

1 *House* BILL NO. *761*
2 INTRODUCED BY *Harvey Luke Remrey*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE FORMATION
5 OF NONPROFIT CORPORATIONS TO PROVIDE PREPAID LEGAL SERVICES
6 AND TO REGULATE THE ACTIVITIES OF SUCH CORPORATIONS."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Short title. This act may be cited as "The
10 Prepaid Legal Services Act".

11 Section 2. Purpose of act. The purpose of this act is
12 to permit and encourage the formation of nonprofit prepaid
13 legal services plans in order to make legal services more
14 available to the public.

15 Section 3. Definitions. The following definitions
16 apply in this act:

17 (1) "Attorney" means a person who is currently an
18 active member of the state bar of Montana.

19 (2) "Applicant" means a person applying for a contract
20 for performance of legal services through a corporation
21 organized or operating under this act.

22 (3) "Commissioner" means the commissioner of insurance
23 of the state of Montana.

24 (4) "Contracting attorney" means an attorney who has
25 entered into a contract with a legal services corporation as

1 provided in [section 9].

2 (5) "Legal services corporation" means a nonprofit
3 corporation organized for the purposes of establishing and
4 operating a nonprofit plan or plans under which prepaid
5 legal services or reimbursement therefor is furnished to
6 members.

7 (6) "Member" means a person entitled to the
8 performance of legal services under a contract with a legal
9 services corporation.

10 (7) "Membership contract" means any agreement,
11 contract, or certificate by which a legal services
12 corporation describes the legal services to which its
13 members are entitled.

14 Section 4. Purposes of legal services corporation. (1)
15 A legal services corporation may be organized for the
16 purposes of:

17 (a) establishing and operating a voluntary, nonprofit
18 plan or plans under which legal services or reimbursement
19 therefor is furnished to persons who become members or
20 beneficiaries;

21 (b) acting as agent or intermediary for other legal
22 services corporations, for governmental bodies or agencies,
23 or for other corporations, associations, partnerships, or
24 individuals in the field of legal services; and

25 (c) the promotion of social welfare through research

1 and through charitable, educational, and related activities
2 to further the purposes of this act.

3 (2) No profit organization may be a legal services
4 corporation. No group, association, or organization created
5 for or engaged in business or activity for profit, provision
6 for the incorporation of which is made by any of the
7 corporation laws of this state, may be organized or
8 operated, directly or indirectly, as a legal services
9 corporation under this act.

10 Section 5. Application of other laws. (1) A legal
11 services corporation is subject to the provisions of the
12 Montana Nonprofit Corporation Act to the extent that such
13 provisions are not in conflict with the provisions of this
14 act.

15 (2) A legal services corporation which complies with
16 this act is not considered as being engaged in the business
17 of insurance or transacting insurance business and is not
18 subject to the laws regarding insurers.

19 Section 6. Application of Montana Administrative
20 Procedure Act. All final administrative actions or decisions
21 of the commissioner under this act are subject to judicial
22 review under and in accordance with the Montana
23 Administrative Procedure Act.

24 Section 7. Participation contracts -- agreements with
25 insurers. (1) A legal services corporation may contract with

1 other legal services corporations and insurers licensed to
2 do business in Montana for joint participation through
3 mutualization contract agreements or guaranty treaties and
4 may otherwise cede or accept legal services obligations from
5 such organizations. Prior to their effectiveness, the
6 contract forms, documents, treaties, or agreement forms must
7 be filed with and approved by the commissioner as being in
8 accordance with the plan of operation of the corporation.

9 (2) The commissioner may issue such rules concerning
10 participation contracts and agreements with insurers as he
11 considers necessary to carry out the purposes of this act.

12 Section 8. Management and exclusive agency contracts.

13 (1) No legal services corporation may enter into an
14 exclusive agency or management contract unless the contract
15 is first filed with and approved by the commissioner.

16 (2) The commissioner shall disapprove a contract
17 submitted under subsection (1) if he finds that:

18 (a) it subjects the corporation to excessive charges;
19 (b) it extends for an unreasonable period of time;
20 (c) it does not contain fair and adequate standards of
21 performance;

22 (d) the persons empowered under the contract to manage
23 the corporation are not sufficiently trustworthy, competent,
24 and free from conflict of interest to give reasonable
25 assurance that the interests of the corporation's

1 participants and creditors and the interests of the public
2 will be protected; or

3 (e) the contract contains provisions which are likely
4 to impair the interests of the corporation's participants or
5 creditors or the interests of the public.

6 Section 9. Agreements with contracting attorneys. A
7 legal services corporation may contract with attorneys in
8 such a manner as to assure to each participant holding a
9 membership contract of the corporation the furnishing of
10 such legal services by a contracting attorney as agreed upon
11 in the membership contract. The corporation may limit in the
12 membership contract the types and extent of benefits and the
13 circumstances in which legal services will be furnished.

14 Section 10. Corporation to have a sufficient number of
15 contracting attorneys. Before issuing any membership
16 contracts, a legal services corporation shall have contracts
17 with a sufficient number of contracting attorneys to enable
18 it to fulfill its contractual obligations to its members. As
19 long as the corporation has obligations under membership
20 contracts, it shall maintain contracts with a sufficient
21 number of contracting attorneys. Ten per cent of the
22 currently active members of the state bar of Montana is
23 always sufficient. The commissioner may allow a legal
24 services corporation to operate with less than 10% of the
25 active members of the state bar of Montana under contract if

1 the commissioner determines that the number of attorneys
2 under contract is sufficient under the circumstances.

3 Section 11. Noninterference with attorney-client
4 relationships. (1) A legal services corporation may not
5 itself practice law in any manner nor may it control or
6 attempt to control the relations between a member and the
7 member's attorney. It shall confine its activities to
8 contracting as an agent on behalf of its members for legal
9 services to be rendered by contracting attorneys who may
10 never be employees of the corporation but shall always be
11 independent contractors maintaining direct attorney-client
12 relationships with the members.

13 (2) A legal services corporation must offer the same
14 contract terms to all attorneys who desire to become
15 contracting attorneys.

16 Section 12. Membership contracts. A legal services
17 corporation shall issue a membership contract to each
18 applicant it accepts as a member. A membership contract may
19 be on an individual, group, or franchise basis and may
20 provide for payments to help defray the costs of legal
21 services provided by noncontracting attorneys.

22 Section 13. Definition of enrollment representative.
23 (1) A person who, for compensation, solicits membership in a
24 prepaid legal services plan offered by a legal services
25 corporation is an enrollment representative of that

1 corporation.

2 (2) For the purposes of this act, an enrollment
3 representative does not include:

4 (a) an individual employed by enrollment
5 representatives for the performance of clerical,
6 stenographic, and similar office duties;

7 (b) an individual employed for taking applications for
8 coverage on a nonregular basis in the office of an
9 enrollment representative;

10 (c) an individual who secures and forwards information
11 for an existing group contractor for the purpose of
12 enrolling individuals under an existing group contract.

