

1 *House* BILL NO. *739*
 2 INTRODUCED BY *Fred Cooney Countryman*
 3 *Hamington Kessler Waldron Russell Holmes*
 4 *Kambach* A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A SYSTEM *Long*
 5 OF NO-FAULT VEHICLE INSURANCE; REPEALING SECTIONS 40-4403 *Ellis*
 6 AND 53-418 THROUGH 53-458, R.C.M. 1947; AND PROVIDING A *DeWalt*
 7 DELAYED EFFECTIVE DATE." *Reynolds* *Edairly*

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

10 Section 1. Short title. This act may be cited as the
11 "Montana No-Fault Insurance Act".

12 Section 2. Purpose. The detrimental impact of
13 automobile accidents on uncompensated injured persons, upon
14 the orderly and efficient administration of justice in the
15 state, and in various other ways requires that this act be
16 adopted to effect the following purposes:

17 (1) to relieve the severe economic distress of
18 uncompensated victims of automobile accidents within this
19 state by requiring automobile insurers to offer and
20 automobile owners to maintain automobile insurance policies
21 or other pledges of indemnity which provide prompt payment
22 of specified basic economic loss benefits to victims of
23 automobile accidents without regard to whose fault caused
24 the accident;

25 (2) to prevent the overcompensation of those

1 automobile accident victims suffering minor injuries by
2 restricting the right to recover general damages to cases of
3 serious injury;

4 (3) to encourage appropriate medical and
5 rehabilitation treatment of the automobile accident victim
6 by assuring prompt payment for such treatment;

7 (4) to speed the administration of justice; to ease
8 the burden of litigation on the courts of this state; to
9 create a system of small claims arbitration to decrease the
10 expense of and to simplify litigation; and to create a
11 system of mandatory intercompany arbitration to assure a
12 prompt and proper allocation of the costs of insurance
13 benefits between motor vehicle insurers;

14 (5) to correct imbalances and abuses in the operation
15 of the automobile accident tort liability system, to provide
16 offsets to avoid duplicate recovery, to require medical
17 examination and disclosure, and to govern the effect of
18 advance payments prior to final settlement of liability.

19 Section 3. Definitions. As used in this act, the
20 following definitions apply:

21 (1) "Basic economic loss benefits" means benefits as
22 described in [section 4 of this act]. The term does not
23 include benefits for physical damage done to property or
24 motor vehicles, including their contents.

25 (2) "Commercial vehicle" means:

1 (a) any motor vehicle used as a common carrier;
 2 (b) any motor vehicle other than a passenger vehicle
 3 or a station wagon as those terms are defined by law; or
 4 (c) any motor vehicle while used in the for-hire
 5 transportation of property.
 6 (3) Except where otherwise indicated, "commissioner"
 7 means the commissioner of insurance.
 8 (4) "Dependent" means a person whose dependency or
 9 extent of dependency is proved by the facts at the time of
 10 death of a deceased person, but those persons listed below
 11 are presumed to be dependents:
 12 (a) a wife is dependent on a husband with whom she
 13 lives at the time of his death;
 14 (b) a husband is dependent on a wife with whom he
 15 lives at the time of her death;
 16 (c) any child under 18 years of age or over that age
 17 but physically or mentally incapacitated from earning is
 18 dependent on the parent with whom he is living or from whom
 19 he is receiving support regularly at the time of the death
 20 of such parent.
 21 (5) "Disability" means the inability to engage in
 22 substantially all of the injured person's usual and
 23 customary daily activities.
 24 (6) "Extended care facility" means a place where
 25 skilled nursing care and related services are provided for

1 patients who require posthospitalization, inpatient medical,
 2 nursing, or therapy services.
 3 (7) "Inability to work" means disability which
 4 continuously prevents the injured person from engaging in
 5 any substantial gainful occupation or employment, for wage
 6 or profit, for which he is or may by training become
 7 reasonably qualified.
 8 (8) "Income" means salary, wages, tips, commissions,
 9 professional fees, and other earnings from work or tangible
 10 things of economic value produced through work in
 11 individually owned businesses, farms, ranches, or other
 12 work.
 13 (9) "Injury" means bodily harm to a person or death
 14 resulting from such harm.
 15 (10) (a) "Insured" means an insured under a plan of
 16 reparation security as provided by this act, including the
 17 named insured and the following persons not identified by
 18 name as an insured while residing in the same household with
 19 the named insured and not identified by name in any other
 20 contract for a plan of reparation security complying with
 21 this act as an insured:
 22 (i) a spouse;
 23 (ii) another relative of a named insured; or
 24 (iii) a minor in the custody of a named insured or of a
 25 relative residing in the same household with a named

1 insured.

2 (b) A person resides in the same household with the
3 named insured if that person usually makes his home in the
4 same family unit, even though he temporarily lives
5 elsewhere.

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

14 (12) (a) "Maintenance or use of a motor vehicle" means
15 maintenance or use of a motor vehicle as a vehicle,
16 including occupying, entering into, and alighting from it.
17 Maintenance or use of a motor vehicle does not include:

18 (i) the business of repairing, servicing, or otherwise
19 maintaining motor vehicles unless occurring off the business
20 premises; or

21 (ii) loading and unloading the vehicle unless occurring
22 while occupying, entering into, or alighting from it.

