or physical damage to vehicles, because  
16 the vehicles are of different weight or have different  
17 devices for the protection of occupants, other different  
18 characteristics, or different regular uses. Reparation  
19 obligors paying basic or added reparation benefits for loss  
20 arising from injury to persons, and self-insurers who are  
21 natural persons bearing equivalent losses arising from their  
22 own injuries, are entitled to proportionate reimbursement  
23 from basic reparation obligors of other involved vehicles.  
24 Insurers paying added reparation benefits for physical  
25 damage to vehicles and owners of motor vehicles suffering

1 uninsured physical damage to the vehicles are entitled to  
2 proportionate reimbursement from reparation obligors  
3 providing property damage liability coverage on other  
4 involved vehicles.

5 (2) Reparation obligors shall maintain in accordance  
6 with the rules of the office of insurance commissioner  
7 statistical records from which can be determined the  
8 propensities of different vehicles to affect probability and  
9 severity of injury to persons and physical damage to  
10 vehicles.

11 (3) When the office of insurance commissioner  
12 determines that adequate supporting information is available  
13 he may establish by rule and maintain a system under which  
14 rights of reimbursement are determined through pooling,  
15 reinsurance, or other form of reallocation procedure in lieu  
16 of case-by-case reimbursement. The system may apply to all  
17 reparation obligors or all reparation obligors except those  
18 who are parties to an agreement entered into under this  
19 subsection and approved by the office of insurance  
20 commissioner. Two (2) or more reparation obligors, with  
21 approval of the office, may enter into an agreement for  
22 settlement of their rights of proportionate reimbursement  
23 through a system of pooling, reinsurance, or other  
24 reallocation procedure in lieu of case-by-case  
25 reimbursement.



1 (4) The office of insurance commissioner may not  
2 approve or establish case-by-case proportionate  
3 reimbursement on the basis of fault in cases involving only  
4 privately owned passenger motor vehicles designed to carry  
5 ten (10) or fewer passengers.

6 (5) All claims for case-by-case proportionate  
7 reimbursement between insurers, if not settled by agreement,  
8 shall be submitted to binding intercompany arbitration in  
9 accordance with the arbitration laws of this state.

10 Section 40. Allocation of burdens until system  
11 established. If, in a particular case, there is no  
12 applicable system of proportionate reimbursement as  
13 authorized by the provisions on equitable allocation of  
14 burdens among insurers (section 39 (3)) and the office of  
15 the insurance commissioner has not adopted by rule other  
16 criteria for proportionate reimbursement consistent with  
17 those provisions (section 39 (1)), the following standards  
18 for case-by-case proportionate reimbursement apply:

19 (1) In accidents involving motor vehicles in different  
20 weight classes, burdens of losses shall be adjusted among  
21 reparation obligors and owners of the vehicles in accordance  
22 with this section. Adjustments apply to burdens of losses  
23 of basic and added reparation benefits and to burdens of  
24 losses of physical damage to the vehicles.

25 (2) The office of insurance commissioner shall adopt

1 rules classifying motor vehicles into a number of classes  
2 according to weight, including cargo capacity. All  
3 passenger vehicles weighing less than five thousand (5,000)  
4 pounds and other vehicles weighing less than four thousand  
5 (4,000) pounds apart from cargo capacity shall be included  
6 in a single class. For the purposes of this section, a  
7 vehicle in this class is a "low-weight vehicle". The office  
8 of insurance commissioner shall assign by rule to each  
9 class, except the low-weight class, a number of percentages  
10 determined as hereinafter provided. The highest percentage  
11 for a class applies to accidents between vehicles in that  
12 class and low-weight vehicles. Other percentages apply to  
13 accidents between vehicles of each lighter weight class and  
14 vehicles of the class to which the percentage is assigned.

15 (3) In an accident involving a vehicle of a lighter  
16 class and a vehicle of a heavier class, a proportion of  
17 costs which would otherwise fall on the owner of the lighter  
18 vehicle on the reparation obligors paying or obligated to  
19 pay added reparation benefits for physical damage to the  
20 lighter vehicle on basic or added reparation benefits for  
21 injury to the owner, driver, or other occupant of the  
22 lighter vehicle, is imposed upon the reparation obligor of  
23 the heavier vehicle. The proportion of costs to be  
24 transferred is the percentage assigned under  
25 subsection (2).

1 (4) Percentages assigned under subsection (2) shall be  
 2 based on evidence of the average increase in severity of  
 3 occupant injury and vehicle damage sustained by vehicles of  
 4 the various lighter classes in accidents involving the class  
 5 of heavier vehicles to which the percentage is assigned.  
 6 Percentages shall be set to provide that reparation obligors  
 7 and owners of vehicles shall bear, on the average, the costs  
 8 which would result from accidents involving other vehicles  
 9 of the same class and that reparation obligors and owners of  
 10 vehicles in each heavier class shall have transferred to  
 11 them the percentages of costs which on the average arise  
 12 from the greater weight of vehicles of their class.

13 (5) Until the office of insurance commissioner, in  
 14 accordance with subsection (2), has adopted rules  
 15 classifying motor vehicles into classes according to weight  
 16 and assigning percentages to each class, the percentage  
 17 presumptively applying between a low-weight vehicle and a  
 18 vehicle not a low-weight vehicle, or between two (2)  
 19 vehicles not low-weight vehicles, shall be determined by  
 20 subtracting the weight of the lighter vehicle from the  
 21 weight of the heavier vehicle, including cargo capacity,  
 22 dividing the difference by the combined weight of the  
 23 vehicles, and multiplying by one hundred (100) to convert to  
 24 percentage. However, another percentage applies if a party  
 25 claiming or defending against a claim for reimbursement

1 under this subsection proves that the other percentage is  
 2 more consistent with allocating the financial burden of  
 3 losses according to the propensities of vehicles of the  
 4 different classes to affect probability and severity of  
 5 injury to persons or physical damage to vehicles.

6 (6) In accidents involving more than two (2) vehicles  
 7 each lighter vehicle shall have transferred from it to  
 8 reparation obligors of the heavier vehicles involved the  
 9 percentage of cost designated for transfer to the heaviest  
 10 of those vehicles. Reparation obligors of the heavier  
 11 vehicles shall contribute to the transferred cost in  
 12 proportion to the respective percentages designated for them  
 13 in accidents with vehicles of the class of the lighter  
 14 vehicle from which the cost is transferred.

15 Section 41. Rules. The office of insurance  
 16 commissioner may adopt rules to provide effective  
 17 administration of this act which are consistent with the  
 18 purposes of this act and fair and equitable to all persons  
 19 whose interests may be affected.

20 Section 42. Rules of division of motor vehicles. The  
 21 division of motor vehicles may adopt rules to implement and  
 22 provide effective administration of the provisions of  
 23 evidence of security (section 8 (10)) and termination of  
 24 security (section 9).

25 Section 43. Uniformity of application and

1 construction. This act shall be applied and construed so as  
2 to effectuate its general purpose and to make uniform the  
3 law with respect to the subject of this act among those  
4 states which enact it.

5 Section 44. Section 32-1208, R.C.M. 1947, is amended  
6 to read as follows:

7 "32-1208. Written reports of accidents, additional  
8 information, form of report. (a) The operator of any motor  
9 vehicle which is in any manner involved in an accident  
10 within this state, in which any person is killed or injured  
11 or in which damage to the property of any one person in  
12 excess of two hundred and fifty dollars (\$250) is sustained,  
13 shall within ten (10) days after such accident report the  
14 matter in writing to the supervisor.

15 (b) Additional information. The board division of motor  
16 vehicles may require any driver of a vehicle involved in an  
17 accident, of which report must be made as provided in this  
18 section, to file supplemental reports whenever the original  
19 report is insufficient, and may require witnesses of  
20 accidents to render reports.

21 (c) Every law enforcement officer who in the regular  
22 course of duty, investigates a motor vehicle accident, of  
23 which report must be made as required in this act, either at  
24 the time of and at the scene of the accident or thereafter  
25 by interviewing participants or witnesses shall within ten

1 (10) days after completing such investigation, forward a  
2 written report of such accident to the board.

3 (d) Form of report. The form of accident report  
4 required under section 32-1208, shall contain information  
5 sufficient to enable the department to determine whether the  
6 requirements for ~~the--deposit--of--security--for--safety~~  
7 ~~responsibility--are--inapplicable--by--reason--of--the--existence~~  
8 ~~of--insurance--or--other--exemptions--specified--in--this--act~~  
9 security for payment of basic reparation benefits and  
10 security for payment of tort liabilities under the Uniform  
11 Motor Vehicle Accident Reparations Act were met at the time  
12 of the accident."

13 Section 45. Severability. (1) Except as provided in  
14 subsection (2), if any provisions of this act or application  
15 thereof to any person or circumstances is held invalid, the  
16 invalidity does not affect other provisions or applications  
17 of the act which can be given effect without the involved  
18 provision or application, and to this end the provisions of  
19 this act are severable.

20 (2) If any restriction on the retained tort liability  
21 in paragraph (f) or paragraph (g) of subsection (1) of  
22 section 6, or application thereof to any person or  
23 circumstance, is held invalid, this act shall be interpreted  
24 as if the paragraph containing the invalid restriction had  
25 not been enacted.

1           Section 46. Sections 40-4403, 53-418 through 53-420,  
2 and 53-428 through 53-458, R.C.M. 1947, are repealed.