13 Section 14. Licensing of enrollment representatives.

14 (1) Each legal services corporation shall notify the
15 commissioner through its proper officer or agent of the
16 name, title, and address of each person it desires appointed
17 as an enrollment representative. The notice shall be
18 accompanied by a written application, upon a form furnished
19 by the commissioner, from the appointee.

20 (2) The commissioner shall issue an appointee a
21 license to act as an enrollment representative of the
22 corporation if, upon receipt of the written application
23 provided for in subsection (1) accompanied by the proper
24 fee, it appears that:

25 (a) the appointee is a competent and suitable person

1 who intends to hold himself out in good faith as the
2 corporation's enrollment representative; and

3 (b) the appointee qualifies under the provisions of
4 this section.

5 (3) If the commissioner considers it desirable, he may
6 require an appointee to submit to an examination to
7 determine the qualifications of the appointee to act as an
8 enrollment representative. The examination shall inquire
9 into an applicant's knowledge of the provisions of this act
10 and of the forms submitted and utilized by the employing
11 corporation.

12 (4) Upon receipt by the commissioner of notification
13 from a legal services corporation that the corporation
14 desires a particular individual to be appointed as its
15 enrollment representative, that person has a temporary
16 enrollment representative's license until the commissioner
17 notifies the corporation of action taken upon the
18 application. If the commissioner rejects the application,
19 the prospective appointee's eligibility to act as an
20 enrollment representative ceases on the day the corporation
21 is notified of a final rejection.

22 (5) The commissioner shall notify both the appointee
23 and the corporation in writing of any refusal to grant a
24 license. No application may be finally rejected without a
25 hearing or examination.

1 Section 15. License renewal. Unless revoked by the
 2 commissioner or unless the corporation by written
 3 notification to the commissioner cancels the authority of an
 4 enrollment representative to act for it, a license issued or
 5 a renewal thereof expires on January 1 after its issuance. A
 6 license may be renewed annually upon payment of the annual
 7 license renewal fee as provided in [section 21].

8 Section 16. Suspension and revocation of license. (1)
 9 The commissioner may suspend for not more than 12 months or
 10 revoke or refuse to continue any license issued under this
 11 act if he finds that as to the licensee any one or more of
 12 the following causes exist:

13 (a) any cause for which issuance of the license could
 14 have been refused had it then existed and been known to the
 15 commissioner;

16 (b) obtaining or attempting to obtain a license
 17 through misrepresentation or fraud;

18 (c) violation of or noncompliance with applicable
 19 provisions of this act or willful violation of any lawful
 20 rule or order of the commissioner;

21 (d) misappropriation or conversion to his own use or
 22 illegal withholding of moneys or property belonging to the
 23 legal services corporation, its members, beneficiaries, or
 24 others and received in the conduct of business under the
 25 license;

1 (e) conviction of a felony involving moral turpitude;
 2 (f) fraudulent or dishonest practices in the conduct
 3 of his affairs under the license; or

4 (g) incompetence, untrustworthiness, or injury and
 5 loss to the public while acting under the license.

6 (2) No action may be taken under subsection (1) unless
 7 a hearing has been granted the licensee with 20 days'
 8 notice. The notice and the reasons for the commissioner's
 9 action shall be sent by certified mail to the licensee and
 10 the corporation.

11 Section 17. Forms — filing, disapproval by
 12 commissioner. (1) A copy of all forms of the membership
 13 contract or any type of endorsement or rider shall be filed
 14 with the commissioner within 30 days after that form is
 15 first used. When a form does not comply with the
 16 requirements of this act, the commissioner shall notify the
 17 corporation in writing of that failure and include the
 18 reasons for his opinion. Unless the corporation requests a
 19 hearing within 10 days, notice by the commissioner disallows
 20 use of this form by the corporation. If the corporation
 21 challenges the commissioner's disallowance of a form, it
 22 shall request a hearing on that issue. The commissioner
 23 shall schedule a hearing as soon as practicable but not less
 24 than 15 days from the date of the request. If the
 25 commissioner finds, after the hearing, that the form is not

1 in compliance with this act, he may disapprove the form and
 2 issue a final order to that effect. Notice of disapproval,
 3 including the grounds for disapproval, shall be presented to
 4 the corporation within 30 days after the hearing. The final
 5 order is effective 30 days after presentation of the notice
 6 of disapproval.

7 (2) A corporation whose forms have been ordered
 8 discontinued by the commissioner may appeal, within 15 days
 9 after an order, to a district court of this state. The
 10 court, upon filing of the proper petition, shall cause the
 11 forms and orders of the commissioner to be brought before
 12 it, and upon hearing the case, the court shall either affirm
 13 or reverse and vacate the order of the commissioner.

14 (3) The court may suspend or stay a final order of the
 15 commissioner under this section pending trial of the issues
 16 or an appeal.

17 Section 18. Financial security. (1) The corporation
 18 shall maintain at all times unobligated funds adequate to:

19 (a) meet its obligations under membership contracts;
 20 and

21 (b) meet all costs and expenses.

22 (2) In addition, reserves of a legal services
 23 corporation in cash, certificates of deposit, obligations
 24 issued or guaranteed by the government of the United States,
 25 or other assets approved by the commissioner shall be

1 maintained in an amount not less than the lesser of:

2 (a) \$500,000; or

3 (b) an amount equal to 1 month's average income from
 4 dues or fees paid to the corporation by its members or
 5 beneficiaries.

6 (3) The determination of minimum reserves is subject,
 7 as to amounts payable to contracting attorneys, to any right
 8 of the corporation to prorate amounts under the terms of its
 9 contracts with contracting attorneys. The commissioner may
 10 decrease or suspend the requirements of this section if he
 11 finds that the action is in the best interest of the members
 12 of the corporation.

13 Section 19. Annual report. Each legal services
 14 corporation shall make and file annually with the
 15 commissioner, on or before March 1, a report under oath
 16 setting forth:

17 (1) the name of the corporation;

18 (2) the address of its registered office in this state
 19 and the name of its registered agent at that address;

20 (3) the names and addresses of its directors and
 21 officers;

22 (4) a brief statement of the character of the affairs
 23 which the corporation is actually conducting;

24 (5) the amount of all dues or fees collected from its
 25 members in the last fiscal year, the amounts actually paid

1 during that year for legal services for the benefit of its
2 members or beneficiaries, and the amounts placed in
3 reserves;

4 (6) a balance sheet and statement of income and
5 expenditures for the most recent fiscal year of the
6 corporation, prepared and verified by two officers of the
7 corporation and certified by a certified public accountant;

8 (7) a statement of any other facts or information
9 concerning the financial affairs of the legal services
10 corporation which may be reasonably required by the
11 commissioner.