23 (b) Injuries suffered by a person while on, mounting,
24 or alighting from a motorcycle do not arise out of the
25 maintenance or use of a motor vehicle although a motor

1 vehicle is involved in the accident causing the injury.

2 (13) "Motor vehicle" means every vehicle other than a
3 motorcycle or other vehicle with fewer than four wheels,
4 which:

5 (a) is required to be registered pursuant to law;

6 (b) is designed to be self-propelled by an engine or
7 motor for use primarily upon public roads, highways, or
8 streets in the transportation of persons or property; or

9 (c) is a trailer, when connected to or being towed by
10 a motor vehicle.

11 (14) "Motorcycle" means a self-propelled vehicle
12 designed to travel on fewer than four wheels, which has an
13 engine rated at greater than 5 horsepower.

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

19 (16) "Owner" means a person who holds legal title to a
20 motor vehicle, or in the event that a motor vehicle is the
21 subject of a security agreement or lease with option to
22 purchase and the debtor or lessee is entitled to the
23 immediate use or possession of the vehicle, then the debtor
24 or lessee is considered the owner for the purposes of this
25 act.

1 (17) "Person" means an individual, firm, corporation,
2 partnership, trust, association, organization, or other
3 legal entity.

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

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

13 (20) "Security covering the vehicle" means the
14 insurance or other security so provided.

15 (21) "Secured vehicle" means the vehicle which is
16 covered by security.

17 (22) "Self-insurer" means a person who provides
18 security pursuant to [subsection 3 of section 8].

19 (23) "Uninsured motor vehicle" means any motor vehicle
20 for which a plan of reparation security meeting the
21 requirements of this act is not in effect.

22 Section 4. Basic economic loss benefits. (1) Basic
23 economic loss benefits must provide reimbursement for all
24 loss suffered through injury arising out of the maintenance
25 or use of a motor vehicle, subject to any applicable

1 deductibles, exclusions, disqualifications, and other
2 conditions, and must provide a maximum of \$30,000 for loss
3 arising out of the injury of any one person, consisting of:

4 (a) \$20,000 for medical expense loss arising out of
5 injury to any one person; and

6 (b) a total of \$10,000 for income loss, replacement
7 services loss, funeral expense loss, survivor's economic
8 loss, and survivor's replacement services loss arising out
9 of the injury to any one person.

10 (2) Medical expense benefits must reimburse all
11 reasonable expenses for necessary medical, surgical, x-ray,
12 optical, dental, chiropractic, and rehabilitative services,
13 including prosthetic devices, prescription drugs, necessary
14 ambulance, hospital, extended care, and nursing services.
15 Hospital room and board benefits may be limited, except for
16 intensive care facilities, to the regular daily semiprivate
17 room rates customarily charged by the institution in which
18 the recipient of benefits is confined. These benefits must
19 also include necessary remedial treatment and services
20 recognized and permitted under the laws of this state for an
21 injured person who relies upon spiritual means through
22 prayer alone for healing in accordance with his religious
23 beliefs. Medical expense loss includes medical expenses
24 accrued prior to the death of a person notwithstanding the
25 fact that benefits are paid or payable to the decedent's

1 survivors. Medical expense benefits for rehabilitative
2 services are subject to the provisions of [section 5].

3 (3) Income loss benefits must reimburse 85% of the
4 injured person's loss of present and future gross income
5 from inability to work proximately caused by the nonfatal
6 injury, subject to a maximum of \$200 a week. Compensation
7 for loss of income from work shall be reduced by any income
8 from substitute work actually performed by the injured
9 person or by income the injured person would have earned in
10 available appropriate substitute work which he was capable
11 of performing but unreasonably failed to undertake.

12 (4) Funeral and burial benefits must be reasonable
13 expenses and may not exceed \$1,250.

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

1 maintenance of the home, whichever is greater. These
2 benefits are subject to a maximum of \$15 a day. All
3 replacement services loss sustained on the date of injury
4 and the first 7 days thereafter is excluded in calculating
5 replacement services loss.

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

16 (b) Payments to the surviving spouse shall be
17 terminated in the event the surviving spouse remarries or
18 dies. Payments to a dependent child who is not physically or
19 mentally incapacitated from earning shall be terminated in
20 the event he attains majority, marries, or becomes otherwise
21 emancipated, or dies.

22 (8) Survivors' replacement services loss benefits must
23 reimburse expenses reasonably incurred by surviving
24 dependents after the date of the decedent's death in
25 obtaining ordinary and necessary services in lieu of those

1 the deceased would have performed for their benefit had he
 2 not suffered the injury causing death, minus expenses of the
 3 survivors avoided by reason of the decedent's death. These
 4 benefits are subject to a maximum of \$200 a week.

