

SENATE BILL NO. 335

INTRODUCED BY HAZELBAKER

BY REQUEST OF THE INSURANCE DEPARTMENT

IN THE SENATE

January 30, 1981	Introduced and referred to Committee on Judiciary.
February 19, 1981	Committee recommend bill do pass as amended. Report adopted.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Business and Industry.
March 12, 1981	Committee recommend bill be concurred in. Report adopted.
March 21, 1981	Motion pass consideration.
March 24, 1981	Second reading, concurred in as amended.
March 27, 1981	On motion to take from third reading and refer to second reading this day. Motion adopted.

March 28, 1981

Second reading, concurred in
as amended.

March 30, 1981

On motion rules suspended and
bill allowed to be transmitted
on 71st legislative day. Motion
adopted.

March 31, 1981

Third reading, concurred in
as amended. Ayes, 85; Noes, 10.

IN THE SENATE

April 1, 1981

Returned from House with
amendments.

April 10, 1981

Second reading, amendments
concurred in.

April 11, 1981

Third reading, amendments
concurred in. Ayes, 47;
Noes, 0. Sent to enrolling.

Reported correctly enrolled.

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Amend BILL NO. 335
Hall

INTRODUCED BY _____
BY REQUEST OF THE INSURANCE DEPARTMENT

A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT A NEW DEFINITION OF MARINE, INLAND MARINE, AND TRANSPORTATION INSURANCE; DESCRIBING THE KINDS OF RISKS AND COVERAGES THAT MAY BE INSURED BY MARINE, INLAND MARINE, OR TRANSPORTATION INSURANCE POLICIES; AMENDING SECTIONS 2-18-809, 33-2-705, AND 33-17-504, MCA; AND REPEALING SECTION 33-1-209, MCA."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 9] may be cited as the "Nationwide Inland Marine Definition Act".

NEW SECTION. Section 2. Purpose. (1) The purpose of [sections 1 through 9] is to describe the kinds of risks and coverages which may be classified or identified under state insurance laws as marine, inland marine, or transportation insurance, but [sections 1 through 9] do not include all of the kinds of risks and coverages which may be written, classified, or identified under marine, inland marine, or transportation insuring powers. [Sections 1 through 9] may not be construed to mean that the kinds of risks and coverages described herein are solely marine, inland marine,

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or transportation insurance in all instances.

(2) [Sections 1 through 9] may not be construed to restrict or limit in any way the exercise of any insuring powers granted under charters and licenses whether used separately, in combination, or otherwise.

NEW SECTION. Section 3. Imports. Imports may be covered by marine, inland marine, and transportation policies subject to the following conditions:

(1) Imports are covered wherever they are located, without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation.

(2) Property is an import and the proper subject of marine, inland marine, or transportation insurance as long as the property remains segregated in such a way that it can be identified and has not become incorporated into and mixed with the general mass of property in the United States; property ceases to be an import and the proper subject of marine, inland marine, or transportation insurance when it has been:

(a) sold and delivered by the importer, factor, or consignee;

(b) removed from its place of storage and placed on sale as part of an importer's stock in trade at a point of sale or distribution; or

(c) delivered for manufacture, processing, or change

1 in form to premises of the importer or another, to be used
2 for such purposes.

3 NEW SECTION. Section 4. Exports. Exports may be
4 covered by marine, inland marine, and transportation
5 policies subject to the following conditions:

6 (1) Exports are covered wherever they are located,
7 without restriction as to time, provided the coverage of the
8 issuing companies includes hazards of transportation.

9 (2) Property is an export and the proper subject of
10 marine, inland marine, or transportation insurance when
11 designated or while being prepared for export and remains an
12 export unless diverted for domestic trade. If the property
13 is diverted for domestic trade, the provisions of [section
14 5] apply. This section does not apply to long established
15 methods of insuring certain commodities such as cotton.