12 Section 20. Examination of a legal services
13 corporation. (1) If the commissioner believes a legal
14 services corporation is unable or potentially unable to
15 fulfill its contractual obligations to its members, the
16 commissioner may conduct an examination of that corporation.

17 (2) Each officer, employee, or agent of a legal
18 services corporation examined shall produce and make
19 available to the commissioner or his examiners the accounts,
20 records, documents, files, information, assets, and matters
21 in his possession or control relating to the subject of the
22 examination.

23 (3) The commissioner or his examiner shall make a
24 verified report of the examination.

25 (4) The report shall comprise only facts appearing

1 from the books, papers, records, and documents of the
2 corporation examined; facts ascertained from the testimony,
3 under oath, of individuals concerning its affairs; and
4 conclusions and recommendations as warranted by those facts.

5 (5) The commissioner shall furnish a copy of the
6 proposed report to the corporation examined not less than 20
7 days prior to its filing in his office. If the corporation
8 requests a hearing, in writing, within the 20-day period,
9 the commissioner shall grant one with respect to the report
10 and shall not file the report until after the hearing and
11 after modifications, if any, the commissioner considers
12 proper.

13 Section 21. Fees. (1) Each legal services corporation
14 shall pay the following fees to the commissioner for
15 enforcement of the provisions of this act:

- 16 (a) enrollment representative's license:
 - 17 (i) application for an original license including
 - 18 examination and issuance of license.....\$10;
 - 19 (ii) annual renewal.....\$ 5;
 - 20 (b) filing any other statement or report.....\$ 1;
 - 21 (c) for a certified copy of any document or other
 - 22 paper filed in the office of the commissioner.....
 - 2350 cents a page;
 - 24 (d) for the certificate and for affixing the seal
 - 25 thereto.....\$ 1;

- 1 (e) filing of a membership contract.....\$10;
- 2 (f) filing of a membership contract package.....\$25;
- 3 (g) filing the annual report.....20 cents
- 4 for each individual or family unit the corporation covered
- 5 at the close of the year to which the annual report is
- 6 applicable, with a minimum of \$100.

7 (2) The commissioner shall deposit with the state
 8 treasurer to the credit of the general fund all fees
 9 received by him under this section.

10 Section 22. Premium tax exemption. A legal services
 11 corporation is exempt from all premium taxes.

12 Section 23. Grievance procedure -- complaints against
 13 the corporation. A member of a legal services corporation
 14 who believes himself to be aggrieved by any act or omission
 15 of the corporation or its officers, directors, or employees
 16 may file a statement in writing of his grievance in the
 17 office of the commissioner, and the commissioner may
 18 investigate the grievance. No investigation by the
 19 commissioner may act as a bar to any suit in a court of
 20 competent jurisdiction instituted by the aggrieved member or
 21 as bar to any defense by the involved corporation.

22 Section 24. Grievance procedures -- complaints against
 23 attorneys. The commissioner shall refer any complaints
 24 received by him concerning the conduct of contracting
 25 attorneys to the commission on practice of the Montana

1 supreme court.

2 Section 25. Malpractice insurance. Contracting
 3 attorneys shall maintain such malpractice insurance as the
 4 corporation considers proper. The commissioner may establish
 5 a rule setting a minimum amount of malpractice coverage to
 6 be maintained by each contracting attorney.

7 Section 26. Nonliability for attorney's malpractice. A
 8 legal services corporation and its officers and directors
 9 are not liable for damages resulting from neglect,
 10 misfeasance, malfeasance, or malpractice on the part of any
 11 contracting attorney.

12 Section 27. Trade practices prohibited. In order to
 13 regulate trade practices of legal services corporations the
 14 following prohibitions are imposed:

15 (1) No person may make, issue, circulate, or cause to
 16 be made, issued, or circulated any estimate, circular, or
 17 statement misrepresenting the terms of any legal services
 18 corporation membership contract issued or to be issued or
 19 the benefits or advantages promised thereby.

20 (2) No person may make, publish, disseminate,
 21 circulate, or place before the public or cause, directly or
 22 indirectly, to be made, published, disseminated, circulated,
 23 or placed before the public, in a newspaper, magazine, or
 24 other publication; in the form of a notice, circular,
 25 pamphlet, letter, or poster; over any radio or television

1 station; or in any other way, an advertisement,
2 announcement, or statement containing any representation
3 with respect to the business of a legal services corporation
4 which is false or misleading.

5 (3) No person may make or issue or cause to be made or
6 issued any written or oral statement misrepresenting or
7 making incomplete comparisons as to the terms, conditions,
8 or benefits contained in any legal services corporation
9 membership contract tending to induce a member to cancel or
10 convert any membership contract.

11 (4) No person may file with any public official; make,
12 publish, disseminate, circulate, or deliver to any person;
13 place before the public; or cause, directly or indirectly,
14 to be made, published, disseminated, circulated, delivered
15 to any person, or placed before the public any false or
16 misleading statement concerning the financial condition of a
17 legal services corporation with intent to deceive.

18 (5) No person may make any false entry in any book,
19 report, or statement of any legal services corporation with
20 intent to deceive any agent or examiner lawfully appointed
21 to examine its condition or any of its affairs or any public
22 official to whom the legal services corporation is required
23 by law to report or who has authority by law to examine its
24 condition or any of its affairs. No person may, with like
25 intent, willfully omit to make a true entry of any material

1 fact pertaining to the business of the legal services
2 corporation in any book, report, or statement of the legal
3 services corporation.

4 (6) No person may make, publish, disseminate, or
5 circulate, directly or indirectly, or aid, abet, or
6 encourage the making, publishing, disseminating, or
7 circulating of any oral or written statement or any
8 pamphlet, circular, article, or literature which is false or
9 maliciously critical of or derogatory to the financial
10 condition of a legal services corporation or of an
11 organization proposing to become a legal services
12 corporation and which is calculated to injure any person
13 engaged or proposing to engage in the business of operating
14 a legal services corporation.

15 (7) No person may enter into an agreement to commit
16 or, by any concerted action, commit any act of boycott,
17 coercion, or intimidation resulting in or tending to result
18 in unreasonable restraint of the operation of legal services
19 corporations.

20 (8) No person may knowingly make or permit any
21 unreasonable discrimination between individuals in any
22 classification established by a legal services corporation
23 as to the amount of dues or rates charged for any membership
24 contract, the benefits payable thereunder, any of the terms
25 and conditions of the contract, or any other matter.

1 However, a legal services corporation may, within the
 2 discretion of its board of directors, limit or define the
 3 classes of persons who are eligible to become members, limit
 4 and define the benefits which it will furnish, and define
 5 such benefits as it undertakes to furnish into classes or
 6 kinds. A legal services corporation may make available to
 7 its members legal services or reimbursement therefor as the
 8 board of directors of that corporation may approve.