3           Section 47. Effective date. This act is effective  
4 January 1, 1976.

-End-

Approved by Committee  
on Judiciary

HOUSE BILL NO. 250

INTRODUCED BY FAGG, HUENNEKENS, DRISCOLL, LOCKREM, HAGER,  
LYNCH, KVAALEN, BARDANOUVE, JACOBSEN, MEECER, ELLERD,  
SEIPERT, LUND, JACK MOORE, QUILICI, KROPE, THOMAS, MELOY,  
FABREGA, FEDERICO, MCFADDEN, MURPHY, CONROY, ELLIS, LOHY,  
W. BARTH, MANUEL, GILLIGAN, HAGEMAN, MENAHAN, GUNDERSON,  
DAY, HELMBRECHT, RICHARDS, DUSSADLT, SCULLY, DASSINGER,  
GWYNN, FISHBAUGH, BARRETT, KIMBLE, STOLTZ, KUMMERFELDT,  
CASEY, GEMKE, SCHYE, AAGESON, SMITH, BERTELSEN, HARPER,  
WILLIAMS, HOLMES, GUTHRIE, WYRICK, KEMMIS, C. R. ANDERSON,  
JOHN H. ANDERSON, JR., RASMUSSEN, LESTER, MARKS, HUBING,  
SHELLEN, KENDALL, R. BARTH, MAGONE, TEAGUE, TRAVIS,  
FLEMING, STAIGMILLER, NOBBINS, FINLEY, BABCOCK,  
SIVERTSEN, O'CONNELL, BENGTSON, VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE  
"UNIFORM MOTOR VEHICLE ACCIDENT REPARATIONS ACT OF 1975";  
PROVIDING FOR REPARATION BENEFITS FOR PERSONS IN MOTOR  
VEHICLE ACCIDENTS WITH LIMITATIONS UPON THE CAPACITY TO SUE  
IN TORT TO SPECIFIED LIABILITY INSTANCES; PROVIDING FOR A  
SYSTEM OF SECURITY AND INSURANCE FOR REPARATION BENEFITS AND  
RESIDUAL TORT LIABILITY; AMENDING SECTION 32-1208, R.C.M.  
1947; REPEALING SECTIONS 40-4403, 53-418 THROUGH 53-420, AND  
53-428 THROUGH 53-458, R.C.M. 1947; AND PROVIDING AN  
EFFECTIVE DATE."

SECOND READING

HB 250 is not run in its entirety; please  
refer to white copy for entire text.  
Amendments are on pages 10 and 11.

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

Section 1. Short title. This act shall be known and  
may be cited as the "Uniform Motor Vehicle Accident  
Reparations Act of 1975".

Section 2. Definitions. As used in this act:

(1) "Added reparation benefits" means benefits  
provided by optional added reparation insurance.

(2) "Basic reparation benefits" means benefits  
providing reimbursement for net loss suffered through injury  
arising out of the maintenance or use of a motor vehicle,  
subject, where applicable, to the limits (section 14),  
deductibles (sections 15 and 18), exclusions (sections 13,  
15, and 16), disqualifications (sections 22 and 23), and  
other conditions provided in this act.

(3) "Basic reparation insured" means:

(a) a person identified by name as an insured in a  
contract of basic reparation insurance complying with this  
act (section 8 (4)); and

(b) while residing in the same household with a named  
insured, the following persons not identified by name as an  
insured in any other contract of basic reparation insurance  
complying with this act: a spouse or other relative of a  
named insured, and a minor in the custody of a named insured  
or of a relative residing in the same household with a named

1 (a) liability of the owner of a motor vehicle involved  
 2 in an accident in this state if security covering the  
 3 vehicle was not provided at the time of the accident;

4 (b) liability of a person in the business of  
 5 repairing, servicing, or otherwise maintaining motor  
 6 vehicles arising from a defect in a motor vehicle caused or  
 7 not corrected by an act or omission in repair, servicing, or  
 8 other maintenance of the vehicle in the course of his  
 9 business;

10 (c) liability of a person for intentionally causing  
 11 harm to person or property;

12 (d) liability of a person for harm to property other  
 13 than a motor vehicle and its contents;

14 (e) liability of a person in the business of parking  
 15 or storing motor vehicles arising in the course of that  
 16 business for harm to a motor vehicle and its contents;

17 (f) damages for any work loss, replacement services  
 18 loss, survivor's economic loss, and survivor's replacement  
 19 services loss, not recoverable as basic reparation benefits  
 20 by reason of the limitation contained in the provisions on  
 21 standard weekly limit on those losses (section 14), that  
 22 occur after the injured person is disabled by the injury for  
 23 more than six (6) months or after his death caused by the  
 24 injury; and

25 (g) damages for noneconomic detriment, but only if the

1 accident causes death, significant permanent injury, or  
 2 serious permanent disfigurement or the injured person  
 3 receives needed medical care, including products, services,  
 4 and accommodations. ~~the reasonable value of which exceeds~~  
 5 ~~five thousand dollars (\$5,000).~~

6 (2) For purposes of this section and the provisions on  
 7 reparation obligor's right of reimbursement and indemnity  
 8 (section 7), a person does not intentionally cause harm  
 9 merely because his act or failure to act is intentional or  
 10 done with his realization that it created a grave risk of  
 11 harm.

12 Section 7. Reparation obligor's rights of  
 13 reimbursement, subrogation, and indemnity. (1) A  
 14 reparation obligor does not have and may not directly or  
 15 indirectly contract for a right of reimbursement from or  
 16 subrogation to the proceeds of a claim for relief or cause  
 17 of action for noneconomic detriment (section 6 (1) (g)) of a  
 18 recipient of basic or added reparation benefits.

19 (2) Except as provided in subsection (1), whenever a  
 20 person who receives or is entitled to receive basic or added  
 21 reparation benefits for an injury has a claim or cause of  
 22 action against any other person for breach of an obligation  
 23 or duty causing the injury, the reparation obligor is  
 24 subrogated to the rights of the claimant, and has a claim  
 25 for relief or cause of action, separate from that of the

## HOUSE BILL NO. 250

INTRODUCED BY FAGG, HURNNEKENS, DRISCOLL, LOCKHEM, HAGER,  
 LYNCH, KVAALEN, BARDANOUVE, JACOBSEN, MERCER, ELLERD,  
 SEIFERT, LUND, JACK MOORE, QUILICI, KROPP, THOMAS, ALOY,  
 FABREGA, FEDERICO, MCFADDEN, MURPHY, CONROY, ELLIS, LOMY,  
 W. BAETH, MANUEL, GILLIGAN, HAGEMAN, MENAHAN, GUNDERSON,  
 DAY, HELMBRECHT, RICHARDS, DUSSAULT, SCULLY, DASSINGER,  
 GWYNN, FISHBAUGH, BARRETT, KIMBLE, STOLTZ, KUMMERFELDT,  
 CASEY, GERKE, SCHIE, AAGESON, SMITH, BERTELSEN, HARPER,  
 WILLIAMS, HOLMES, GUTHRIE, WYRICK, KENNIS, C. R. ANDERSON,  
 JOHN H. ANDERSON, JR., BASHUSSEN, LESTER, MARKS, HUBING,  
 SHELDEN, KENDALL, R. BAETH, MAGOME, TEAGUE, TRAVIS,  
 FLEMING, STAIGMILLER, ROBBINS, FINLEY, BABCOCK,  
 SIVERTSEN, O'CONNELL, BENGTSON, VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE  
 "UNIFORM MOTOR VEHICLE ACCIDENT REPARATIONS ACT OF 1975";  
 PROVIDING FOR REPARATION BENEFITS FOR PERSONS IN MOTOR  
 VEHICLE ACCIDENTS WITH LIMITATIONS UPON THE CAPACITY TO SUE  
 IN TORT TO SPECIFIED LIABILITY INSTANCES; PROVIDING FOR A  
 SYSTEM OF SECURITY AND INSURANCE FOR REPARATION BENEFITS AND  
 RESIDUAL TORT LIABILITY; AMENDING SECTION 32-1208, H.C.A.  
 1947; REPEALING SECTIONS 40-4403, 53-418 THROUGH 53-420, AND  
 53-428 THROUGH 53-458, H.C.A. 1947; AND PROVIDING AN  
 EFFECTIVE DATE."

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

Section 1. Short title. This act shall be known and  
 may be cited as the "Uniform Motor Vehicle Accident  
 Reparations Act of 1975".

Section 2. Definitions. As used in this act:

(1) "Added reparation benefits" means benefits  
 provided by optional added reparation insurance.

(2) "Basic reparation benefits" means benefits  
 providing reimbursement for net loss suffered through injury  
 arising out of the maintenance or use of a motor vehicle,  
 subject, where applicable, to the limits (section 14),  
 deductibles (sections 15 and 18), exclusions (sections 13,  
 15, and 16), disqualifications (sections 22 and 23), and  
 other conditions provided in this act.

(3) "Basic reparation insured" means:

(a) a person identified by name as an insured in a  
 contract of basic reparation insurance complying with this  
 act (section 5 (4)); and

(b) while residing in the same household with a named  
 insured, the following persons not identified by name as an  
 insured in any other contract of basic reparation insurance  
 complying with this act: a spouse or other relative of a  
 named insured, and a minor in the custody of a named insured  
 or of a relative residing in the same household with a named

1 insured. A person resides in the same household if he  
2 usually makes his home in the same family unit, even though  
3 he temporarily lives elsewhere.

4 (4) "Injury" and "injury to person" mean bodily harm,  
5 sickness, disease or death.

6 (5) "Loss" means accrued economic detriment consisting  
7 only of allowable expense, work loss, replacement service  
8 loss, and, if injury causes death, survivor's economic loss  
9 and survivor's replacement services loss. Noneconomic  
10 detriment is not loss. However, economic detriment is loss  
11 although caused by pain and suffering or physical  
12 impairment.