5 Section 5. Rehabilitation treatment and occupational
 6 training. (1) A reparation obligor is responsible for the
 7 cost of a procedure or treatment for rehabilitation or a
 8 course of rehabilitative occupational training if the
 9 procedure, treatment, or training is reasonable and
 10 appropriate for the particular case, its cost is reasonable
 11 in relation to its probable rehabilitative effects, and it
 12 is likely to contribute substantially to medical or
 13 occupational rehabilitation.

14 (2) An injured person who has undertaken a procedure
 15 or treatment for rehabilitation or a course of
 16 rehabilitative occupational training, other than medical
 17 rehabilitation procedure or treatment, shall notify the
 18 reparation obligor that he has undertaken the procedure,
 19 treatment, or training within 60 days after a rehabilitation
 20 expense exceeding \$1,000 has been incurred for the
 21 procedure, treatment, or training, unless the reparation
 22 obligor knows or has reason to know of the undertaking. If
 23 the injured person does not give the required notice within
 24 the prescribed time, the reparation obligor is responsible
 25 only for \$1,000 or the expense incurred after the notice is

1 given and within the 60 days before the notice, whichever is
 2 greater, unless failure to give timely notice is the result
 3 of excusable neglect.

4 (3) If the injured person notifies the reparation
 5 obligor of a proposed specified procedure or treatment for
 6 rehabilitation or a proposed specified course of
 7 rehabilitative occupational training and the reparation
 8 obligor does not promptly thereafter accept responsibility
 9 for its cost, the injured person may take a motion in an
 10 action to adjudicate his claim or, if no action is pending,
 11 bring an action in the district court for a determination
 12 that the reparation obligor is responsible for its costs. A
 13 reparation obligor may make a motion in an action to
 14 adjudicate the injured person's claim or, if no action is
 15 pending, bring an action in the district court for a
 16 determination that it is not responsible for the cost of a
 17 procedure, treatment, or course of training which the
 18 injured person has undertaken or proposes to undertake. A
 19 determination by the court that the reparation obligor is
 20 not responsible for the cost of a procedure, treatment, or
 21 course of training is not res judicata as to the propriety
 22 of any other proposal or the injured person's right to other
 23 benefits. This subdivision does not preclude an action by
 24 the reparation obligor or the injured person for declaratory
 25 relief under any other law of this state or an action by the

1 injured person to recover basic economic loss benefits.

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

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

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

6 (a) insureds; and
7 (b) the driver and other occupants of a secured
8 vehicle, other than:

9 (i) a vehicle which is regularly used in the course of
10 the business of transporting persons or property and which
11 is one of five or more vehicles under common ownership; or
12 (ii) a vehicle owned by a government other than this
13 state or its political subdivisions, municipal corporations,
14 or public agencies.

15 Section 7. Priority of applicability of security for
16 payment of basic economic loss 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 economic loss
21 benefits is the security covering the vehicle or, if none,
22 the security under which the injured person is an insured.

23 (2) In case of injury to an employee or to his spouse
24 or other relative residing in the same household, if the
25 accident causing the injury occurs while the injured person

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 imposed by this act;

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

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

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

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

1 Section 9. Mandatory offer of insurance benefits. (1)
 2 On and after January 1, 1978, no insurance policy providing
 3 benefits for injuries arising out of the maintenance or use
 4 of a motor vehicle may be issued, renewed, continued,
 5 delivered, issued for delivery, or executed in this state
 6 with respect to any motor vehicle registered or principally
 7 garaged in this state unless coverage is provided therein or
 8 supplemental thereto, under provisions approved by the
 9 commissioner, requiring the insurer to pay, regardless of
 10 the fault of the insured, basic economic loss benefits.

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

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

19 (3) (a) Each plan of reparation security must contain
 20 stated limits of liability, exclusive of interest and costs,
 21 with respect to each vehicle for which coverage is granted,
 22 of not less than \$25,000 because of bodily injury to one
 23 person in any one accident and, subject to the limit for one
 24 person, of not less than \$50,000 because of injury to two or
 25 more persons in any one accident and, if the accident has

1 resulted in injury to or destruction of property, of not
 2 less than \$10,000 because of the injury to or destruction of
 3 property of others in any one accident.

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

14 (c) Every plan of reparation security is subject to
 15 the following provisions which may be contained therein:

16 (i) The liability of the reparation obligor with
 17 respect to the residual liability coverage required by this
 18 clause is absolute whenever injury or damage occurs; this
 19 liability may not be cancelled or annulled by any agreement
 20 between the reparation obligor and the insured after the
 21 occurrence of the injury or damage. No statement made by the
 22 insured or on his behalf and no violation of the policy
 23 defeats or voids the policy.

24 (ii) The satisfaction by the insured of a judgment for
 25 injury or damage is not a condition precedent to the right

1 or duty of the reparation obligor to make payment or account
2 of such injury or damage.

3 (iii) The reparation obligor may settle any claim
4 covered by the residual liability insurance policy, and if
5 such settlement is made in good faith, the amount thereof is
6 deductible from the limits of liability for the accident out
7 of which the claim arose.