9 Section 28. Certain exclusions. (1) Nothing contained
 10 in [section 27(8)] includes within the definition of
 11 discrimination any of the following practices:

12 (a) readjustment of the rate of payment for membership
 13 in a legal services corporation under a group contract based
 14 on the loss or expense experience thereunder at the end of
 15 the first or any subsequent contract year thereunder which
 16 may be made retroactive only for that contract year;

17 (b) in the case of membership contracts issued on the
 18 preauthorized bank draft or similar plans, making allowance
 19 to members in an amount which fairly represents the saving
 20 in collection expense;

21 (c) reduction of the rate of payment for group
 22 contracts covering a large number of members not exceeding
 23 savings in administrative expenses reasonably attributable
 24 to these contracts as compared with contracts offering
 25 similar benefits to smaller numbers of members;

1 (d) issuing individual membership contracts on a
 2 "salary savings" or payroll deduction plan reasonably
 3 commensurate with the savings made by use of such plan.

4 (2) Nothing in this act gives the commissioner power
 5 to fix and determine a rate level by classification or
 6 otherwise.

7 Section 29. Notice of violation — conference. If the
 8 commissioner for any reason has cause to believe that a
 9 violation of this act has occurred or is threatened, the
 10 commissioner may give written notice to the legal services
 11 corporation and to the representatives or other persons who
 12 appear to be involved in the suspected violation to arrange
 13 a conference with the alleged violators or their authorized
 14 representative for the purpose of attempting to ascertain
 15 the facts relating to the suspected violation and, in the
 16 event it appears that a violation has occurred or is
 17 threatened, to arrive at an adequate and effective means of
 18 correcting or preventing the violation.

19 Section 30. Cease and desist order — hearing. (1) The
 20 commissioner acting in the name of the state may issue an
 21 order directing a legal services corporation or a
 22 representative of a legal services corporation to cease and
 23 desist from engaging in any act or practice in violation of
 24 the provisions of this act.

25 (2) Within 15 days after service of the order, the

1 respondent may request a hearing on the question of whether
 2 acts or practices in violation of this act have occurred.
 3 The hearing shall be conducted under the Montana
 4 Administrative Procedure Act.

5 Section 31. Injunctive relief. If there has been a
 6 violation of the provisions of this act and the commissioner
 7 elects not to issue a cease and desist order or if there is
 8 noncompliance with a cease and desist order issued under
 9 this act, the commissioner may institute a proceeding to
 10 obtain injunctive relief, receivership, or other appropriate
 11 relief in the district court of the county in which the
 12 violation occurred or in which the principal place of
 13 business of the legal services corporation is located. Any
 14 proceeding under this section shall conform to the
 15 requirements of chapters 42 and 44 of Title 93, except that
 16 the commissioner is not required to allege facts tending to
 17 show the lack of an adequate remedy at law or tending to
 18 show irreparable damage or loss.

19 Section 32. Dissolution. A dissolution or liquidation
 20 of a legal services corporation shall be under the
 21 supervision of the commissioner, and members' claims shall
 22 be given priority over all other claims except cost of
 23 liquidation.

24 Section 33. Method of dissolution. A legal services
 25 corporation may be dissolved at any time by a vote of its

1 board of directors after such action has been approved by
 2 the commissioner. In the case of voluntary dissolution,
 3 the disposition of the affairs of the corporation shall be
 4 made by the officers, and when the liquidation has been
 5 completed and a final statement has been filed with and
 6 approved by the commissioner, the provisions for voluntary
 7 dissolution under the Montana Nonprofit Corporation Act
 8 shall be followed to dissolve the corporation. In all other
 9 cases in which a legal services corporation is found to be
 10 insolvent or to have violated the provisions of this act,
 11 on a determination of that condition and after due notice
 12 and hearing, the affairs of the corporation shall be
 13 disposed of by a liquidator appointed by and under the
 14 supervision of the commissioner.

-End-

STATE OF MONTANA

REQUEST NO. 508-77

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 761 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:

Permits the formation of non-profit corporations to provide prepaid legal services and to regulate the activities of such corporations.

ASSUMPTIONS:

1. This bill provides that benefits to consumers are prepaid legal services. This bill cannot be regulated in the same manner as insurance. A separate unit, supervised by an attorney, within the Insurance Department, appears to be required. The unit would consist of 3.00 FTE employees.
2. 20,000 members would be in the plan in FY 78 and 40,000 in FY 79.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
Additional revenues	<u>\$ 4,050</u>	<u>\$ 8,100</u>	<u>\$12,150</u>
Less: Additional expenditures			
Personal services	43,333	45,499	88,832
Operating expenses	1,000	1,000	2,000
Equipment	<u>1,435</u>	<u>0</u>	<u>1,435</u>
Total additional expenditures	<u>45,768</u>	<u>46,499</u>	<u>92,267</u>
Net cost of proposed legislation	<u>\$41,718</u>	<u>\$38,399</u>	<u>\$80,117</u>

Richard L. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-18-77

1 HOUSE BILL NO. 761
 2 INTRODUCED BY HARRINGTON, KIMBLE, RAMIREZ
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE FORMATION
 5 OF NONPROFIT CORPORATIONS TO PROVIDE PREPAID LEGAL SERVICES
 6 AND TO REGULATE THE ACTIVITIES OF SUCH CORPORATIONS."
 7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Short title. This act may be cited as "The
 10 Prepaid Legal Services Act".
 11 Section 2. Purpose of act. The purpose of this act is
 12 to permit and encourage the formation of nonprofit prepaid
 13 legal services plans in order to make legal services more
 14 available to the public.
 15 Section 3. Definitions. The following definitions
 16 apply in this act:
 17 (1) "Attorney" means a person who is currently an
 18 active member of the state bar of Montana.
 19 (2) "Applicant" means a person applying for a contract
 20 for performance of legal services through a corporation
 21 organized or operating under this act.
 22 (3) "Commissioner" means the commissioner of insurance
 23 of the state of Montana.
 24 (4) "Contracting attorney" means an attorney who has
 25 entered into a contract with a legal services corporation as

1 provided in [section 9].
 2 (5) "Legal services corporation" means a nonprofit
 3 corporation organized for the purposes of establishing and
 4 operating a nonprofit plan or plans under which prepaid
 5 legal services or reimbursement therefor is furnished to
 6 members.
 7 (6) "Member" means a person entitled to the
 8 performance of legal services under a contract with a legal
 9 services corporation.
 10 (7) "Membership contract" means any agreement,
 11 contract, or certificate by which a legal services
 12 corporation describes the legal services to which its
 13 members are entitled.
 14 Section 4. Purposes of legal services corporation. (1)
 15 A legal services corporation may be organized for the
 16 purposes of:
 17 (a) establishing and operating a voluntary, nonprofit
 18 plan or plans under which legal services or reimbursement
 19 therefor is furnished to persons who become members or
 20 beneficiaries;
 21 (b) acting as agent or intermediary for other legal
 22 services corporations, for governmental bodies or agencies,
 23 or for other corporations, associations, partnerships, or
 24 individuals in the field of legal services; and
 25 (c) the promotion of social welfare through research

*The Amend To HB 761 is on P. 3
 Refer to White Bill.*

SECOND READING

1 and through charitable, educational, and related activities
 2 to further the purposes of this act.