16 NEW SECTION. Section 5. Domestic shipments. Domestic
17 shipments may be covered by marine, inland marine, and
18 transportation policies subject to the following conditions:

19 (1) Domestic shipments on consignment for sale,
20 distribution, exhibit, trial, approval, or auction may be
21 covered while in transit, while in the custody of others,
22 and while being returned, except that the policy may not
23 cover property while it is on premises owned, leased, or
24 operated by the consignor.

25 (2) Domestic shipments not on consignment may be

1 covered if the coverage of the issuing companies includes
2 hazards of transportation beginning and ending within the
3 United States. Such shipments are not covered at the
4 manufacturing premises or after arrival at premises owned,
5 leased, or operated by the assured or the purchaser.

6 NEW SECTION. Section 6. Instrumentalities of
7 transportation and commerce. Bridges, tunnels, and other
8 instrumentalities of transportation and communication
9 (excluding buildings and improvements, furniture,
10 furnishings, fixed contents, and supplies held in storage)
11 may be covered by marine, inland marine, and transportation
12 policies. This category includes:

13 (1) bridges, tunnels, and other similar
14 instrumentalities, including auxiliary facilities and
15 equipment attendant thereto;

16 (2) piers, wharves, docks, slips, drydocks, and marine
17 railways;

18 (3) pipelines, including on-line propulsion,
19 regulating, and other equipment appurtenant to such
20 pipelines but excluding all property at manufacturing,
21 producing, refining, converting, treating, or conditioning
22 plants;

23 (4) power transmission, telephone, and telegraph
24 lines, excluding all property at generating, converting, or
25 transforming stations, substations, and exchanges;

1 (5) radio and television communication equipment in
2 use as such, including towers and antennas with auxiliary
3 equipment, and appurtenant electrical operating and control
4 apparatus; and

5 (6) outdoor cranes, loading bridges, and similar
6 equipment used to load, unload, and transport.

7 NEW SECTION. Section 7. Personal property. Risks
8 generally covered by personal property floaters covering
9 individuals or items of personal property may be covered by
10 marine, inland marine, and transportation policies. This
11 category includes:

- 12 (1) personal effects floater policies;
13 (2) personal property floaters;
14 (3) government service floaters;
15 (4) personal fur floaters;
16 (5) personal jewelry floaters;
17 (6) wedding present floaters for a period not
18 exceeding 90 days after the date of the wedding;
19 (7) silverware floaters;
20 (8) fine arts floaters covering paintings, etchings,
21 pictures, tapestries, art glass windows, and other bona fide
22 works of art of rarity, historical value, or artistic merit;
23 (9) stamp and coin floaters;
24 (10) musical instrument floaters. For purposes of this
25 section, radios, televisions, record players, and

1 combinations thereof are not musical instruments.

2 (11) mobile articles, machinery, and equipment floaters
3 (excluding motor vehicles designed for highway use and motor
4 homes, trailers, and semitrailers except when hauled by
5 tractors not designed for highway use) covering identified
6 property of a mobile or floating nature pertaining to or
7 usual to a household. Such policies shall not cover
8 furniture and fixtures not customarily used away from
9 premises where such property is usually kept.

10 (12) installment sales and leased property policies
11 covering property pertaining to a household and sold under
12 conditional contract of sale, partial payment contract, or
13 installment sales contract or leased but excluding motor
14 vehicles designed for highway use. Such policies must cover
15 property in transit but shall not extend beyond the
16 termination of the seller's or lessor's interest; and

17 (13) live animal floaters.

18 NEW SECTION. Section 8. Commercial property. Risks
19 generally covered by commercial property floaters covering
20 property pertaining to a business, profession, or occupation
21 may be covered by marine, inland marine, and transportation
22 policies. This category includes:

- 23 (1) radium floaters;
24 (2) physicians' and surgeons' instrument floaters.
25 Such policies may include coverage of such furniture,

1 fixtures, and tenant assured's interest in such improvements
 2 of buildings as are located in that portion of the premises
 3 occupied by the assured in the practice of his profession.