8 (4) (a) On and after January 1, 1978, no plan of
9 reparation security may be renewed, delivered, or issued for
10 delivery or executed in this state with respect to any motor
11 vehicle registered or principally garaged in this state
12 unless coverage is provided therein or supplemental thereto
13 in the amounts of \$25,000 because of injury to or the death
14 of one person in any accident and, subject to the limit for
15 one person, \$50,000 because of bodily injury to or the death
16 of two or more persons in any one accident, for the
17 protection of persons insured thereunder who are legally
18 entitled to recover damages from owners or operators of
19 uninsured motor vehicles and hit-and-run motor vehicles
20 because of injury.

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

24 (c) Recovery is not permitted under the uninsured
25 motor vehicle provisions of this section for basic economic

1 loss benefits paid or payable or which would be payable but
2 for any applicable deductible.

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

7 (a) a deductible in the amount of \$100 to all medical
8 expense benefits otherwise payable, except that if two or
9 more insureds to whom the deductible is applicable are
10 injured in the same accident, the aggregate amount of the
11 deductible applicable to all of them may not exceed the
12 specified deductible, which amount where necessary shall be
13 allocated equally among them; and

14 (b) a deductible in the amount of \$200 to all
15 disability and income loss benefits otherwise payable as a
16 result of an injury to any one insured in one accident.

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

19 (a) medical expense benefits subject to a maximum
20 payment of \$10,000;

21 (b) medical expense benefits subject to a maximum
22 payment of \$20,000;

23 (c) residual liability coverage of not less than
24 \$25,000 for damages for injury to one person in any one
25 accident arising out of the maintenance or use of a motor

1 vehicle, subject to a limitation of \$50,000 for damages
2 arising out of any one accident;

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

6 (e) underinsured motorist coverage whereby, subject to
7 the terms and conditions of the coverage, the reparation
8 obligor agrees to pay its insureds for such uncompensated
9 damages as they are legally entitled to recover on account
10 of a motor vehicle accident because the total damages they
11 are legally entitled to recover exceed the residual
12 liability limit of the owner of the other vehicle, to the
13 extent of the residual liability limits on the motor vehicle
14 of the person legally entitled to recover or such smaller
15 limits as he may select less the amount paid by the
16 reparation obligor of the person against whom he is entitled
17 to recover. His reparation obligor is subrogated to any
18 amounts it pays and upon payment has an assignment of the
19 judgment, if any, against the other person to the extent of
20 the money it pays.

21 (7) Nothing in this act prevents an insurer from
22 offering other benefits or coverages in addition to those
23 required to be offered under this section.

24 (8) Any coverage issued by a participating member of
25 the Montana automobile insurance plan must comply with the

1 provisions of this section, any provisions of law or of the
2 contract notwithstanding.

3 Section 10. Insurers' certification of basic coverage.

4 (1) Every insurer licensed to write motor vehicle accident
5 reparation and liability insurance in this state shall, on
6 or before January 1, 1978, as a condition to such licensing,
7 file with the commissioner and thereafter maintain a written
8 certification that it will afford at least the minimum
9 security provided by [section 9 of this act] to all
10 policyholders, except that in the case of nonresident
11 policyholders it need only certify that security is provided
12 with respect to accidents occurring in this state.

13 (2) Notwithstanding any contractual provision, every
14 contract of liability insurance for injury, wherever issued,
15 covering obligations arising from ownership, maintenance, or
16 use of a motor vehicle, except a contract which provides
17 coverage only for liability in excess of required minimum
18 tort liability coverages, includes basic economic loss
19 benefit coverages and residual liability coverages required
20 by this act while the vehicle is in this state and qualifies
21 as security covering the vehicle.

22 Section 11. Deduction of collateral benefits from tort
23 recovery — limitation on right to recover damages. (1) In a
24 cause of action in negligence accruing as a result of injury
25 arising out of the operation, ownership, maintenance, or use

1 of a motor vehicle upon which security has been provided as
 2 required by this act, the value of basic or optional
 3 economic loss benefits paid or payable or which would be
 4 payable but for any applicable deductible must be deducted
 5 from any recovery. This subdivision does not bar subrogation
 6 and indemnity recoveries under [section 13] if the injury
 7 had the consequences described in [subsection (3) of that
 8 section] and a civil action has been commenced in the manner
 9 prescribed in applicable laws or rules of civil procedure to
 10 recover damages for noneconomic detriment.

11 (2) A person may bring a negligence action for
 12 economic loss not paid or payable by an economic loss
 13 obligor because of daily or weekly dollar limitations of
 14 [section 4], the 7-day services exclusion of [section 4],
 15 the limitations of benefits contained in [subsection (1) of
 16 section 4], or an exclusion from coverage by [sections 18,
 17 19, and 20].