3 (2) No profit organization may be a legal services
 4 corporation. No group, association, or organization created
 5 for or engaged in business or activity for profit, provision
 6 for the incorporation of which is made by any of the
 7 corporation laws of this state, may be organized or
 8 operated, directly or indirectly, as a legal services
 9 corporation under this act.

10 Section 5. Application of other laws. (1) A legal
 11 services corporation is subject to the provisions of the
 12 Montana Nonprofit Corporation Act to the extent that such
 13 provisions are not in conflict with the provisions of this
 14 act.

15 (2) A legal services corporation which complies with
 16 this act is not considered as being engaged in the business
 17 of insurance or transacting insurance business and is not
 18 subject to the laws regarding insurers.

19 ~~(3) THIS ACT DOES NOT AFFECT ANY PLAN ESTABLISHED~~
 20 ~~UNDER THE TAFT HARTLEY ACT OR MONTANA COLLECTIVE BARGAINING~~
 21 ~~LAWS UNDER WHICH PREPAID LEGAL SERVICES OR REIMBURSEMENTS~~
 22 ~~THEREFOR ARE FURNISHED.~~

23 Section 6. Application of Montana Administrative
 24 Procedure Act. All final administrative actions or decisions
 25 of the commissioner under this act are subject to judicial

1 review under and in accordance with the Montana
 2 Administrative Procedure Act.

3 Section 7. Participation contracts -- agreements with
 4 insurers. (1) A legal services corporation may contract with
 5 other legal services corporations and insurers licensed to
 6 do business in Montana for joint participation through
 7 mutualization contract agreements or guaranty treaties and
 8 may otherwise cede or accept legal services obligations from
 9 such organizations. Prior to their effectiveness, the
 10 contract forms, documents, treaties, or agreement forms must
 11 be filed with and approved by the commissioner as being in
 12 accordance with the plan of operation of the corporation.

13 (2) The commissioner may issue such rules concerning
 14 participation contracts and agreements with insurers as he
 15 considers necessary to carry out the purposes of this act.

16 Section 8. Management and exclusive agency contracts.
 17 (1) No legal services corporation may enter into an
 18 exclusive agency or management contract unless the contract
 19 is first filed with and approved by the commissioner.

20 (2) The commissioner shall disapprove a contract
 21 submitted under subsection (1) if he finds that:

- 22 (a) it subjects the corporation to excessive charges;
- 23 (b) it extends for an unreasonable period of time;
- 24 (c) it does not contain fair and adequate standards of
- 25 performance;

HOUSE BILL NO. 761

INTRODUCED BY HARRINGTON, KIMBLE, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE FORMATION OF NONPROFIT CORPORATIONS TO PROVIDE PREPAID LEGAL SERVICES AND TO REGULATE THE ACTIVITIES OF SUCH CORPORATIONS."

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

Section 1. Short title. This act may be cited as "The Prepaid Legal Services Act".

Section 2. Purpose of act. The purpose of this act is to permit and encourage the formation of nonprofit prepaid legal services plans in order to make legal services more available to the public.

Section 3. Definitions. The following definitions apply in this act:

(1) "Attorney" means a person who is currently an active member of the state bar of Montana.

(2) "Applicant" means a person applying for a contract for performance of legal services through a corporation organized or operating under this act.

(3) "Commissioner" means the commissioner of insurance of the state of Montana.

(4) "Contracting attorney" means an attorney who has entered into a contract with a legal services corporation as

provided in [section 9].

(5) "Legal services corporation" means a nonprofit corporation organized for the purposes of establishing and operating a nonprofit plan or plans under which prepaid legal services or reimbursement therefor is furnished to members.

(6) "Member" means a person entitled to the performance of legal services under a contract with a legal services corporation.

(7) "Membership contract" means any agreement, contract, or certificate by which a legal services corporation describes the legal services to which its members are entitled.

Section 4. Purposes of legal services corporation. (1) A legal services corporation may be organized for the purposes of:

(a) establishing and operating a voluntary, nonprofit plan or plans under which legal services or reimbursement therefor is furnished to persons who become members or beneficiaries;

(b) acting as agent or intermediary for other legal services corporations, for governmental bodies or agencies, or for other corporations, associations, partnerships, or individuals in the field of legal services; and

(c) the promotion of social welfare through research

1 and through charitable, educational, and related activities
2 to further the purposes of this act.

3 (2) No profit organization may be a legal services
4 corporation. No group, association, or organization created
5 for or engaged in business or activity for profit, provision
6 for the incorporation of which is made by any of the
7 corporation laws of this state, may be organized or
8 operated, directly or indirectly, as a legal services
9 corporation under this act.

10 Section 5. Application of other laws. (1) A legal
11 services corporation is subject to the provisions of the
12 Montana Nonprofit Corporation Act to the extent that such
13 provisions are not in conflict with the provisions of this
14 act.

15 (2) A legal services corporation which complies with
16 this act is not considered as being engaged in the business
17 of insurance or transacting insurance business and is not
18 subject to the laws regarding insurers.

19 (3) THIS ACT DOES NOT AFFECT ANY PLAN ESTABLISHED
20 UNDER THE TAFT HARTLEY ACT OR MONTANA COLLECTIVE BARGAINING
21 LAWS UNDER WHICH PREPAID LEGAL SERVICES OR REIMBURSEMENTS
22 THEREFOR ARE FURNISHED.

23 Section 6. Application of Montana Administrative
24 Procedure Act. All final administrative actions or decisions
25 of the commissioner under this act are subject to judicial

1 review under and in accordance with the Montana
2 Administrative Procedure Act.

3 Section 7. Participation contracts -- agreements with
4 insurers. (1) A legal services corporation may contract with
5 other legal services corporations and insurers licensed to
6 do business in Montana for joint participation through
7 mutualization contract agreements or guaranty treaties and
8 may otherwise cede or accept legal services obligations from
9 such organizations. Prior to their effectiveness, the
10 contract forms, documents, treaties, or agreement forms must
11 be filed with and approved by the commissioner as being in
12 accordance with the plan of operation of the corporation.

13 (2) The commissioner may issue such rules concerning
14 participation contracts and agreements with insurers as he
15 considers necessary to carry out the purposes of this act.

16 Section 8. Management and exclusive agency contracts.
17 (1) No legal services corporation may enter into an
18 exclusive agency or management contract unless the contract
19 is first filed with and approved by the commissioner.