13 (a) "Allowable expense" means reasonable charges  
14 incurred for reasonably needed products, services and  
15 accommodations, including those for medical care,  
16 rehabilitation, rehabilitative occupational training, and  
17 other remedial treatment and care. The term includes a  
18 total charge not in excess of five hundred dollars (\$500)  
19 for expenses in any way related to funeral, cremation, and  
20 burial. It does not include that portion of a charge for a  
21 room in a hospital, clinic, convalescent or nursing care  
22 home, or any other institutions engaged in nursing care and  
23 related services, in excess of a reasonable and customary  
24 charge for semiprivate accommodations, unless intensive care  
25 is medically required.

1 (b) "Work loss" means loss of income from work the  
2 injured person would have performed if he had not been  
3 injured, and expenses reasonably incurred by him in  
4 obtaining services in lieu of those he would have performed  
5 for income, reduced by any income from substitute work  
6 actually performed by him or by income he would have earned  
7 in available appropriate substitute work he was capable of  
8 performing but unreasonably failed to undertake.

9 (c) "Replacement services loss" means expenses  
10 reasonably incurred in obtaining ordinary and necessary  
11 services in lieu of those the injured person would have  
12 performed, not for income but for the benefit of himself or  
13 his family, if he had not been injured.

14 (d) "Survivor's economic loss" means loss after  
15 decedent's death of contributions of things of economic  
16 value to his survivors, not including services they would  
17 have received from the decedent if he had not suffered the  
18 fatal injury, less expenses of the survivors avoided by  
19 reason of decedent's death.

20 (e) "Survivor's replacement services loss" means  
21 expenses reasonably incurred by survivors after decedent's  
22 death in obtaining ordinary and necessary services in lieu  
23 of those the decedent would have performed for their benefit  
24 if he had not suffered the fatal injury, less expenses of  
25 the survivors avoided by reason of the decedent's death and



1 not subtracted in calculating survivor's economic loss.

2 (6) "Maintenance or use of a motor vehicle" means  
 3 maintenance or use of a motor vehicle as a vehicle,  
 4 including, incident to its maintenance or use as a vehicle,  
 5 occupying, entering into and alighting from it. Maintenance  
 6 or use of a motor vehicle does not include: conduct within  
 7 the course of a business of repairing, servicing, or  
 8 otherwise maintaining motor vehicles unless the conduct  
 9 occurs off the business premises; or conduct in the course  
 10 of loading and unloading the vehicle unless the conduct  
 11 occurs while occupying, entering into, or alighting from it.

12 (7) "Motor vehicle" means:

13 (a) a vehicle of a kind required to be registered  
 14 under the laws of this state except a snowmobile or vehicle  
 15 not primarily designed for operation upon a public roadway  
 16 while being operated under the provisions of section  
 17 53-119.1, or

18 (b) a vehicle, including a trailer, designed for  
 19 operation upon a public roadway by other than muscular  
 20 power, except a vehicle used exclusively upon stationary  
 21 rails or tracks.

22 (8) "Public roadway" means a way open to the use of  
 23 the public for purposes of automobile travel.

24 (9) "Net loss" means loss less benefits or advantages,  
 25 from sources other than basic and added reparation

1 insurance, required to be subtracted from loss in  
 2 calculating net loss (section 12).

3 (10) "Noneconomic detriment" means pain, suffering,  
 4 inconvenience, physical impairment, and other nonpecuniary  
 5 damage recoverable under the tort law of Montana. The term  
 6 does not include punitive or exemplary damages.

7 (11) "Owner" means a person, other than a lienholder  
 8 or secured party, who owns or has title to a motor vehicle  
 9 or is entitled to the use and possession of a motor vehicle  
 10 subject to a security interest held by another person. The  
 11 term does not include a lessee under a lease not intended as  
 12 security.

13 (12) "Reparation obligor" means an insurer,  
 14 self-insurer, or obligated government providing basic or  
 15 added reparation benefits under this act.

16 (13) "Survivor" means a person identified in section  
 17 92-2824 as one entitled to receive benefits by reason of the  
 18 death of another person.

19 (14) Other definitions appearing in this act and the  
 20 sections in which they appear are:

- 21 (a) basic reparation insurance - section 8 (9);
- 22 (b) obligated government - section 8 (7);
- 23 (c) secured vehicle - section 8 (8);
- 24 (d) security covering the vehicle - section 8 (8);
- 25 (e) self-insurer - section 8 (7).

1 Section 3. Right to basic reparation benefits. (1)  
 2 If the accident causing injury occurs in Montana, every  
 3 person suffering loss from injury arising out of maintenance  
 4 or use of a motor vehicle has a right to basic reparation  
 5 benefits.

6 (2) If the accident causing injury occurs outside  
 7 Montana, the following persons and their survivors suffering  
 8 loss from injury arising out of maintenance or use of a  
 9 motor vehicle have a right to basic reparation benefits:

- 10 (a) basic reparation insureds; and
- 11 (b) the driver and other occupants of a secured  
 12 vehicle, other than: a vehicle which is regularly used in  
 13 the course of the business of transporting persons or  
 14 property and which is one of five (5) or more vehicles under  
 15 common ownership; or a vehicle owned by an obligated  
 16 government other than Montana, its political subdivisions,  
 17 municipal corporations, or public agencies.

18 Section 4. Obligations to pay basic reparation  
 19 benefits. (1) Basic reparation benefits shall be paid  
 20 without regard to fault.

21 (2) Basic reparation obligors and the assigned claims  
 22 plan shall pay basic reparation benefits, under the terms  
 23 and conditions stated in this act, for loss from injury  
 24 arising out of maintenance or use of a motor vehicle. This  
 25 obligation exists without regard to immunity from liability

1 or suit which might otherwise be applicable.

2 Section 5. Priority of applicability of security for  
 3 payment of basic reparation benefits. (1) In case of  
 4 injury to the driver or other occupant of a motor vehicle,  
 5 if the accident causing the injury occurs while the vehicle  
 6 is being used in the business of transporting persons or  
 7 property, the security for payment of basic reparation  
 8 benefits is the security covering the vehicle or, if none,  
 9 the security under which the injured person is a basic  
 10 reparation insured.

11 (2) In case of injury to an employee, or to his spouse  
 12 or other relative residing in the same household, if the  
 13 accident causing the injury occurs while the injured person  
 14 is driving or occupying a motor vehicle furnished by the  
 15 employer, the security for payment of basic reparation  
 16 benefits is the security covering the vehicle or, if none,  
 17 the security under which the injured person is a basic  
 18 reparation insured.

19 (3) In all other cases, the following priorities  
 20 apply:

- 21 (a) the security for payment of basic reparation  
 22 benefits applicable to injury to a basic reparation insured  
 23 is the security under which the injured person is a basic  
 24 reparation insured;

- 25 (b) the security for payment of basic reparation

1 benefits applicable to injury to the driver or other  
 2 occupant of an involved motor vehicle who is not a basic  
 3 reparation insured is the security covering that vehicle;

4 (c) the security for payment of basic reparation  
 5 benefits applicable to injury to a person not otherwise  
 6 covered who is not the driver or other occupant of an  
 7 involved motor vehicle is the security covering any involved  
 8 motor vehicle. An unoccupied parked vehicle is not an  
 9 involved motor vehicle unless it was parked so as to cause  
 10 unreasonable risk of injury.

11 (4) If two (2) or more obligations to pay basic  
 12 reparation benefits are applicable to an injury under the  
 13 priorities set out in this section, benefits are payable  
 14 only once and the reparation obligor against whom a claim is  
 15 asserted shall process and pay the claim as if wholly  
 16 responsible, but he is thereafter entitled to recover  
 17 contribution pro rata for the basic reparation benefits paid  
 18 and the costs of processing the claim. Where contribution  
 19 is sought among reparation obligors responsible under  
 20 paragraph (c) of subsection (3) proration shall be based on  
 21 the number of involved motor vehicles.

22 Section 6. Partial abolition of tort liability. (1)  
 23 Tort liability with respect to accidents occurring in this  
 24 state and arising from the ownership, maintenance, or use of  
 25 a motor vehicle is abolished except as to:

1 (a) liability of the owner of a motor vehicle involved  
 2 in an accident in this state if security covering the  
 3 vehicle was not provided at the time of the accident;

4 (b) liability of a person in the business of  
 5 repairing, servicing, or otherwise maintaining motor  
 6 vehicles arising from a defect in a motor vehicle caused or  
 7 not corrected by an act or omission in repair, servicing, or  
 8 other maintenance of the vehicle in the course of his  
 9 business;

10 (c) liability of a person for intentionally causing  
 11 harm to person or property;

12 (d) liability of a person for harm to property other  
 13 than a motor vehicle and its contents;

14 (e) liability of a person in the business of parking  
 15 or storing motor vehicles arising in the course of that  
 16 business for harm to a motor vehicle and its contents;

17 (f) damages for any work loss, replacement services  
 18 loss, survivor's economic loss, and survivor's replacement  
 19 services loss, not recoverable as basic reparation benefits  
 20 by reason of the limitation contained in the provisions on  
 21 standard weekly limit on those losses (section 14), that  
 22 occur after the injured person is disabled by the injury for  
 23 more than six (6) months or after his death caused by the  
 24 injury; and

25 (g) damages for noneconomic detriment, but only if the

1 accident causes death, significant permanent injury, or  
 2 serious permanent disfigurement of the injured person  
 3 receives needed medical care, including products, services,  
 4 and accommodations. ~~the reasonable value of which exceeds~~  
 5 ~~five thousand dollars (\$5,000).~~

6 (2) For purposes of this section and the provisions on  
 7 reparation obligor's right of reimbursement and indemnity  
 8 (section 7), a person does not intentionally cause harm  
 9 merely because his act or failure to act is intentional or  
 10 done with his realization that it created a grave risk of  
 11 harm.