4 (3) pattern and die floaters;

5 (4) theatrical floaters, excluding buildings and
 6 improvements, furniture, and fixtures that do not travel
 7 about with theatrical troupes;

8 (5) film floaters, including a builders' risk during
 9 the production and coverage on completed negatives,
 10 positives, and sound records;

11 (6) salesmen's samples floaters;

12 (7) exhibition policies on property while it is on
 13 exhibition and in transit to or from such exhibitions;

14 (8) live animal floaters;

15 (9) builders' risks and installation risks policies
 16 covering the interest of owner, seller, or contractor
 17 against loss or damage to machinery, equipment, building
 18 materials, or supplies being used with and during the course
 19 of installation, testing, building, renovating, or
 20 repairing. These policies may cover property at points or
 21 places where work is being performed, while in transit, and
 22 during temporary storage or deposit of property designated
 23 for an awaiting specific installation, building, renovating
 24 or repairing. Such coverage is limited to builders' risks
 25 or installation risks where perils in addition to fire and

1 extended coverage are to be insured. If written for the
 2 account of the owner, the coverage ceases upon completion of
 3 work and acceptance thereof; or if written for the account
 4 of a seller or contractor the coverage terminates when the
 5 interest of the seller or contractor terminates.

6 (10) mobile articles, machinery, and equipment floaters
 7 (excluding motor vehicles designed for highway use and auto
 8 homes, trailers, and semitrailers except when hauled by
 9 tractors not designed for highway use and snowplows
 10 constructed exclusively for highway use) covering identified
 11 property of a mobile or floating nature, not on sale or
 12 consignment or in the course of manufacture, that has come
 13 into custody or control of parties who intend to use such
 14 property for which it was manufactured or created. Such
 15 policies may not cover furniture and fixtures not
 16 customarily used away from premises where such property is
 17 usually kept.

18 (11) property in transit to or from and in the custody
 19 of bailees (not owned, controlled, or operated by the
 20 bailor), but such policies may not cover the bailee's
 21 property at his premises.

22 (12) installment sales and leased property policies
 23 covering property sold under conditional contract of sale,
 24 partial payment contract or installment sales contract or
 25 leased, but excluding motor vehicles designed for highway

1 use. These policies must cover property in transit but may
2 not extend beyond the termination of the seller's or
3 lessor's interest. This subsection does not include
4 machinery and equipment under certain "lease-back"
5 contracts.

6 (13) garment contracts' floaters;

7 (14) furriers' or fur storers' customer's policies,
8 which are policies under which certificates or receipts are
9 issued by furriers or fur storers, covering specified
10 articles that are the property of customers;

11 (15) accounts receivable policies and valuable papers
12 and records policies;

13 (16) floor plan policies, covering property for sale
14 while in possession of dealers under a floor plan or any
15 similar plan under which the dealer borrows money from a
16 bank or lending institution to pay the manufacturer, if:

17 (a) the merchandise is specifically identifiable as
18 encumbered to the bank or lending institution;

19 (b) the dealer's right to sell or otherwise dispose of
20 the merchandise is conditioned upon its being released from
21 encumbrance by the bank or lending institution; and

22 (c) the policies cover property in transit and do not
23 extend beyond the termination of the dealer's interest;

24 (17) sign and street clock policies, including neon
25 signs, automatic or mechanical signs, and street clocks,

1 while in use as such;

2 (18) fine arts policies covering paintings, etchings,
3 pictures, tapestries, art glass windows and other bona fide
4 works of art of rarity, historical value or artistic merit,
5 for account of museums, galleries, universities, businesses,
6 municipalities, and other similar interests;

7 (19) policies covering personal property, which may
8 include coverage of money in locked safes or vaults on the
9 assured's premises and may also include coverage of
10 furniture, fixtures, tools, machinery, patterns, molds,
11 dies, and a tenant insured's interest in improvements of
12 buildings, which when sold to the ultimate purchaser may be
13 covered specifically by the owner under inland marine
14 policies including:

15 (a) musical instrument dealers' policies, covering
16 property consisting principally of musical instruments and
17 their accessories, but radios, televisions, record players,
18 and combinations of them are not musical instruments for the
19 purposes of this subsection.