20 (2) The commissioner shall disapprove a contract
21 submitted under subsection (1) if he finds that:

- 22 (a) it subjects the corporation to excessive charges;
23 (b) it extends for an unreasonable period of time;
24 (c) it does not contain fair and adequate standards of
25 performance;

1 (d) the persons empowered under the contract to manage
2 the corporation are not sufficiently trustworthy, competent,
3 and free from conflict of interest to give reasonable
4 assurance that the interests of the corporation's
5 participants and creditors and the interests of the public
6 will be protected; or

7 (e) the contract contains provisions which are likely
8 to impair the interests of the corporation's participants or
9 creditors or the interests of the public.

10 Section 9. Agreements with contracting attorneys. A
11 legal services corporation may contract with attorneys in
12 such a manner as to assure to each participant holding a
13 membership contract of the corporation the furnishing of
14 such legal services by a contracting attorney as agreed upon
15 in the membership contract. The corporation may limit in the
16 membership contract the types and extent of benefits and the
17 circumstances in which legal services will be furnished.

18 Section 10. Corporation to have a sufficient number of
19 contracting attorneys. Before issuing any membership
20 contracts, a legal services corporation shall have contracts
21 with a sufficient number of contracting attorneys to enable
22 it to fulfill its contractual obligations to its members. As
23 long as the corporation has obligations under membership
24 contracts, it shall maintain contracts with a sufficient
25 number of contracting attorneys. Ten per cent of the

1 currently active members of the state bar of Montana is
2 always sufficient. The commissioner may allow a legal
3 services corporation to operate with less than 10% of the
4 active members of the state bar of Montana under contract if
5 the commissioner determines that the number of attorneys
6 under contract is sufficient under the circumstances.

7 Section 11. Noninterference with attorney-client
8 relationships. (1) A legal services corporation may not
9 itself practice law in any manner nor may it control or
10 attempt to control the relations between a member and the
11 member's attorney. It shall confine its activities to
12 contracting as an agent on behalf of its members for legal
13 services to be rendered by contracting attorneys who may
14 never be employees of the corporation but shall always be
15 independent contractors maintaining direct attorney-client
16 relationships with the members.

17 (2) A legal services corporation must offer the same
18 contract terms to all attorneys who desire to become
19 contracting attorneys.

20 Section 12. Membership contracts. A legal services
21 corporation shall issue a membership contract to each
22 applicant it accepts as a member. A membership contract may
23 be on an individual, group, or franchise basis and may
24 provide for payments to help defray the costs of legal
25 services provided by noncontracting attorneys.

1 Section 13. Definition of enrollment representative.

2 (1) A person who, for compensation, solicits membership in a
3 prepaid legal services plan offered by a legal services
4 corporation is an enrollment representative of that
5 corporation.

6 (2) For the purposes of this act, an enrollment
7 representative does not include:

8 (a) an individual employed by enrollment
9 representatives for the performance of clerical,
10 stenographic, and similar office duties;

11 (b) an individual employed for taking applications for
12 coverage on a nonregular basis in the office of an
13 enrollment representative;

14 (c) an individual who secures and forwards information
15 for an existing group contractor for the purpose of
16 enrolling individuals under an existing group contract.

17 Section 14. Licensing of enrollment representatives.

18 (1) Each legal services corporation shall notify the
19 commissioner through its proper officer or agent of the
20 name, title, and address of each person it desires appointed
21 as an enrollment representative. The notice shall be
22 accompanied by a written application, upon a form furnished
23 by the commissioner, from the appointee.

24 (2) The commissioner shall issue an appointee a
25 license to act as an enrollment representative of the

1 corporation if, upon receipt of the written application
2 provided for in subsection (1) accompanied by the proper
3 fee, it appears that:

4 (a) the appointee is a competent and suitable person
5 who intends to hold himself out in good faith as the
6 corporation's enrollment representative; and

7 (b) the appointee qualifies under the provisions of
8 this section.

9 (3) If the commissioner considers it desirable, he may
10 require an appointee to submit to an examination to
11 determine the qualifications of the appointee to act as an
12 enrollment representative. The examination shall inquire
13 into an applicant's knowledge of the provisions of this act
14 and of the forms submitted and utilized by the employing
15 corporation.

16 (4) Upon receipt by the commissioner of notification
17 from a legal services corporation that the corporation
18 desires a particular individual to be appointed as its
19 enrollment representative, that person has a temporary
20 enrollment representative's license until the commissioner
21 notifies the corporation of action taken upon the
22 application. If the commissioner rejects the application,
23 the prospective appointee's eligibility to act as an
24 enrollment representative ceases on the day the corporation
25 is notified of a final rejection.

1 (5) The commissioner shall notify both the appointee
2 and the corporation in writing of any refusal to grant a
3 license. No application may be finally rejected without a
4 hearing or examination.

5 Section 15. License renewal. Unless revoked by the
6 commissioner or unless the corporation by written
7 notification to the commissioner cancels the authority of an
8 enrollment representative to act for it, a license issued or
9 a renewal thereof expires on January 1 after its issuance. A
10 license may be renewed annually upon payment of the annual
11 license renewal fee as provided in [section 21].

12 Section 16. Suspension and revocation of license. (1)
13 The commissioner may suspend for not more than 12 months or
14 revoke or refuse to continue any license issued under this
15 act if he finds that as to the licensee any one or more of
16 the following causes exist:

17 (a) any cause for which issuance of the license could
18 have been refused had it then existed and been known to the
19 commissioner;

20 (b) obtaining or attempting to obtain a license
21 through misrepresentation or fraud;

22 (c) violation of or noncompliance with applicable
23 provisions of this act or willful violation of any lawful
24 rule or order of the commissioner;

25 (d) misappropriation or conversion to his own use or

1 illegal withholding of moneys or property belonging to the
2 legal services corporation, its members, beneficiaries, or
3 others and received in the conduct of business under the
4 license;

5 (e) conviction of a felony involving moral turpitude;

6 (f) fraudulent or dishonest practices in the conduct
7 of his affairs under the license; or

8 (g) incompetence, untrustworthiness, or injury and
9 loss to the public while acting under the license.

10 (2) No action may be taken under subsection (1) unless
11 a hearing has been granted the licensee with 20 days'
12 notice. The notice and the reasons for the commissioner's
13 action shall be sent by certified mail to the licensee and
14 the corporation.