18 (3) In an action described in subsection (1), a person
 19 may not recover damages for noneconomic detriment unless:

20 (a) the sum of the following exceeds \$2,000:

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

23 (ii) the value of free medical or surgical care or
 24 ordinary and necessary nursing services performed by a
 25 relative of the injured person or a member of his household,

1 plus

2 (iii) the amount by which the value of reimbursable
 3 medical services or products exceeds the amount of benefit
 4 paid, payable, or payable but for an applicable deductible
 5 for those services or products if the injured person was
 6 charged less than the average reasonable amount charged in
 7 this state for similar services or products, minus

8 (iv) the amount of medical expense benefits paid,
 9 payable, or payable but for an applicable deductible for
 10 diagnostic x-rays and for a procedure or treatment for
 11 rehabilitation and not for remedial purposes or a course of
 12 rehabilitative occupational training; or

13 (b) the injury results in:

14 (i) permanent disfigurement;

15 (ii) permanent injury;

16 (iii) death; or

17 (iv) disability for 60 days or more;

18 (c) for the purposes of subsection (3) (a), evidence of
 19 the reasonable value of medical services and products is
 20 admissible in any action brought in this state.

21 (4) Nothing in this section impairs or limits the
 22 liability of a person in the business of manufacturing,
 23 distributing, retailing, repairing, servicing, or
 24 maintaining motor vehicles, arising from a defect in a motor
 25 vehicle caused or not corrected by an act or omission in

1 manufacture, inspection, repair, service, or maintenance of
2 a vehicle in the course of his business.

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

8 Section 12. Mandatory arbitration of certain claims —
9 supreme court to promulgate rules of procedure. (1) The
10 supreme court and the several courts of general trial
11 jurisdiction of this state may, on or before January 1,
12 1978, by rules of court or other constitutionally
13 permissible device, provide for the submission to
14 arbitration, upon mutual consent of all parties to the
15 action, of all cases at issue where a claim in an amount of
16 \$5,000 or less is made by a motor vehicle accident victim,
17 whether in an action to recover economic loss or noneconomic
18 detriment for the allegedly negligent operation,
19 maintenance, or use of a motor vehicle within this state, or
20 against any reparation obligor for benefits as provided in
21 this act.

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

1 agreement must define the issues to be arbitrated and
2 contain any stipulations of fact or defenses waived. The
3 agreement takes the place of pleadings and must be filed of
4 record.

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

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

1 the basic economic loss benefits were paid or payable.

2 (3) The right of indemnity provided in subsection (1)
3 is enforceable only through mandatory good faith and binding
4 arbitration procedures to be established by rule of the
5 commissioner of insurance. These procedures must utilize
6 determinations of comparative negligence. Evidence used and
7 the decision made in the proceeding are not admissible in an
8 action by a party.

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

17 (5) A reparation obligor may not include in its
18 contract any provision which would require a person to
19 commence a negligence action as a condition precedent to the
20 payment of basic economic loss benefits or which permits the
21 reparation obligor to determine whether an action will be
22 commenced. A reparation obligor may not contract for a
23 right of reimbursement or subrogation greater than or in
24 addition to those permitted by this act.

25 (6) Arbitration proceedings need not await final

1 payment of benefits, and the award, if any, must include
2 provision for reimbursement of subsequent benefits, but no
3 question of fact decided by a prior award may be
4 reconsidered in any such subsequent arbitration hearing.

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

21 (2) Overdue payments bear simple interest at the rate
22 of 10% a year.

23 (3) A claim for basic economic loss benefits shall be
24 paid without deduction for the benefits which are to be
25 subtracted pursuant to [section 21] if these benefits have

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

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

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

25 Section 15. Application for benefits under plan of

1 security. (1) A plan of reparation security may prescribe a
2 period of not less than 6 months after the date of accident
3 within which an insured or any other person entitled to
4 claim basic economic loss benefits or anyone acting on their
5 behalf must notify the reparation obligor or its agent of
6 the accident and the possibility of a claim for economic
7 loss benefits in order to be eligible for the benefits.
8 Notice may be given in any reasonable fashion.

9 (2) A plan of reparation security may provide that in
10 any instance where a lapse occurs in the period of
11 disability or in the medical treatment of a person whose
12 injury basic economic loss benefits have been paid and a
13 person subsequently claims additional benefits based upon an
14 alleged recurrence of the injury for which the original
15 claim for benefits was made, the obligor may require
16 reasonable medical proof of the alleged recurrence; however,
17 the aggregate benefits payable to any person may not exceed
18 the maximum limits specified in the plan of security, but
19 the coverages may contain a provision terminating
20 eligibility for benefits after a prescribed period of lapse
21 of disability and medical treatment, which period may not be
22 less than 1 year.

23 Section 16. Cooperation of person claiming benefits.

24 (1) Any person whose injury benefits are claimed under a
25 plan of reparation security shall, upon request of the

1 reparation obligor from whom recovery is sought, submit to a
 2 physical examination by a physician or physicians selected
 3 by the obligor as may reasonably be required.

4 (2) The costs of any examinations requested by the
 5 obligor are borne by the requesting obligor. Examinations
 6 must be conducted within the city, town, or statutory city
 7 of residence of the injured person. If there is no qualified
 8 physician to conduct the examination within the city, town,
 9 or statutory city of residence of the injured person, it
 10 must be conducted at a place of the closest proximity to the
 11 injured person's residence. Obligors are authorized to
 12 include reasonable provisions in policies for mental and
 13 physical examination of injured persons.