20 (b) camera dealers' policies covering property
21 consisting principally of cameras and their accessories;

22 (c) furrier dealers' policies covering property
23 consisting principally of furs and fur garments;

24 (d) equipment dealers' policies covering mobile
25 equipment consisting of binders, reapers, tractors,

1 harvesters, harrows, tedders, and other similar agricultural
 2 equipment and accessories therefor; construction equipment
 3 consisting of bulldozers, road scrapers, tractors,
 4 compressors, pneumatic tools, and similar equipment and
 5 accessories therefor, but excluding motor vehicles designed
 6 for highway use;

7 (e) stamp and coin dealers' policies covering property
 8 of philatelic and numismatic nature;

9 (f) jewelers' block policies; and

10 (g) fine arts dealers' policies;

11 (20) wool growers' floaters;

12 (21) domestic bulk liquids policies covering tanks and
 13 domestic bulk liquids stored therein;

14 (22) "difference in conditions" coverage, excluding
 15 fire and extended coverage perils; and

16 (23) electronic data processing policies.

17 NEW SECTION. Section 9. Exceptions. Unless otherwise
 18 permitted, nothing in [sections 3 through 9] may be
 19 construed to permit marine, inland marine, or transportation
 20 insurance policies to cover:

21 (1) storage of an assured's merchandise, except as
 22 specifically provided;

23 (2) merchandise in the course of manufacture which is
 24 the property of and on the premises of the manufacturer;

25 (3) furniture, fixtures, and improvements to

1 buildings; or

2 (4) money or securities in safes, vaults, safety
 3 deposit vaults, or banks or on the assured's premises,
 4 except while in the course of transportation.

5 Section 10. Section 2-18-809, MCA, is amended to read:
 6 "2-18-809. Definitions. As used in this part, the
 7 following definitions apply:

8 (1) "Advisory council" means the state employee group
 9 benefits advisory council provided for in 2-15-1016.

10 (2) "Department" means the department of
 11 administration provided for in 2-15-1001.

12 (3) "State employee" means an employee of the state,
 13 specifically including a member or employee of the
 14 legislative branch of state government. The term "state
 15 employee" does not include employees of counties, cities,
 16 towns, school districts, or the Montana university system.

17 (4) "Group benefits" means group hospitalization,
 18 health, medical, surgical, disability, life, and other
 19 similar and related group benefits provided to officers and
 20 employees of the state. The term "group benefits" does not
 21 include casualty insurance, defined in 33-1-206; marine
 22 insurance, defined authorized in 33-1-209 [sections 1
 23 through 2]; property insurance, defined in 33-1-210; surety
 24 insurance, defined in 33-1-211; and title insurance, defined
 25 in 33-1-212."

1 Section 11. Section 33-2-705, MCA, is amended to read:
 2 "33-2-705. Report on premiums and other consideration
 3 -- tax. (1) Each authorized insurer and each formerly
 4 authorized insurer with respect to premiums so received
 5 while an authorized insurer in this state shall file with
 6 the commissioner, on or before March 1 each year, a report
 7 [except as to wet marine and transportation insurance taxed
 8 under subsection (3) below] in form as prescribed by the
 9 commissioner showing total direct premium income, including
 10 policy, membership, and other fees, premiums paid by
 11 application of dividends, refunds, savings, savings coupons,
 12 and similar returns or credits to payment of premiums for
 13 new or additional or extended or renewed insurance, charges
 14 for payment of premium in installments, and all other
 15 consideration for insurance from all kinds and classes of
 16 insurance whether designated as a premium or otherwise,
 17 received by it during the preceding calendar year on account
 18 of policies covering property, subjects, or risks located,
 19 resident, or to be performed in Montana, with proper
 20 proportionate allocation of premium as to such property,
 21 subjects, or risks in Montana insured under policies or
 22 contracts covering property, subjects, or risks located or
 23 resident in more than one state, after deducting from such
 24 total direct premium income applicable cancellations,
 25 returned premiums, the unabsorbed portion of any deposit