15 Section 17. Forms -- filing, disapproval by
16 commissioner. (1) A copy of all forms of the membership
17 contract or any type of endorsement or rider shall be filed
18 with the commissioner within 30 days after that form is
19 first used. When a form does not comply with the
20 requirements of this act, the commissioner shall notify the
21 corporation in writing of that failure and include the
22 reasons for his opinion. Unless the corporation requests a
23 hearing within 10 days, notice by the commissioner disallows
24 use of this form by the corporation. If the corporation
25 challenges the commissioner's disallowance of a form, it

1 shall request a hearing on that issue. The commissioner
 2 shall schedule a hearing as soon as practicable but not less
 3 than 15 days from the date of the request. If the
 4 commissioner finds, after the hearing, that the form is not
 5 in compliance with this act, he may disapprove the form and
 6 issue a final order to that effect. Notice of disapproval,
 7 including the grounds for disapproval, shall be presented to
 8 the corporation within 30 days after the hearing. The final
 9 order is effective 30 days after presentation of the notice
 10 of disapproval.

11 (2) A corporation whose forms have been ordered
 12 discontinued by the commissioner may appeal, within 15 days
 13 after an order, to a district court of this state. The
 14 court, upon filing of the proper petition, shall cause the
 15 forms and orders of the commissioner to be brought before
 16 it, and upon hearing the case, the court shall either affirm
 17 or reverse and vacate the order of the commissioner.

18 (3) The court may suspend or stay a final order of the
 19 commissioner under this section pending trial of the issues
 20 or an appeal.

21 Section 18. Financial security. (1) The corporation
 22 shall maintain at all times unobligated funds adequate to:

- 23 (a) meet its obligations under membership contracts;
 24 and
 25 (b) meet all costs and expenses.

1 (2) In addition, reserves of a legal services
 2 corporation in cash, certificates of deposit, obligations
 3 issued or guaranteed by the government of the United States,
 4 or other assets approved by the commissioner shall be
 5 maintained in an amount not less than the lesser of:

6 (a) \$500,000; or

7 (b) an amount equal to 1 month's average income from
 8 dues or fees paid to the corporation by its members or
 9 beneficiaries.

10 (3) The determination of minimum reserves is subject,
 11 as to amounts payable to contracting attorneys, to any right
 12 of the corporation to prorate amounts under the terms of its
 13 contracts with contracting attorneys. The commissioner may
 14 decrease or suspend the requirements of this section if he
 15 finds that the action is in the best interest of the members
 16 of the corporation.

17 Section 19. Annual report. Each legal services
 18 corporation shall make and file annually with the
 19 commissioner, on or before March 1, a report under oath
 20 setting forth:

21 (1) the name of the corporation;

22 (2) the address of its registered office in this state
 23 and the name of its registered agent at that address;

24 (3) the names and addresses of its directors and
 25 officers;

1 (4) a brief statement of the character of the affairs
2 which the corporation is actually conducting;

3 (5) the amount of all dues or fees collected from its
4 members in the last fiscal year, the amounts actually paid
5 during that year for legal services for the benefit of its
6 members or beneficiaries, and the amounts placed in
7 reserves;

8 (6) a balance sheet and statement of income and
9 expenditures for the most recent fiscal year of the
10 corporation, prepared and verified by two officers of the
11 corporation and certified by a certified public accountant;

12 (7) a statement of any other facts or information
13 concerning the financial affairs of the legal services
14 corporation which may be reasonably required by the
15 commissioner.

16 Section 20. Examination of a legal services
17 corporation. (1) If the commissioner believes a legal
18 services corporation is unable or potentially unable to
19 fulfill its contractual obligations to its members, the
20 commissioner may conduct an examination of that corporation.

21 (2) Each officer, employee, or agent of a legal
22 services corporation examined shall produce and make
23 available to the commissioner or his examiners the accounts,
24 records, documents, files, information, assets, and matters
25 in his possession or control relating to the subject of the

1 examination.

2 (3) The commissioner or his examiner shall make a
3 verified report of the examination.

4 (4) The report shall comprise only facts appearing
5 from the books, papers, records, and documents of the
6 corporation examined; facts ascertained from the testimony,
7 under oath, of individuals concerning its affairs; and
8 conclusions and recommendations as warranted by those facts.

9 (5) The commissioner shall furnish a copy of the
10 proposed report to the corporation examined not less than 20
11 days prior to its filing in his office. If the corporation
12 requests a hearing, in writing, within the 20-day period,
13 the commissioner shall grant one with respect to the report
14 and shall not file the report until after the hearing and
15 after modifications, if any, the commissioner considers
16 proper.

17 Section 21. Fees. (1) Each legal services corporation
18 shall pay the following fees to the commissioner for
19 enforcement of the provisions of this act:

- 20 (a) enrollment representative's license:
- 21 (i) application for an original license including
- 22 examination and issuance of license.....\$10;
- 23 (ii) annual renewal.....\$ 5;
- 24 (b) filing any other statement or report.....\$ 1;
- 25 (c) for a certified copy of any document or other

1 paper filed in the office of the commissioner.....
 250 cents a page;
 3 (d) for the certificate and for affixing the seal
 4 thereto.....\$ 1;
 5 (e) filing of a membership contract.....\$10;
 6 (f) filing of a membership contract package.....\$25;
 7 (g) filing the annual report.....20 cents
 8 for each individual or family unit the corporation covered
 9 at the close of the year to which the annual report is
 10 applicable, with a minimum of \$100.

11 (2) The commissioner shall deposit with the state
 12 treasurer to the credit of the general fund all fees
 13 received by him under this section.

14 Section 22. Premium tax exemption. A legal services
 15 corporation is exempt from all premium taxes.

16 Section 23. Grievance procedure -- complaints against
 17 the corporation. A member of a legal services corporation
 18 who believes himself to be aggrieved by any act or omission
 19 of the corporation or its officers, directors, or employees
 20 may file a statement in writing of his grievance in the
 21 office of the commissioner, and the commissioner may
 22 investigate the grievance. No investigation by the
 23 commissioner may act as a bar to any suit in a court of
 24 competent jurisdiction instituted by the aggrieved member or
 25 as bar to any defense by the involved corporation.

1 Section 24. Grievance procedures -- complaints against
 2 attorneys. The commissioner shall refer any complaints
 3 received by him concerning the conduct of contracting
 4 attorneys to the commission on practice of the Montana
 5 supreme court.

6 Section 25. Malpractice insurance. Contracting
 7 attorneys shall maintain such malpractice insurance as the
 8 corporation considers proper. The commissioner may establish
 9 a rule setting a minimum amount of malpractice coverage to
 10 be maintained by each contracting attorney.

11 Section 26. Nonliability for attorney's malpractice. A
 12 legal services corporation and its officers and directors
 13 are not liable for damages resulting from neglect,
 14 misfeasance, malfeasance, or malpractice on the part of any
 15 contracting attorney.

16 Section 27. Trade practices prohibited. In order to
 17 regulate trade practices of legal services corporations the
 18 following prohibitions are imposed:

19 (1) No person may make, issue, circulate, or cause to
 20 be made, issued, or circulated any estimate, circular, or
 21 statement misrepresenting the terms of any legal services
 22 corporation membership contract issued or to be issued or
 23 the benefits or advantages promised thereby.