12 Section 7. Reparation obligor's rights of  
 13 reimbursement, subrogation, and indemnity. (1) A  
 14 reparation obligor does not have and may not directly or  
 15 indirectly contract for a right of reimbursement from or  
 16 subrogation to the proceeds of a claim for relief or cause  
 17 of action for noneconomic detriment (section 6 (1) (g)) of a  
 18 recipient of basic or added reparation benefits.

19 (2) Except as provided in subsection (1), whenever a  
 20 person who receives or is entitled to receive basic or added  
 21 reparation benefits for an injury has a claim or cause of  
 22 action against any other person for breach of an obligation  
 23 or duty causing the injury, the reparation obligor is  
 24 subrogated to the rights of the claimant, and has a claim  
 25 for relief or cause of action, separate from that of the

1 claimant, to the extent that: elements of damage  
 2 compensated for by basic or added reparation insurance are  
 3 recoverable; and the reparation obligor has paid or become  
 4 obligated to pay accrued or future basic or added reparation  
 5 benefits.

6 (3) A reparation obligor has a right of indemnity  
 7 against a person who has converted a motor vehicle involved  
 8 in an accident, or a person who has intentionally caused  
 9 injury to person or harm to property, for basic and added  
 10 reparation benefits paid to other persons for the injury or  
 11 harm caused by the conduct of that person, for the cost of  
 12 processing claims for those benefits, and for reasonable  
 13 attorneys' fees and other expenses of enforcing the right of  
 14 indemnity. For purposes of this subsection, a person is not  
 15 a converter if he uses the motor vehicle in the good faith  
 16 belief that he is legally entitled to do so.

17 Section 8. Security covering motor vehicle. (1) This  
 18 state, its political subdivisions, municipal corporations,  
 19 and public agencies shall continuously provide pursuant to  
 20 subsection (4) security for the payment of basic reparation  
 21 benefits in accordance with this act for injury arising from  
 22 maintenance or use of motor vehicles owned by those entities  
 23 and operated with their permission.

24 (2) The United States and its public agencies and any  
 25 other state, its political subdivisions, municipal

1 corporations, and public agencies may provide pursuant to  
 2 subsection (4) security for the payment of basic reparation  
 3 benefits in accordance with this act for injury arising from  
 4 maintenance or use of motor vehicles owned by those  
 5 entities and operated with their permission.

6 (3) Except for entities described in subsections (1)  
 7 and (2), every owner of a motor vehicle registered in  
 8 Montana, or operated in Montana by him or with his  
 9 permission, shall continuously provide with respect to the  
 10 motor vehicle while it is either present or registered in  
 11 Montana, and any other person may provide with respect to  
 12 any motor vehicle, by a contract of insurance or by  
 13 qualifying as a self-insurer, security for the payment of  
 14 basic reparation benefits in accordance with this act and  
 15 security for payment of tort liabilities, arising from  
 16 maintenance or use of the motor vehicle.

17 (4) Security may be provided by a contract of  
 18 insurance or by qualifying as a self-insurer or obligated  
 19 government in compliance with this act.

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

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

1 obligations imposed by this act;

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

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

11 (6) An entity described in subsection (1) or (2) may  
 12 provide security by lawfully obligating itself to pay basic  
 13 reparation benefits in accordance with this act.

14 (7) A person providing security pursuant to subsection  
 15 (5) is a "self-insurer". An entity described in subsection  
 16 (1) or (2) that has provided security pursuant to subsection  
 17 (4) is an "obligated government".

18 (8) "Security covering the vehicle" is the insurance  
 19 or other security so provided. The vehicle for which the  
 20 security is so provided is the "secured vehicle".

21 (9) "Basic reparation insurance" includes a contract,  
 22 self-insurance, or other legal means under which the  
 23 obligation to pay basic reparation benefits arises.

24 (10) A motor vehicle may not be registered in this  
 25 state unless evidence satisfactory to the division of motor

1 vehicles is furnished that security has been provided as  
2 required by this section.

3 Section 9. Obligations upon termination of security.

4 (1) An owner of a motor vehicle registered in this state  
5 who ceases to maintain security as required by the  
6 provisions on security (section 8) shall immediately  
7 surrender the registration certificate and license plates  
8 for the vehicle to the division of motor vehicles and may  
9 not operate or permit operation of the vehicle in this state  
10 until security has again been provided and proof of the  
11 security furnished as required by this act.

12 (2) An insurer who has issued a contract of insurance  
13 and knows or has reason to believe the contract is for the  
14 purpose of providing security (section 8 (4)) shall  
15 immediately give notice to the division of motor vehicles of  
16 the termination of the insurance.

17 (3) If the office of the insurance commissioner  
18 withdraws approval of security provided by a self-insurer or  
19 knows that the conditions for self-insurance have ceased to  
20 exist, he shall immediately give notice thereof to the  
21 division of motor vehicles.

22 (4) The requirements of subsections (2) and (3) may be  
23 waived or modified by rule of the division of motor  
24 vehicles.

25 Section 10. Included coverages. (1) An insurance

1 contract which purports to provide coverage for basic  
2 reparation benefits or is sold with representation that it  
3 provides security covering a motor vehicle (section 8) has  
4 the legal effect of including all coverages required by this  
5 act.

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

15 (3) An insurer authorized to transact or transacting  
16 business in this state may not exclude, in any contract of  
17 liability insurance for injury, wherever issued, covering  
18 ownership, maintenance, or use of a motor vehicle, except a  
19 contract providing coverage only for liability in excess of  
20 required minimum tort liability coverage under (section 11),  
21 the basic reparation benefit coverages and required minimum  
22 security for tort liabilities required by this act, while  
23 the vehicle is in this state.

24 Section 11. Required minimum tort liability insurance  
25 and territorial coverage. (1) The requirement of security

1 for payment of tort liabilities (section 8) is fulfilled by  
2 providing:

3 (a) liability coverage of not less than twenty-five  
4 thousand dollars (\$25,000) for all damages arising out of  
5 bodily injury sustained by any one person as a result of any  
6 one accident applicable to each person sustaining injury  
7 caused by accident arising out of ownership, maintenance,  
8 use, loading, or unloading, of the secured vehicle;

9 (b) liability coverage of not less than ten thousand  
10 dollars (\$10,000) for all damages arising out of injury to  
11 or destruction of property, including the loss of use  
12 thereof, as a result of any one accident arising out of  
13 ownership, maintenance, use, loading, or unloading, of the  
14 secured vehicle; and

15 (c) that the liability coverage applies to accidents  
16 during the contract period in a territorial area not less  
17 than the United States of America, its territories and  
18 possessions, and Canada.

19 (2) Subject to the provisions on approval of terms and  
20 forms (section 18), the requirement of security for payment  
21 of tort liabilities (section 8) may be provided by a  
22 contract the coverage of which is secondary or in excess to  
23 other applicable valid and collectible liability insurance.  
24 To the extent the secondary or excess coverage applies to  
25 liability within the minimum security required by this act,

1 it must be subject to conditions consistent with the system  
2 of compulsory liability insurance established by this act.

3 Section 12. Calculation of net loss. (1) All  
4 benefits or advantages a person receives or is entitled to  
5 receive because of the injury from social security,  
6 workmen's compensation, and any state-required temporary,  
7 nonoccupational disability insurance are subtracted in  
8 calculating net loss.

9 (2) If a benefit or advantage received to compensate  
10 for loss of income because of injury, whether from basic  
11 reparation benefits or from any source of benefits or  
12 advantages subtracted under subsection (1), is not taxable  
13 income, the income tax saving that is attributable to his  
14 loss of income because of injury is subtracted in  
15 calculating net loss. Subtraction may not exceed fifteen  
16 percent (15%) of the loss of income and shall be in a lesser  
17 amount if the claimant furnishes to the insurer reasonable  
18 proof of a lower value of the income tax advantage.

19 Section 13. Standard replacement services loss  
20 exclusion. All replacement services loss sustained on the  
21 date of injury and the first seven (7) days thereafter is  
22 excluded in calculating basic reparation benefits.

23 Section 14. Standard weekly limit on benefits for  
24 certain losses. Basic reparation benefits payable for work  
25 loss, survivor's economic loss, replacement services loss,

1 and survivor's replacement services loss arising from injury  
 2 to one person and attributable to the calendar week during  
 3 which the accident causing injury occurs and to each  
 4 calendar week thereafter may not exceed two hundred dollars  
 5 (\$200). If the injured person's earnings or work are  
 6 seasonal or irregular, the weekly limit shall be equitably  
 7 adjusted or apportioned on an annual basis.

8 Section 15. Optional deductibles and exclusions. It  
 9 appropriately reduced premium rates, basic reparation  
 10 insurers shall offer each of the following deductibles and  
 11 exclusions, applicable only to claims of basic reparation  
 12 insureds and, in case of death of a basic reparation  
 13 insured, of his survivors:

14 (1) a deductible in the amount of one hundred dollars  
 15 (\$100) from all basic reparation benefits otherwise payable,  
 16 except that if two (2) or more basic reparation insureds to  
 17 whom the deductible is applicable under the contract of  
 18 insurance are injured in the same accident, the aggregate  
 19 amount of the deductible applicable to all of them shall not  
 20 exceed the specified deductible, which amount where  
 21 necessary shall be allocated equally among them;

22 (2) an exclusion, in the calculation of net loss, of  
 23 ten percent (10%) of work loss and survivor's economic loss;

24 (3) an exclusion, in calculation of net loss, of all  
 25 replacement services loss and survivor's replacement

1 services loss; and

2 (4) a deductible, in the amount of one thousand  
 3 dollars (\$1,000) per accident from all basic reparation  
 4 benefits otherwise payable for injury to a person which  
 5 occurs while he is operating or is a passenger on a  
 6 two-wheeled motor vehicle, or other motorcycle type vehicle.