1 premium, the amount of reduction in or refund of premiums
 2 allowed to industrial life policyholders for payment of
 3 premiums direct to an office of the insurer, all policy
 4 dividends, refunds, savings, savings coupons, and other
 5 similar returns paid or credited to policyholders with
 6 respect to such policies. As to title insurance, "premium"
 7 includes only the risk portion of the charge for such
 8 insurance. No deduction shall be made of the cash surrender
 9 values of policies. Considerations received on annuity
 10 contracts shall not be included in total direct premium
 11 income and shall not be subject to tax.

12 (2) Coincident with the filing of the tax report
 13 referred to in subsection (1) above, each such insurer shall
 14 pay to the commissioner a tax upon such net premiums. This
 15 tax may be computed in either of the following ways:

16 (a) (i) A domestic insurer may choose to compute its
 17 tax based on the percentage of its admitted assets invested
 18 in Montana securities according to the following schedule:

19 (A) 2 3/4% of net premiums if the insurer has 0% of
 20 its admitted assets invested in Montana securities;

21 (B) 2 1/4% of net premiums if the insurer has at least
 22 25% of its admitted assets invested in Montana securities;

23 (C) 1 3/4% of net premiums if the insurer has at least
 24 50% of its admitted assets invested in Montana securities;

25 (D) 1 1/4% of net premiums if the insurer has at least

1 75% of its admitted assets invested in Montana securities;
2 and

3 (E) 3/4% of net premiums if the insurer has 100% of
4 its admitted assets invested in Montana securities.

5 (ii) "Admitted assets" are those assets allowed in
6 33-2-501.

7 (iii) An insurer choosing this method of computation
8 must itemize its Montana securities on a detailed schedule
9 attached to its annual tax report.

10 (b) (i) If the method provided for in subsection (a)
11 is not used, the insurer shall compute its tax at the rate
12 of 2 3/4% of the net premiums.

13 (ii) An insurer choosing this method and having not
14 less than 50% of its paid-in capital stock invested in
15 Montana securities is allowed to deduct whatever tax it may
16 have already paid to the state of Montana and its political
17 subdivisions, during the same calendar year as to which
18 premium tax is being paid, from the amount otherwise due
19 under this section.

20 (3) For the purpose of subsection (2):

21 (a) "paid-in capital stock" as to a mutual or
22 reciprocal insurer shall be deemed to be an amount equal to
23 10% of the insurer's assets; and

24 (b) "Montana securities" shall be deemed to include
25 only general obligations of the state of Montana or of its

1 political subdivisions, mortgage loans secured by a first
2 lien upon real estate located in Montana, and real estate
3 located in Montana owned by the insurer, all if otherwise
4 lawful investments of the insurer under this code.

5 (4) (a) On or before March 1 of each year each insurer
6 shall file with the commissioner, on forms as prescribed and
7 furnished or accepted by him, a report of its gross
8 underwriting profit on wet marine and transportation
9 insurance, as defined authorized in 33-1-209 [sections 1
10 through 9], written in this state during the calendar year
11 next preceding and shall at the same time pay to the
12 commissioner a tax of 3/4 of 1% of such gross underwriting
13 profit.

14 (b) Such gross underwriting profit shall be
15 ascertained by deducting from the net premiums (i.e., gross
16 premiums less all return premiums and premiums for
17 reinsurance) on such wet marine and transportation insurance
18 contracts the net losses paid (i.e., gross losses paid less
19 salvage and recoveries on reinsurance ceded) during such
20 calendar year under such contracts. In the case of insurers
21 issuing participating contracts, such gross underwriting
22 profit shall not include for computation of the tax
23 prescribed by this subsection (3) the amounts refunded,
24 credited, or paid as participation dividends or savings by
25 such insurers to the holders of such contracts.