14 (3) If requested by the person examined, a party
 15 causing an examination to be made shall deliver to him a
 16 copy of every written report concerning the examination
 17 rendered by an examining physician, at least one of which
 18 reports must set out in detail the findings and conclusions
 19 of the examining physician.

20 (4) An injured person shall also do all things
 21 reasonably necessary to enable the obligor to obtain medical
 22 reports and other needed information to assist in
 23 determining the nature and extent of the injured person's
 24 injuries and loss and the medical treatment received by him.
 25 If the claimant refuses to cooperate in responding to

1 requests for examination and information as authorized by
 2 this section, evidence of such noncooperation is admissible
 3 in any suit or arbitration filed for damages for the
 4 personal injuries or for the benefits provided by this act.

5 (5) Any person receiving benefits under this act shall
 6 participate and cooperate, as reasonably required under the
 7 coverage, in any and all arbitration proceedings as provided
 8 in [section 13] by or on behalf of the obligor paying the
 9 benefits, and the obligor may require in the furnishing of
 10 proof of loss the claimant's statement that he will
 11 participate and cooperate as consideration for the payment
 12 of such benefits. However, no claimant may be required by
 13 any obligor which has paid or is obligated to pay benefits
 14 as herein provided to personally attend an arbitration
 15 proceeding which takes place more than 50 miles from the
 16 usual residence of the claimant; and in no event may the
 17 claimant be required to attend an arbitration proceeding if,
 18 at the time scheduled for that meeting, travel thereto by
 19 the claimant is not recommended by a physician treating the
 20 claimant for his injuries. Any claimant required to
 21 personally attend an arbitration proceeding must be
 22 compensated by the reparation obligor requiring his
 23 attendance for actual income loss and expenses reasonably
 24 incurred.

25 Section 17. Economic loss benefits — exemptions from

1 legal attachment. No economic loss benefits provided by this
 2 act, whether paid or payable to any claimant, may be subject
 3 to garnishment, sequestration, attachment, or execution or
 4 any other legal process which would deny their receipt and
 5 use by that person. However, this section does not apply to
 6 any person who has provided treatment or services, as
 7 described in [subsection (2) of section 4], to the victim of
 8 a motor vehicle accident.

9 Section 18. Converted motor vehicles. A person who
 10 converts a motor vehicle is disqualified from basic or
 11 optional economic loss benefits, including benefits
 12 otherwise due him as a survivor, from any source other than
 13 an insurance contract under which the converter is an
 14 insured, for injuries arising from maintenance or use of the
 15 converted vehicle. If the converter dies from the injuries,
 16 his survivors are not entitled to basic or optional economic
 17 loss benefits from any source other than an insurance
 18 contract under which the converter is a basic economic loss
 19 insured. For the purpose of this section, a person is not a
 20 converter if he uses the motor vehicle in the good faith
 21 belief that he is legally entitled to do so.

22 Section 19. Races. A person who is injured in the
 23 course of an officiated racing or speed contest or in
 24 practice or preparation therefor is disqualified from basic
 25 or optional economic loss benefits. His survivors are not

1 entitled to basic or optional economic loss benefits for
 2 loss arising from his death.

3 Section 20. Intentional injuries. (1) A person
 4 intentionally causing or attempting to cause injury to
 5 himself or another person is disqualified from basic or
 6 optional economic loss benefits for injury arising from his
 7 acts, including benefits otherwise due him as a survivor.

8 (2) If a person dies as a result of intentionally
 9 causing or attempting to cause injury to himself, his
 10 survivors are not entitled to basic or optional economic
 11 loss benefits for loss arising from his death.

12 (3) A person intentionally causes or attempts to cause
 13 injury if he acts or fails to act for the purpose of causing
 14 injury or with knowledge that injury is substantially
 15 certain to follow.

16 (4) A person does not intentionally cause or attempt
 17 to cause injury:

18 (a) merely because his act or failure to act is
 19 intentional or done with his realization that it creates a
 20 grave risk of causing injury; or

21 (b) if the act or omission causing the injury is for
 22 the purpose of averting bodily harm to himself or another
 23 person.

24 Section 21. Benefits — primary — subtractions —
 25 coordination. (1) Basic economic loss benefits are primary

1 with respect to benefits, except for those paid or payable
 2 under a workers' compensation law, which any person receives
 3 or is entitled to receive from any other source as a result
 4 of injury arising out of the maintenance or use of a motor
 5 vehicle.

6 (2) Benefits paid or payable under a workers'
 7 compensation law because of injury or death are subtracted
 8 in computing basic economic loss benefits but only to the
 9 extent that they exceed any deductible applicable to the
 10 basic economic loss benefits.

11 (3) Any legally constituted entity other than a
 12 reparation obligor obligated to pay benefits under a plan of
 13 reparation security or an insurer or employer obligated to
 14 pay benefits under a workers' compensation law, may
 15 coordinate any benefits it is obligated to pay for loss
 16 incurred as a result of injury arising out of the
 17 maintenance or use of a motor vehicle with basic economic
 18 loss benefits.