7 Section 16. Property damage exclusion. Basic  
 8 reparation benefits do not include benefits for harm to  
 9 property.

10 Section 17. Benefits provided by optional added  
 11 reparation insurance. (1) Basic reparation insurers may  
 12 offer optional added reparation coverages providing other  
 13 benefits as compensation for injury or harm arising from  
 14 ownership, maintenance, or use of a motor vehicle, including  
 15 benefits for loss excluded by limits on hospital charges and  
 16 funeral, cremation, and burial expenses, loss excluded by  
 17 limits on work loss, replacement services loss, survivor's  
 18 economic loss, and survivor's replacement services loss,  
 19 benefits for harm to property, loss of use of motor  
 20 vehicles, and noneconomic detriment. The office of the  
 21 insurance commissioner may adopt rules requiring that  
 22 specific optional added reparation coverages be offered by  
 23 insurers writing basic reparation insurance.

24 (2) Basic reparation insurers shall offer the  
 25 following optional added reparation coverages for physical



1 damage to motor vehicles:

2 (a) a coverage for all collision or upset damage,  
3 subject to a deductible of one hundred dollars (\$100);

4 (b) a coverage for all collision or upset damage to  
5 the extent that the insured has a valid claim in tort  
6 against another identified person or would have had such a  
7 valid claim but for the abolition of tort liability for  
8 damages for harm to motor vehicles (section 6 (1) (d)); and

9 (c) the same coverage as in paragraph (b), but subject  
10 to a deductible of one hundred dollars (\$100).

11 (3) Subject to section 18, basic reparation insurers  
12 may offer other optional added reparation coverages for harm  
13 to motor vehicles or their contents, or both, or other like  
14 coverages subject to different deductibles or without  
15 deductibles.

16 (4) An insurer of the insured's choice may write  
17 separate coverages for harm to motor vehicles.

18 (5) All added reparation coverages offered apply to  
19 injuries or harm arising out of accidents and occurrences  
20 during the contract period in a territorial area not less  
21 than the United States, its territories and possessions, and  
22 Canada.

23 Section 18. Approval of terms and forms. Terms and  
24 conditions of contracts and certificates or other evidence  
25 of insurance coverage sold or issued in Montana providing

1 motor vehicle tort liability, basic and added reparation  
2 insurance coverages, and of forms used by insurers offering  
3 these coverages, are subject to approval and regulation by  
4 the office of the insurance commissioner. The office of the  
5 insurance commissioner shall approve only terms and  
6 conditions consistent with the purposes of this act and fair  
7 and equitable to all persons whose interests may be  
8 affected. The office of the insurance commissioner may  
9 limit by rule the variety of coverages available in order to  
10 give insurance purchasers reasonable opportunity to compare  
11 the cost of insuring with various insurers.

12 Section 19. Assigned claims. (1) A person entitled  
13 to basic reparation benefits because of injury covered by  
14 this act may obtain them through the assigned claims plan  
15 established pursuant to the provisions relating thereto  
16 (section 20) and in accordance with the provisions on time  
17 for presenting claims under the assigned claims plan  
18 (section 21) if:

19 (a) basic reparation insurance is not applicable to  
20 the injury for a reason other than those specified in the  
21 provisions on converted vehicles (section 22) and  
22 intentional injuries (section 23);

23 (b) basic reparation insurance is not applicable to  
24 the injury because the injured person converted a motor  
25 vehicle while he was under fifteen (15) years of age;

1 (c) basic reparation insurance applicable to the  
2 injury cannot be identified;

3 (d) basic reparation insurance applicable to the  
4 injury is inadequate to provide the contracted-for benefits  
5 because of financial inability of a reparation obligor to  
6 fulfill its obligation; or

7 (e) a claim for basic reparation benefits is rejected  
8 by a reparation obligor for a reason other than that the  
9 person is not entitled under this act to the basic  
10 reparation benefits claimed.

11 (2) If a claim qualifies for assignment under  
12 paragraphs (c), (d), or (e) of subsection (1), the assigned  
13 claims bureau or any reparation obligor to whom the claim is  
14 assigned is subrogated to all rights of the claimant against  
15 any reparation obligor, its successor in interest or  
16 substitute, legally obligated to provide basic reparation  
17 benefits to the claimant, for basic reparation benefits  
18 provided by the assignee.

19 (3) Except in case of a claim assigned under  
20 subsection (1) (d), if a person receives basic reparation  
21 benefits through the assigned claims plan, all benefits or  
22 advantages he receives or is entitled to receive as a result  
23 of the injury, other than by way of succession at death,  
24 death benefits from life insurance or in discharge of  
25 familial obligations of support, are subtracted in

1 calculating net loss.

2 (4) An assigned claim of a person who does not comply  
3 with the requirement of providing security (section 6 (c)  
4 and (a)) for the payment of basic reparation benefits, or of  
5 a person as to whom the security is invalidated because of  
6 his fraud or willful misconduct, is subject to all the  
7 optional deductibles and exclusions to the maximum required  
8 to be offered under this act (section 15 (1)) and, a  
9 deduction in the amount of five hundred dollars (\$500) for  
10 each year or part thereof of the period of his continuous  
11 failure to provide security, applicable to any benefits  
12 otherwise payable.

13 Section 20. Assigned claims plan. (1) Reparation  
14 obligors providing basic reparation insurance in this state  
15 may organize and maintain, subject to approval and  
16 regulation by the office of the insurance commissioner, an  
17 assigned claims bureau and an assigned claims plan and adopt  
18 rules for their operation and for assessment of costs on a  
19 fair and equitable basis consistent with this act. If they  
20 do not organize and continuously maintain an assigned claims  
21 bureau and an assigned claims plan in a manner considered by  
22 the office of the insurance commissioner to be consistent  
23 with this act, the insurance commissioner shall organize and  
24 maintain an assigned claims bureau and an assigned claims  
25 plan. Each reparation obligor providing basic reparation

1 insurance in this state shall participate in the assigned  
2 claims bureau and the assigned claims plan. Costs incurred  
3 shall be allocated fairly and equitably among the reparation  
4 obligors.

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

16 Section 21. Time for presenting claims under assigned  
17 claims plan. (1) Except as provided in subsection (2), a  
18 person authorized to obtain basic reparation benefits  
19 through the assigned claims plan shall notify the bureau of  
20 his claim within the time that would have been allowed for  
21 commencing an action for those benefits, under section 29,  
22 if there had been identifiable coverage in effect and  
23 applicable to the claim.

24 (2) If timely action for basic reparation benefits is  
25 commenced against a reparation obligor who is unable to

1 fulfill his obligations because of financial inability, a  
2 person authorized to obtain basic reparation benefits  
3 through the assigned claims plan shall notify the bureau of  
4 his claim within six (6) months after discovery of the  
5 financial inability.

6 Section 22. Converted motor vehicles. Except as  
7 provided for assigned claims (section 19 (1) (b)), a person  
8 who converts a motor vehicle is disqualified from basic or  
9 added reparation benefits, including benefits otherwise due  
10 him as a survivor, from any source other than an insurance  
11 contract under which the converter is a basic or added  
12 reparation insured, for injuries arising from maintenance or  
13 use of the converted vehicle. If the converter dies from  
14 the injuries, his survivors are not entitled to basic or  
15 added reparation benefits from any source other than an  
16 insurance contract under which the converter is a basic  
17 reparation insured. For the purpose of this section, a  
18 person is not a converter if he uses the motor vehicle in  
19 the good faith belief that he is legally entitled to do so.

20 Section 23. Intentional injuries. A person  
21 intentionally causing or attempting to cause injury to  
22 himself or another person is disqualified from basic or  
23 added reparation benefits for injury arising from his acts,  
24 including benefits otherwise due him as a survivor. If a  
25 person dies as a result of intentionally causing or

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

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

1 hundred dollars (\$100) or more, the part is overdue if not  
 2 paid within the time provided by this section. Allowable  
 3 expense benefits may be paid by the reparation obligor  
 4 directly to persons supplying products, services, or  
 5 accommodations to the claimant.

6 (2) Overdue payments bear interest at the rate of  
 7 eighteen percent (18%) a year.

8 (3) A claim for basic or added reparation benefits  
 9 shall be paid without deduction for the benefits which are  
 10 to be subtracted pursuant to the provisions on calculation  
 11 of net loss (section 12 (1)) and to the exclusions  
 12 authorized under section 15 (2) (a), if these benefits have  
 13 not been paid to the claimant before the reparation benefits  
 14 are overdue or the claim is paid. The reparation obligor is  
 15 entitled to reimbursement from the person obligated to make  
 16 the payments or from the claimant who actually received 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 insured or by a person providing an item of allowable  
 23 expense. The action may be brought only against the person  
 24 providing the item of allowable expense, unless the insured  
 25 has intentionally misrepresented the facts or knew of the

1 misrepresentation. An insurer may offset amounts he is  
 2 entitled to recover from the insured under this subsection  
 3 against any basic or added reparation benefits otherwise  
 4 due.

5 (5) A reparation obligor who rejects a claim for basic  
 6 reparation benefits shall give to the claimant prompt  
 7 written notice of the rejection, specifying the reason. If  
 8 a claim is rejected for a reason other than the person is  
 9 not entitled to the basic reparation 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 25. Fees of claimant's attorney. (1) If  
 14 overdue benefits are recovered in an action against the  
 15 reparation obligor or paid by the reparation obligor after  
 16 receipt of notice of the attorney's representation, a  
 17 reasonable attorney's fee for advising and representing a  
 18 claimant on a claim or in an action for basic reparation  
 19 benefits shall be paid by the reparation obligor to the  
 20 attorney. No part of the fee for representing the claimant  
 21 in connection with these benefits is a charge against  
 22 benefits otherwise due the claimant. All or part of the fee  
 23 may be deducted from the benefits otherwise due the claimant  
 24 if any significant part of his claim for benefits was  
 25 fraudulent or so excessive as to have no reasonable

1 foundation.