24 (2) No person may make, publish, disseminate,
 25 circulate, or place before the public or cause, directly or

1 indirectly, to be made, published, disseminated, circulated,
 2 or placed before the public, in a newspaper, magazine, or
 3 other publication; in the form of a notice, circular,
 4 pamphlet, letter, or poster; over any radio or television
 5 station; or in any other way, an advertisement,
 6 announcement, or statement containing any representation
 7 with respect to the business of a legal services corporation
 8 which is false or misleading.

9 (3) No person may make or issue or cause to be made or
 10 issued any written or oral statement misrepresenting or
 11 making incomplete comparisons as to the terms, conditions,
 12 or benefits contained in any legal services corporation
 13 membership contract tending to induce a member to cancel or
 14 convert any membership contract.

15 (4) No person may file with any public official; make,
 16 publish, disseminate, circulate, or deliver to any person;
 17 place before the public; or cause, directly or indirectly,
 18 to be made, published, disseminated, circulated, delivered
 19 to any person, or placed before the public any false or
 20 misleading statement concerning the financial condition of a
 21 legal services corporation with intent to deceive.

22 (5) No person may make any false entry in any book,
 23 report, or statement of any legal services corporation with
 24 intent to deceive any agent or examiner lawfully appointed
 25 to examine its condition or any of its affairs or any public

1 official to whom the legal services corporation is required
 2 by law to report or who has authority by law to examine its
 3 condition or any of its affairs. No person may, with like
 4 intent, willfully omit to make a true entry of any material
 5 fact pertaining to the business of the legal services
 6 corporation in any book, report, or statement of the legal
 7 services corporation.

8 (6) No person may make, publish, disseminate, or
 9 circulate, directly or indirectly, or aid, abet, or
 10 encourage the making, publishing, disseminating, or
 11 circulating of any oral or written statement or any
 12 pamphlet, circular, article, or literature which is false or
 13 maliciously critical of or derogatory to the financial
 14 condition of a legal services corporation or of an
 15 organization proposing to become a legal services
 16 corporation and which is calculated to injure any person
 17 engaged or proposing to engage in the business of operating
 18 a legal services corporation.

19 (7) No person may enter into an agreement to commit
 20 or, by any concerted action, commit any act of boycott,
 21 coercion, or intimidation resulting in or tending to result
 22 in unreasonable restraint of the operation of legal services
 23 corporations.

24 (8) No person may knowingly make or permit any
 25 unreasonable discrimination between individuals in any

1 classification established by a legal services corporation
 2 as to the amount of dues or rates charged for any membership
 3 contract, the benefits payable thereunder, any of the terms
 4 and conditions of the contract, or any other matter.
 5 However, a legal services corporation may, within the
 6 discretion of its board of directors, limit or define the
 7 classes of persons who are eligible to become members, limit
 8 and define the benefits which it will furnish, and define
 9 such benefits as it undertakes to furnish into classes or
 10 kinds. A legal services corporation may make available to
 11 its members legal services or reimbursement therefor as the
 12 board of directors of that corporation may approve.

13 Section 28. Certain exclusions. (1) Nothing contained
 14 in [section 27(8)] includes within the definition of
 15 discrimination any of the following practices:

16 (a) readjustment of the rate of payment for membership
 17 in a legal services corporation under a group contract based
 18 on the loss or expense experience thereunder at the end of
 19 the first or any subsequent contract year thereunder which
 20 may be made retroactive only for that contract year;

21 (b) in the case of membership contracts issued on the
 22 preauthorized bank draft or similar plans, making allowance
 23 to members in an amount which fairly represents the saving
 24 in collection expense;

25 (c) reduction of the rate of payment for group

1 contracts covering a large number of members not exceeding
 2 savings in administrative expenses reasonably attributable
 3 to these contracts as compared with contracts offering
 4 similar benefits to smaller numbers of members;

5 (d) issuing individual membership contracts on a
 6 "salary savings" or payroll deduction plan reasonably
 7 commensurate with the savings made by use of such plan.

8 (2) Nothing in this act gives the commissioner power
 9 to fix and determine a rate level by classification or
 10 otherwise.

11 Section 29. Notice of violation -- conference. If the
 12 commissioner for any reason has cause to believe that a
 13 violation of this act has occurred or is threatened, the
 14 commissioner may give written notice to the legal services
 15 corporation and to the representatives or other persons who
 16 appear to be involved in the suspected violation to arrange
 17 a conference with the alleged violators or their authorized
 18 representative for the purpose of attempting to ascertain
 19 the facts relating to the suspected violation and, in the
 20 event it appears that a violation has occurred or is
 21 threatened, to arrive at an adequate and effective means of
 22 correcting or preventing the violation.

23 Section 30. Cease and desist order -- hearing. (1) The
 24 commissioner acting in the name of the state may issue an
 25 order directing a legal services corporation or a

1 representative of a legal services corporation to cease and
 2 desist from engaging in any act or practice in violation of
 3 the provisions of this act.

4 (2) Within 15 days after service of the order, the
 5 respondent may request a hearing on the question of whether
 6 acts or practices in violation of this act have occurred.
 7 The hearing shall be conducted under the Montana
 8 Administrative Procedure Act.

9 Section 31. Injunctive relief. If there has been a
 10 violation of the provisions of this act and the commissioner
 11 elects not to issue a cease and desist order or if there is
 12 noncompliance with a cease and desist order issued under
 13 this act, the commissioner may institute a proceeding to
 14 obtain injunctive relief, receivership, or other appropriate
 15 relief in the district court of the county in which the
 16 violation occurred or in which the principal place of
 17 business of the legal services corporation is located. Any
 18 proceeding under this section shall conform to the
 19 requirements of chapters 42 and 44 of Title 93, except that
 20 the commissioner is not required to allege facts tending to
 21 show the lack of an adequate remedy at law or tending to
 22 show irreparable damage or loss.

23 Section 32. Dissolution. A dissolution or liquidation
 24 of a legal services corporation shall be under the
 25 supervision of the commissioner, and members' claims shall

1 be given priority over all other claims except cost of
 2 liquidation.

3 Section 33. Method of dissolution. A legal services
 4 corporation may be dissolved at any time by a vote of its
 5 board of directors after such action has been approved by
 6 the commissioner. In the case of voluntary dissolution,
 7 the disposition of the affairs of the corporation shall be
 8 made by the officers, and when the liquidation has been
 9 completed and a final statement has been filed with and
 10 approved by the commissioner, the provisions for voluntary
 11 dissolution under the Montana Nonprofit Corporation Act
 12 shall be followed to dissolve the corporation. In all other
 13 cases in which a legal services corporation is found to be
 14 insolvent or to have violated the provisions of this act,
 15 on a determination of that condition and after due notice
 16 and hearing, the affairs of the corporation shall be
 17 disposed of by a liquidator appointed by and under the
 18 supervision of the commissioner.

-End-