19 (4) Notwithstanding subsection (3), no entity may
 20 coordinate benefits unless it provides those persons who
 21 purchase benefits from it with an equitable reduction or
 22 savings in the direct or indirect cost of the purchased
 23 benefits. If the benefits to be coordinated are provided to
 24 an individual through a group, program, contract, or other
 25 arrangement for which another person pays in whole or in

1 part, the entity coordinating benefits shall return to the
 2 individual or use for his benefit any reduction or savings
 3 in the direct or indirect cost of the benefits.

4 Section 22. Duplicate claim — obligor subrogated. A
 5 reparation obligor paying or obligated to pay basic economic
 6 loss benefits is subrogated to any claim based on an
 7 intentional tort or on strict or statutory liability against
 8 any person whose act or omission caused the injury. This
 9 right of subrogation exists only to the extent that basic
 10 economic loss benefits are paid and only to the extent that
 11 recovery on the claim would produce a duplication of
 12 benefits or reimbursement of the same loss.

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

1 participate in the assigned claims bureau and the assigned
2 claims plan. Costs incurred must be allocated fairly and
3 equitably among the reparation obligors.

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

16 Section 24. Persons entitled to participate in
17 assigned claims plan. (1) A person entitled to basic
18 economic loss benefits because of injury covered by this act
19 may obtain basic economic loss benefits through the assigned
20 claims plan or bureau established pursuant to [section 23]
21 and in accordance with the provisions for making assigned
22 claims provided in this act if:

23 (a) basic economic loss benefits are not applicable to
24 the injury for some reason other than those specified in
25 [sections 18, 19, or 20];

1 (b) the plan of reparation security applicable to the
2 injury cannot be identified; or

3 (c) a claim for basic economic loss benefits is
4 rejected by a reparation obligor on some ground other than
5 that the person is not entitled to basic economic loss
6 benefits under this act.

7 (2) If a claim qualifies for assignment under
8 subsection (1) of this section, the assigned claims bureau
9 or any reparation obligor to whom the claim is assigned is,
10 as provided in [section 23], subrogated to all of the rights
11 of the claimant against any person, including another
12 obligor, who is legally obligated to provide economic loss
13 benefits to the claimant, for economic loss benefits
14 provided by the obligor to whom the claim was assigned.

15 (3) A person is not entitled to basic economic loss
16 benefits through the assigned claims plan for injuries
17 sustained if at the time of injury the injured person was
18 the owner of a private passenger motor vehicle for which
19 security is required under this act and he failed to have
20 security in effect. Persons claiming benefits as a result
21 of injury to members of the owner's household are
22 disqualified from benefits if those members knew or
23 reasonably should have known that security covering the
24 vehicle was not provided as required by this act.

25 Section 25. Notification to assigned claims bureau. A

1 person authorized to obtain basic economic loss benefits
 2 through the assigned claims plan shall notify the bureau of
 3 his claim within 1 year of the date on which he receives
 4 written authorization to participate in such plan. If timely
 5 action for basic economic loss benefits is commenced against
 6 a reparation obligor who is unable to fulfill his
 7 obligations under this act, a claim through the assigned
 8 claims plan may be made within a reasonable time after
 9 discovery of such inability.

10 Section 26. Claims against wrong insurer. If timely
 11 action for economic loss benefits is commenced against a
 12 reparation obligor and benefits are denied because of a
 13 determination that the obligor's coverage is not applicable
 14 to the claimant under the provisions of [section 7] as the
 15 priority of applicability of security, a claim against a
 16 proper obligor or assigned claims plan may be made not later
 17 than 90 days after such determination becomes final or the
 18 last date on which the action could otherwise have been
 19 commenced, whichever is later.

20 Section 27. Penalties for failure to provide security
 21 for basic reparation benefits. (1) Every owner of a motor
 22 vehicle for which security has not been provided as required
 23 by [section 8] is liable in tort without limitation.

24 (2) Any owner of a motor vehicle for which security is
 25 required under this act who operates the motor vehicle or

1 permits it to be operated upon a public highway, street, or
 2 road in this state without having in full force and effect
 3 security complying with the terms of [section 8] is guilty
 4 of a misdemeanor.

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

9 (4) Any operator of a motor vehicle who is convicted
 10 of a misdemeanor under the terms of this section shall have
 11 his operator's license revoked for not less than 6 months or
 12 more than 12 months. If such operator is also an owner of
 13 the motor vehicle, his motor vehicle registration shall be
 14 revoked for not less than 6 months or more than 12 months.

15 (5) When a nonresident's operating privilege is
 16 suspended pursuant to this section, the attorney general or
 17 his designee shall transmit a copy of the record of the
 18 action to the official in charge of the issuance of licenses
 19 in the state in which the nonresident resides.

20 (6) Upon receipt of notification that the operating
 21 privilege of a resident of this state has been suspended or
 22 revoked in any other state pursuant to a law providing for
 23 its suspension or revocation for failure to deposit security
 24 for the payment of judgments arising out of a motor vehicle
 25 accident or for failure to provide security covering a

1 vehicle if required by the laws of that state, the attorney
 2 general shall suspend the license of the resident until he
 3 furnishes evidence of compliance with the laws of this state
 4 and, if applicable, the laws of the other state.