2 (2) In any action brought against the insured by the  
 3 reparation obligor, the court may award the insured's  
 4 attorney a reasonable attorney's fee for defending the  
 5 action.

6 Section 26. Fees of reparation obligor's attorney. A  
 7 reparation obligor shall be allowed a reasonable attorney's  
 8 fee for defending a claim for benefits that is fraudulent or  
 9 so excessive as to have no reasonable foundation. The fee  
 10 may be treated as an offset to benefits due or which  
 11 thereafter accrue. The reparation obligor may recover from  
 12 the claimant any part of the fee not offset or otherwise  
 13 paid.

14 Section 27. Lump sum and installment settlement. (1)  
 15 If the reasonable anticipated net loss subject to the  
 16 settlement does not exceed two thousand five hundred dollars  
 17 (\$2,500), a claim of an individual for basic or added  
 18 reparation benefits arising from injury, including a claim  
 19 for future loss other than allowable expense, may be  
 20 discharged by a settlement for an agreed amount payable in  
 21 installment, or in a lump sum. If the reasonable  
 22 anticipated net loss subject to the settlement exceeds two  
 23 thousand five hundred dollars (\$2,500), the settlement may  
 24 be made with approval of the district court upon a finding  
 25 by the court that the settlement is in the best interest of

1 the claimant. Upon approval of the settlement, the court  
 2 may make appropriate orders concerning the safeguarding and  
 3 disposing of the proceeds of the settlement. A settlement  
 4 agreement may also provide that the reparation obligor shall  
 5 pay the reasonable cost of appropriate medical treatment or  
 6 procedures, with reference to a specified condition, to be  
 7 performed in the future.

8 (2) A settlement agreement for an amount payable in  
 9 installments may be modified as to amounts to be paid in the  
 10 future, if it is shown that a material and substantial  
 11 change of circumstances has occurred or that there is newly  
 12 discovered evidence concerning the claimant's physical  
 13 condition, loss, or rehabilitation, which could not have  
 14 been known previously or discovered in the exercise of  
 15 reasonable diligence.

16 (3) A settlement agreement may be set aside if it is  
 17 procured by fraud or its terms are unconscionable.

18 Section 28. Judgments for future benefits. (1) In an  
 19 action by a claimant, a lump sum or installment judgment may  
 20 be entered for basic or added reparation benefits, other  
 21 than allowable expense, that would accrue after the date of  
 22 the award. A judgment for benefits for allowable expense  
 23 that would accrue after the date of the award may not be  
 24 entered. In an action for reparation benefits or to enforce  
 25 rights under this act, however, the court may enter a

1 judgment declaring that the reparation obligor is liable for  
 2 the reasonable cost of appropriate medical treatment or  
 3 procedures, with reference to a specified condition, to be  
 4 performed in the future if it is ascertainable or foreseeable  
 5 that treatment will be required as a result of the injury  
 6 for which the claim is made.

7 (2) At the instance of the claimant, a court may  
 8 compute future losses, other than allowable expense, to a  
 9 fixed sum, but only upon finding of one or more of the  
 10 following:

11 (a) that the award will promote the health and  
 12 contribute to the rehabilitation of the injured person;

13 (b) that the present value of all benefits other than  
 14 allowable expense to accrue thereafter does not exceed one  
 15 thousand dollars (\$1,000); or

16 (c) that the parties consent and the award is in the  
 17 best interest of the claimant.

18 (3) An installment judgment for benefits, other than  
 19 allowable expense, that will accrue thereafter may be  
 20 entered only for a period as to which the court can  
 21 reasonably determine future net loss. An installment  
 22 judgment may be modified as to amounts to be paid in the  
 23 future upon a finding that a material and substantial change  
 24 of circumstances has occurred, or that there is newly  
 25 discovered evidence concerning the claimant's physical

1 condition, loss, or rehabilitation, which could not have  
2 been known previously or discovered in the exercise of  
3 reasonable diligence.

4 (4) The court may make appropriate orders concerning  
5 the safeguarding and disposing of funds collected under the  
6 judgment.

7 (5) Appeals from a judgment for basic or added  
8 reparation benefits may be taken in accordance with rules of  
9 civil procedure of this state.

10 Section 29. Limitation of actions. (1) If no basic  
11 or added reparation benefits have been paid for loss arising  
12 otherwise than from death, an action therefor may be  
13 commenced not later than two (2) years after the injured  
14 person suffers the loss and either knows, or in the exercise  
15 or reasonable diligence should know, that the loss was  
16 caused by the accident, or not later than four (4) years  
17 after the accident, whichever is earlier. If basic or added  
18 reparation benefits have been paid for loss arising  
19 otherwise than from death, an action for further benefits,  
20 other than survivor's benefits, by either the same or  
21 another claimant, may be commenced not later than two (2)  
22 years after the last payment of benefits.

23 (2) If no basic or added reparation benefits have been  
24 paid to the decedent or his survivors, an action for  
25 survivor's benefits may be commenced not later than one (1)

1 year after the death or four (4) years after the accident  
2 from which death results, whichever is earlier. If  
3 survivor's benefits have been paid to any survivor, an  
4 action for further survivor's benefits by either the same or  
5 another claimant may be commenced not later than two (2)  
6 years after the last payment of benefits. If basic or added  
7 reparation benefits have been paid for loss suffered by an  
8 injured person before his death resulting from the injury,  
9 an action for survivor's benefits may be commenced not later  
10 than one (1) year after the death or four (4) years after  
11 last payment of benefits, whichever is earlier.

12 (3) If timely action for basic reparation benefits is  
13 commenced against a reparation obligor and benefits are  
14 denied because of a determination that the reparation  
15 obligor's coverage is not applicable to the claimant under  
16 the provisions on priority of applicability of basic  
17 reparation security (section 5), an action against the  
18 applicable reparation obligor or the assigned claims bureau  
19 may be commenced not later than sixty (60) days after the  
20 determination becomes final or the last date on which the  
21 action could otherwise have been commenced, whichever is  
22 later.

23 (4) Except as subsections (1), (2), or (3) prescribe a  
24 longer period, an action by a claimant on an assigned claim  
25 which has been timely presented (section 21) may be

1 commenced not later than sixty (60) days after the claimant  
 2 receives written notice of rejection of the claim by the  
 3 reparation obligor to which it was assigned.

4 (5) A calendar month during which a person does not  
 5 suffer loss for which he is entitled to basic or added  
 6 reparation benefits is not a part of the time limited for  
 7 commencing an action, except that the months excluded for  
 8 this reason may not exceed one hundred twenty (120).

9 (6) If a person entitled to basic or added reparation  
 10 benefits is under legal disability when the right to bring  
 11 an action for the benefits first accrues, the period of his  
 12 disability is not a part of the time limited for  
 13 commencement of the action.

14 Section 30. Assignment of benefits. An assignment of  
 15 or agreement to assign any right to benefits under this act  
 16 for loss accruing in the future is unenforceable except as  
 17 to benefits for:

18 (1) work loss to secure payment of alimony,  
 19 maintenance, or child support; and

20 (2) allowable expense to the extent the benefits are  
 21 for the cost of products, services, or accommodations  
 22 provided or to be provided by the assignee.

23 Section 31. Deduction and set-off. Except as otherwise  
 24 provided in this act, basic reparation benefits shall be  
 25 paid without deduction or set-off.

1 Section 32. Exemption of benefits. (1) Basic or  
 2 added reparation benefits for allowable expense are exempt  
 3 from garnishment, attachment, execution, and any other  
 4 process or claim, except upon a claim of a creditor who has  
 5 provided products, services, or accommodations to the extent  
 6 benefits are for allowable expense for those products,  
 7 services, or accommodations.

8 (2) Basic reparation benefits other than those for  
 9 allowable expense are exempt from garnishment, attachment,  
 10 execution, and any other process or claim to the extent that  
 11 wages or earnings are exempt under any applicable law  
 12 exempting wages or earnings from process or claims.

13 Section 33. Mental or physical examinations. (1) If  
 14 the mental or physical condition of a person is material to  
 15 a claim for past or future basic or added reparation  
 16 benefits, the reparation obligor may petition the district  
 17 court for an order directing the person to submit to a  
 18 mental or physical examination by a physician. Upon notice  
 19 to the person to be examined and all persons having an  
 20 interest, the court may make the order for good cause shown.  
 21 The order shall specify the time, place, manner, conditions,  
 22 scope of the examination, and the physician by whom it is to  
 23 be made.

24 (2) If requested by the person examined, the  
 25 reparation obligor causing a mental or physical examination



1 to be made shall deliver to the person examined a copy of a  
 2 detailed written report of the examining physician setting  
 3 out his findings, including results of all tests made,  
 4 diagnoses, and conclusions, and reports of earlier  
 5 examinations of the same conditions. By requesting and  
 6 obtaining a report of the examination ordered or by taking  
 7 the deposition of the physician, the person examined waives  
 8 any privilege he may have, in relation to the claim for  
 9 basic or added reparation benefits, regarding the testimony  
 10 of every other person who has examined or may thereafter  
 11 examine him respecting the same condition. This subsection  
 12 does not preclude discovery of a report of an examining  
 13 physician, taking a deposition of the physician, or other  
 14 discovery procedures in accordance with any rule of court or  
 15 other provision of law. This subsection applies to  
 16 examinations made by agreement of the person examined and  
 17 the reparation obligor, unless the agreement provides  
 18 otherwise.

19 (3) If any person refuses to comply with an order  
 20 entered under this section the court may make any just order  
 21 as to the refusal but may not find a person in contempt for  
 22 failure to submit to a mental or physical examination.

23 Section 34. Disclosure of facts about injured person.

24 (1) Upon request of a basic or added reparation claimant or  
 25 reparation obligor, information relevant to a claim for

1 basic or added reparation benefits shall be disclosed as  
 2 follows:

3 (a) An employer shall furnish a statement of the work  
 4 record and earnings of an employee upon whose injury the  
 5 claim is based. The statement shall cover the period  
 6 specified by the claimant or reparation obligor making the  
 7 request and may include a reasonable period before, and the  
 8 entire period after, the injury.

9 (b) The claimant shall deliver to the reparation  
 10 obligor a copy of every written report, previously or  
 11 thereafter made, relevant to the claim, and available to  
 12 him, concerning any medical treatment or examination of a  
 13 person upon whose injury the claim is based and the names  
 14 and addresses of physicians and medical care facilities  
 15 rendering diagnoses or treatment in regard to the injury or  
 16 to a relevant past injury, and the claimant shall authorize  
 17 the reparation obligor to inspect and copy relevant records  
 18 of physicians and of hospitals, clinics, and other medical  
 19 facilities.

20 (c) A physician or hospital, clinic, or other medical  
 21 facility furnishing examinations, services, or  
 22 accommodations to an injured person in connection with a  
 23 condition alleged to be connected with an injury upon which  
 24 a claim is based, upon authorization of the claimant, shall  
 25 furnish a written report of the history, condition,

1 diagnoses, medical tests, treatment, and dates and cost of  
2 treatment of the injured person, and permit inspection and  
3 copying of all records and reports as to the history,  
4 condition, treatment, and dates and cost of treatment.

5 (2) Any person other than the claimant providing  
6 information under this section may charge the person  
7 requesting the information for the reasonable cost of  
8 providing it.

9 (3) In case of dispute as to the right of a claimant  
10 or reparation obligor to discover information required to be  
11 disclosed, the claimant or reparation obligor may petition  
12 the district court for an order for discovery including the  
13 right to take written or oral depositions. Upon notice to  
14 all persons having an interest, the order may be made for  
15 good cause shown. It shall specify the time, place, manner,  
16 conditions, and scope of the discovery. To protect against  
17 annoyance, embarrassment, or oppression, the court may enter  
18 an order refusing discovery or specifying conditions of  
19 discovery and directing payment of costs and expenses of the  
20 proceeding, including reasonable attorneys' fees.

21 Section 35. Rehabilitation treatment and occupational  
22 training. (1) A basic reparation obligor is responsible for  
23 the cost of a procedure or treatment for rehabilitation or a  
24 course of rehabilitative occupational training if the  
25 procedure, treatment, or training is reasonable and

1 appropriate for the particular case, its cost is reasonable  
2 in relation to its probable rehabilitative effects, and it  
3 is likely to contribute substantially to rehabilitation,  
4 even though it will not enhance the injured person's earning  
5 capacity.

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

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

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

21 (4) If an injured person unreasonably refuses to  
 22 accept a rehabilitative procedure, treatment, or course of  
 23 occupational training, a basic reparation obligor may move  
 24 the court, 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 36. Availability of insurance. (1) The  
 17 office of insurance commissioner shall establish and  
 18 implement or approve and supervise a plan assuring that  
 19 liability and basic and added reparation insurance for motor  
 20 vehicles will be conveniently and expeditiously afforded,  
 21 subject only to payment or provisions for payment of the  
 22 premium, to all applicants for insurance required by this  
 23 act to provide security for payment of tort liabilities and  
 24 basic reparation benefits and who cannot conveniently obtain  
 25 insurance through ordinary methods at rates not in excess of

1 those applicable to applicants under the plan. The plan may  
 2 be by assignment of applicants among insurers, pooling,  
 3 other joint insuring or reinsuring arrangement, or any other  
 4 method that will reasonably accomplish the purposes of this  
 5 section, including any arrangement or undertaking by  
 6 insurers that results in all applicants being conveniently  
 7 afforded the insurance coverages on reasonable and not  
 8 unfairly discriminatory terms through ordinary markets.

9 (2) The plan shall make available optional added  
 10 reparation and tort liability coverages and other contract  
 11 provisions the office of insurance commissioner determines  
 12 are reasonably needed by applicants and are commonly  
 13 afforded in voluntary markets. The plan shall provide for  
 14 the availability of financing or installment payments of  
 15 premiums on reasonable and customary terms and conditions.

16 (3) All insurers authorized in the state to write  
 17 motor vehicle liability, basic reparation, or optional added  
 18 reparation coverages the office of insurance commissioner  
 19 requires to be offered under subsection (2), shall  
 20 participate in the plan. The plan shall provide for  
 21 equitable apportionment, among all participating insurers  
 22 writing any insurance coverage required under the plan, of  
 23 the financial burdens of insurance provided to applicants  
 24 under the plan and costs of operation of the plan.

25 (4) Subject to supervision and approval of the office

1 of insurance commissioner, insurers may consult and agree  
 2 with each other and with other appropriate persons as to the  
 3 organization, administration, and operation of the plan and  
 4 as to rates and rate modifications for insurance coverages  
 5 provided under the plan. Rates or rate modifications  
 6 adopted or charged for insurance coverages provided under  
 7 the plan shall be first adopted or approved by the office of  
 8 insurance commissioner and be reasonable and not unfairly  
 9 discriminatory among applicants for insurance under the  
 10 plan.

11 (5) To carry out the objectives of this section the  
 12 office of insurance commissioner may adopt rules, make  
 13 orders, enter into agreements with other governmental and  
 14 private entities and persons, and form and operate or  
 15 authorize the formation and operation of bureaus and other  
 16 legal entities.

17 Section 37. Termination or modification of insurance  
 18 or insurer. (1) This section applies only to contracts of  
 19 insurance providing security under this act (section 8) for  
 20 a motor vehicle which is registered in this state and is not  
 21 one of five (5) or more motor vehicles under common  
 22 ownership insured under a single insuring agreement.

23 (2) Except as permitted in subsection (3), any  
 24 termination of insurance by an insurer, including any  
 25 refusal by the insurer to renew the insurance at the

1 expiration of its term and any modification by the insurer  
 2 of the terms and conditions of insurance unfavorable to the  
 3 insured, is ineffective, unless:

4 (a) written notice of intention to modify, not to  
 5 renew, or otherwise to terminate the insurance has been  
 6 mailed or delivered to the insured at least twenty (20) days  
 7 before the effective date of the modification, expiration,  
 8 or other termination of the insurance, and

9 (b) the insurer has expressly stipulated in the  
 10 insuring agreement either that the insurance is for a stated  
 11 term of at least one (1) year after the inception of  
 12 coverage and may not be modified or terminated during the  
 13 term; or, if there is no stated term or the insurance is for  
 14 a term of less than one (1) year, the insurance may be  
 15 modified, not renewed, or otherwise terminated by the  
 16 insurer only at specified dates or intervals which may not  
 17 be less than one (1) year after the inception of coverage or  
 18 thereafter less than one (1) year apart.

19 (3) If otherwise lawfully entitled to do so and  
 20 written notice of termination is mailed or delivered to the  
 21 insured at least fifteen (15) days before the effective date  
 22 of the termination, an insurer may terminate insurance as  
 23 follows:

24 (a) by cancellation or refusal to renew at any time  
 25 within seventy-five (75) days after the inception of

1 coverage, or

2 (b) for nonpayment of premium when due.

3 (4) An insurer who has canceled, refused to renew, or  
 4 otherwise terminated insurance shall mail or deliver to the  
 5 insured, within ten (10) days after receipt of a written  
 6 request, a statement of the reasons for the cancellation,  
 7 refusal to renew, or other termination of the insurance  
 8 coverage.

9 (5) For purposes of this section only:

10 (a) "nonpayment of premium when due" includes the  
 11 nonpayment when due of any installment of premium or of any  
 12 financial obligation to any person who has financed the  
 13 payment of the premium under any premium finance plan,  
 14 agreement, or arrangement; and

15 (b) a cancellation or refusal to renew by or at the  
 16 direction of any person acting pursuant to any power or  
 17 authority under any premium finance plan, agreement, or  
 18 arrangement, whether or not with power of attorney or  
 19 assignment from the insured, constitutes a cancellation or  
 20 refusal to renew by the insurer.

21 (6) Except as otherwise stated in subsection (5), this  
 22 section does not limit or apply to any termination,  
 23 modification, or cancellation of the insurance, or to any  
 24 suspension of insurance coverage, by or at the request of  
 25 the insured.

1 (7) This section does not affect any right an insurer  
 2 has under other law to rescind or otherwise terminate  
 3 insurance because of fraud or other willful misconduct of  
 4 the insured at the inception of the insuring transaction or  
 5 the right of either party to reform the contract on the  
 6 basis of mutual mistake of fact.

7 (8) An insurer, his authorized agents and employees,  
 8 and any person furnishing information upon which he has  
 9 relied, are not liable for any statement made in good faith  
 10 pursuant to subsection (4).

11 Section 38. Penalties. An owner of a motor vehicle  
 12 who operates the vehicle or permits it to be operated in  
 13 this state when he knows or should know that he has failed  
 14 to comply with the requirement that he provide security  
 15 covering the vehicle (section 8) is guilty of a misdemeanor  
 16 and upon conviction may be fined not more than three hundred  
 17 dollars (\$300) or imprisoned for not more than ninety (90)  
 18 days, or both.