5 Section 28. Rules of attorney general. (1) The
 6 attorney general shall perform the duties imposed upon him
 7 by this act and may adopt rules to implement and provide
 8 effective administration of the provisions requiring
 9 security and governing termination of security.

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

18 (a) the registrant has not previously registered a
 19 motor vehicle in this state;

20 (b) an owner or operator of the vehicle has previously
 21 failed to comply with the security requirements of this act
 22 or of prior law;

23 (c) the driving record of an owner or operator of the
 24 vehicle evidences his continuing disregard of the laws of
 25 this state enacted to protect the public safety; or

1 (d) other circumstances indicate that such action is
 2 necessary to effectuate the purposes of this act.

3 Section 29. Obligor's notification of lapse,
 4 cancellation, or failure to renew policy of coverage. If the
 5 required plan of reparation security of an owner or named
 6 insured is cancelled and notification of that fact is given
 7 to the insured as required by law, a copy of the notice
 8 shall, within 30 days after coverage has expired, be sent to
 9 the attorney general. If, on or before the end of that
 10 30-day period, the insured owner of a motor vehicle has not
 11 presented the attorney general or his authorized agent with
 12 evidence of required security which took effect upon the
 13 expiration of the previous coverage or if the insured owner
 14 or registrant has not instituted an objection to his
 15 obligor's cancellation, he shall immediately surrender the
 16 registration certificate and motor vehicle license plates to
 17 the attorney general and may not operate or permit operation
 18 of the vehicle in this state until security is again
 19 provided and proof of security furnished as required by this
 20 act.

21 Section 30. Automobile insurance rates -- penalties.

22 (1) The policy premiums charged by each insurer in
 23 connection with the compulsory plan of reparation security
 24 required by this act for private passenger motor vehicles
 25 must be at least 30% below such insurer's policy premiums in

1 effect on December 31, 1976, for liability insurance with
 2 limits of \$25,000 a person and \$50,000 an accident, plus
 3 \$1,000 medical payments insurance, plus uninsured motorists
 4 coverage of \$25,000 a person and \$50,000 an accident.
 5 Actuarially commensurate adjustments are required in the
 6 case of other combinations of coverage.

7 (2) Any person convicted of violating this section is
 8 guilty of a misdemeanor. Every day in violation is a
 9 separate offense. Any person convicted of violating any
 10 provision of this section shall be prohibited from engaging
 11 in any business as an insurer in this state for a period of
 12 5 years. The attorney general shall, at the request of the
 13 commissioner, initiate in the name of the state appropriate
 14 action in a district court to enforce the provisions of this
 15 section.

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

24 (4) The commissioner shall review all automobile
 25 coverage rates on an annual basis. If the commissioner finds

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

7 Section 31. Repealer. Sections 40-4403 and 53-418
 8 through 53-456, R.C.M. 1947, are repealed.

9 Section 32. Severability. If a part of this act is
 10 invalid, all valid parts that are severable from the invalid
 11 part remain in effect. If a part of this act is invalid in
 12 one or more of its applications, the part remains in effect
 13 in all valid applications that are severable from the
 14 invalid applications.

15 Section 33. Effective date. This act is effective
 16 January 1, 1978. Accidents occurring prior to that date are
 17 not covered by or subject to this act.

-End-

STATE OF MONTANA

REQUEST NO. 484-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 14, 19 77, there is hereby submitted a Fiscal Note for House Bill 739 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Establishes a system of no-fault insurance.

ASSUMPTIONS:

1. Bill requires revision of all automobile policy forms, which will require review and approval by Insurance Commissioner. This requires one additional FTE, Grade 12.
2. Bill requires regulation, which will require an additional Examiner, Grade 12.
3. Provisions of Section 23, Assigned Claims Plan, requires legal services to implement such a plan. It will be a one-time cost and can be contracted for approximately \$5,000.
4. Rate review annually, as required by Section 40 of the bill, will require services of one (1) FTE (Actuary), not available for a salary of less than \$35,000 annually; one (1) FTE Secretary, grade 7, and computer services.
5. The Department of Justice would be required to suspend the Drivers License and Vehicle Registration of persons convicted of being in violation of this act.
6. It is assumed that in the early years of this act 10 to 15 thousand drivers would be affected each year by this act. This is less than 3.5% of all licensed drivers.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
State Auditor			
Personal services	\$ 76,291	\$ 80,106	\$156,397
Operating expenses	20,000	15,000	35,000
Equipment	2,240	0	2,240
Total additional cost to State Auditor	<u>98,531</u>	<u>95,106</u>	<u>193,637</u>
Department of Justice			
Personal services	9,290	19,024	28,314
Operating expenses	750	1,600	2,350
Equipment	2,200	0	2,200
Total additional cost to Dept. of Justice*	<u>12,240</u>	<u>20,624</u>	<u>32,864</u>
Total additional cost of proposed legislation	<u>\$110,771</u>	<u>\$115,730</u>	<u>\$226,501</u>

*The proposed legislation could also increase the workload of the Highway Patrol and the Registrar of Motor Vehicles, but the full impact cannot be determined at this time.

Richard L. Drury
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-18-77