19 Section 39. Equitable allocation of burdens among  
 20 insurers. (1) Reparation obligors paying basic or added  
 21 reparation benefits and owners of motor vehicles suffering  
 22 uninsured physical damage to the vehicles are entitled to  
 23 proportionate reimbursements from other reparation obligors  
 24 in order that the allocation of the financial burden of  
 25 losses will be reasonably consistent with the propensities

1 of different vehicles to affect probability and severity of  
 2 injury to persons or physical damage to vehicles, because  
 3 the vehicles are of different weight or have different  
 4 devices for the protection of occupants, other different  
 5 characteristics, or different regular uses. Reparation  
 6 obligors paying basic or added reparation benefits for loss  
 7 arising from injury to persons, and self-insurers who are  
 8 natural persons bearing equivalent losses arising from their  
 9 own injuries, are entitled to proportionate reimbursement  
 10 from basic reparation obligors of other involved vehicles.  
 11 Insurers paying added reparation benefits for physical  
 12 damage to vehicles and owners of motor vehicles suffering  
 13 uninsured physical damage to the vehicles are entitled to  
 14 proportionate reimbursement from reparation obligors  
 15 providing property damage liability coverage on other  
 16 involved vehicles.

17 (2) Reparation obligors shall maintain in accordance  
 18 with the rules of the office of insurance commissioner  
 19 statistical records from which can be determined the  
 20 propensities of different vehicles to affect probability and  
 21 severity of injury to persons and physical damage to  
 22 vehicles.

23 (3) When the office of insurance commissioner  
 24 determines that adequate supporting information is available  
 25 he may establish by rule and maintain a system under which

1 rights of reimbursement are determined through pooling,  
 2 reinsurance, or other form of reallocation procedure in lieu  
 3 of case-by-case reimbursement. The system may apply to all  
 4 reparation obligors or all reparation obligors except those  
 5 who are parties to an agreement entered into under this  
 6 subsection and approved by the office of insurance  
 7 commissioner. Two (2) or more reparation obligors, with  
 8 approval of the office, may enter into an agreement for  
 9 settlement of their rights of proportionate reimbursement  
 10 through a system of pooling, reinsurance, or other  
 11 reallocation procedure in lieu of case-by-case  
 12 reimbursement.

13 (4) The office of insurance commissioner may not  
 14 approve or establish case-by-case proportionate  
 15 reimbursement on the basis of fault in cases involving only  
 16 privately owned passenger motor vehicles designed to carry  
 17 ten (10) or fewer passengers.

18 (5) All claims for case-by-case proportionate  
 19 reimbursement between insurers, if not settled by agreement,  
 20 shall be submitted to binding intercompany arbitration in  
 21 accordance with the arbitration laws of this state.

22 Section 40. Allocation of burdens until system  
 23 established. 11, in a particular case, there is no  
 24 applicable system of proportionate reimbursement as  
 25 authorized by the provisions on equitable allocation of

1 burdens among insurers (section 39 (3)) and the office of  
 2 the insurance commissioner has not adopted by rule other  
 3 criteria for proportionate reimbursement consistent with  
 4 those provisions (section 39 (1)), the following standards  
 5 for case-by-case proportionate reimbursement apply:

6 (1) In accidents involving motor vehicles in different  
 7 weight classes, burdens of losses shall be adjusted among  
 8 reparation obligors and owners of the vehicles in accordance  
 9 with this section. Adjustments apply to burdens of losses  
 10 of basic and added reparation benefits and to burdens of  
 11 losses of physical damage to the vehicles.

12 (2) The office of insurance commissioner shall adopt  
 13 rules classifying motor vehicles into a number of classes  
 14 according to weight, including cargo capacity. All  
 15 passenger vehicles weighing less than five thousand (5,000)  
 16 pounds and other vehicles weighing less than four thousand  
 17 (4,000) pounds apart from cargo capacity shall be included  
 18 in a single class. For the purposes of this section, a  
 19 vehicle in this class is a "low-weight vehicle". The office  
 20 of insurance commissioner shall assign by rule to each  
 21 class, except the low-weight class, a number of percentages  
 22 determined as hereinafter provided. The highest percentage  
 23 for a class applies to accidents between vehicles in that  
 24 class and low-weight vehicles. Other percentages apply to  
 25 accidents between vehicles of each lighter weight class and

1 vehicles of the class to which the percentage is assigned.  
 2 (3) In an accident involving a vehicle of a lighter  
 3 class and a vehicle of a heavier class, a proportion of  
 4 costs which would otherwise fall on the owner of the lighter  
 5 vehicle on the reparation obligors paying or obligated to  
 6 pay added reparation benefits for physical damage to the  
 7 lighter vehicle on basic or added reparation benefits for  
 8 injury to the owner, driver, or other occupant of the  
 9 lighter vehicle, is imposed upon the reparation obligor of  
 10 the heavier vehicle. The proportion of costs to be  
 11 transferred is the percentage assigned under  
 12 subsection (2).  
 13 (4) Percentages assigned under subsection (2) shall be  
 14 based on evidence of the average increase in severity of  
 15 occupant injury and vehicle damage sustained by vehicles of  
 16 the various lighter classes in accidents involving the class  
 17 of heavier vehicles to which the percentage is assigned.  
 18 Percentages shall be set to provide that reparation obligors  
 19 and owners of vehicles shall bear, on the average, the costs  
 20 which would result from accidents involving other vehicles  
 21 of the same class and that reparation obligors and owners of  
 22 vehicles in each heavier class shall have transferred to  
 23 them the percentages of costs which on the average arise  
 24 from the greater weight of vehicles of their class.  
 25 (5) Until the office of insurance commissioner, in

1 accordance with subsection (2), has adopted rules  
 2 classifying motor vehicles into classes according to weight  
 3 and assigning percentages to each class, the percentage  
 4 presumptively applying between a low-weight vehicle and a  
 5 vehicle not a low-weight vehicle, or between two (2)  
 6 vehicles not low-weight vehicles, shall be determined by  
 7 subtracting the weight of the lighter vehicle from the  
 8 weight of the heavier vehicle, including cargo capacity,  
 9 dividing the difference by the combined weight of the  
 10 vehicles, and multiplying by one hundred (100) to convert to  
 11 percentage. However, another percentage applies if a party  
 12 claiming or defending against a claim for reimbursement  
 13 under this subsection proves that the other percentage is  
 14 more consistent with allocating the financial burden of  
 15 losses according to the propensities of vehicles of the  
 16 different classes to affect probability and severity of  
 17 injury to persons or physical damage to vehicles.  
 18 (6) In accidents involving more than two (2) vehicles  
 19 each lighter vehicle shall have transferred from it to  
 20 reparation obligors of the heavier vehicles involved the  
 21 percentage of cost designated for transfer to the heaviest  
 22 of those vehicles. Reparation obligors of the heavier  
 23 vehicles shall contribute to the transferred cost in  
 24 proportion to the respective percentages designated for them  
 25 in accidents with vehicles of the class of the lighter



1 vehicle from which the cost is transferred.

2 Section 41. Rules. The office of insurance  
3 commissioner may adopt rules to provide effective  
4 administration of this act which are consistent with the  
5 purposes of this act and fair and equitable to all persons  
6 whose interests may be affected.

7 Section 42. Rules of division of motor vehicles. The  
8 division of motor vehicles may adopt rules to implement and  
9 provide effective administration of the provisions of  
10 evidence of security (section 8 (10)) and termination of  
11 security (section 9).

12 Section 43. Uniformity of application and  
13 construction. This act shall be applied and construed so as  
14 to effectuate its general purpose and to make uniform the  
15 law with respect to the subject of this act among those  
16 states which enact it.

17 Section 44. Section 32-1208, H.C.M. 1947, is amended  
18 to read as follows:

19 "32-1208. Written reports of accidents, additional  
20 information, form of report. (a) The operator of any motor  
21 vehicle which is in any manner involved in an accident  
22 within this state, in which any person is killed or injured  
23 or in which damage to the property of any one person in  
24 excess of two hundred and fifty dollars (\$250) is sustained,  
25 shall within ten (10) days after such accident report the

1 matter in writing to the supervisor.

2 (b) Additional information. The ~~board~~ division of motor  
3 vehicles may require any driver of a vehicle involved in an  
4 accident, of which report must be made as provided in this  
5 section, to file supplemental reports whenever the original  
6 report is insufficient, and may require witnesses of  
7 accidents to render reports.

8 (c) Every law enforcement officer who in the regular  
9 course of duty, investigates a motor vehicle accident, of  
10 which report must be made as required in this act, either at  
11 the time of and at the scene of the accident or thereafter  
12 by interviewing participants or witnesses shall within ten  
13 (10) days after completing such investigation, forward a  
14 written report of such accident to the board.

15 (d) Form of report. The form of accident report  
16 required under section 32-1208, shall contain information  
17 sufficient to enable the department to determine whether the  
18 requirements for ~~the deposit of security for safety~~  
19 ~~responsibility are inapplicable by reason of the existence~~  
20 ~~of insurance or other exceptions specified in this act~~  
21 security for payment of basic reparation benefits and  
22 security for payment of tort liabilities under the Uniform  
23 Motor Vehicle Accident Reparations Act were met at the time  
24 of the accident."

25 Section 45. Severability. (1) Except as provided in

1 subsection (2), if any provisions of this act or application  
2 thereof to any person or circumstances is held invalid, the  
3 invalidity does not affect other provisions or applications  
4 of the act which can be given effect without the involved  
5 provision or application, and to this end the provisions of  
6 this act are severable.

7 (2) If any restriction on the retained tort liability  
8 in paragraph (f) or paragraph (g) of subsection (1) of  
9 section 6, or application thereof to any person or  
10 circumstance, is held invalid, this act shall be interpreted  
11 as if the paragraph containing the invalid restriction had  
12 not been enacted.

13 Section 46. Sections 40-4403, 53-418 through 53-420,  
14 and 53-426 through 53-458, R.C.M. 1947, are repealed.

15 Section 47. Effective date. This act is effective  
16 January 1, 1976.

-End-