1 (5) That portion of the tax paid hereunder by an
 2 insurer on account of premiums received for fire insurance
 3 shall be separately specified in the report as required by
 4 the commissioner, for apportionment as provided by law.
 5 Where insurance against fire is included with insurance of
 6 property against other perils at an undivided premium, the
 7 insurer shall make such reasonable allocation from such
 8 entire premium to the fire portion of the coverage as shall
 9 be stated in such report and as may be approved or accepted
 10 by the commissioner.

11 (6) With respect to authorized insurers the premium
 12 tax provided by this section shall be payment in full and in
 13 lieu of all other demands for any and all state, county,
 14 city, district, municipal, and school taxes, licenses, fees,
 15 and excises of whatever kind or character, excepting only
 16 those prescribed by this code, taxes on real and tangible
 17 personal property located in this state, and taxes payable
 18 under 50-3-109.

19 (7) The commissioner may suspend or revoke the
 20 certificate of authority of any insurer which fails to pay
 21 its taxes as required under this section."

22 Section 12. Section 33-17-504, MCA, is amended to
 23 read:

24 "33-17-504. Issuing license -- limitations. The
 25 commissioner may issue an insurance consultant's license to

1 any natural person who has complied with the requirements of
 2 this chapter with respect to either life insurance, meaning
 3 all of those kinds of insurance authorized in 33-1-207,
 4 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601,
 5 or general insurance, meaning all of those kinds of
 6 insurance authorized in 33-1-206, 33-1-207, ~~and 33-1-209~~
 7 ~~33-1-210~~ through 33-1-212, and [sections 1 through 9], as
 8 specified in such license."

9 Section 13. Codification instruction. Sections 1
 10 through 9 are intended to be codified as an integral part of
 11 Title 33, chapter 1, part 2, and the provisions of Title 33
 12 apply to sections 1 through 9.

13 Section 14. Repealer. Section 33-1-209, MCA, is
 14 repealed.

-End-

Approved by Committee
on Judiciary

1 SENATE BILL NO. 335
2 INTRODUCED BY HAZELBAKER
3 BY REQUEST OF THE INSURANCE DEPARTMENT
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT A NEW
6 DEFINITION OF MARINE, INLAND MARINE, AND TRANSPORTATION
7 INSURANCE; DESCRIBING THE KINDS OF RISKS AND COVERAGES THAT
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18 coverages which may be classified or identified under state
19 insurance laws as marine, inland marine, or transportation
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21 the kinds of risks and coverages which may be written,
22 classified, or identified under marine, inland marine, or
23 transportation insuring powers. [Sections 1 through 9] may
24 not be construed to mean that the kinds of risks and
25 coverages described herein are solely marine, inland marine,

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7 covered by marine, inland marine, and transportation
8 policies subject to the following conditions:

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10 without restriction as to time, provided the coverage of the
11 issuing companies includes hazards of transportation.

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13 marine, inland marine, or transportation insurance as long
14 as the property remains segregated in such a way that it can
15 be identified and has not become incorporated into and mixed
16 with the general mass of property in the United States;
17 property ceases to be an import and the proper subject of
18 marine, inland marine, or transportation insurance when it
19 has been:

20 (a) sold and delivered by the importer, factor, or
21 consignee;

22 (b) removed from its place of storage and placed on
23 sale as part of an importer's stock in trade at a point of
24 sale or distribution; or

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1 in form to premises of the importer or another, to be used
2 for such purposes.

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4 covered by marine, inland marine, and transportation
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14 instrumentalities, including auxiliary facilities and
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17 railways;

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19 regulating, and other equipment appurtenant to such
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6 property of a mobile or floating nature pertaining to or
7 usual to a household. Such policies shall not cover
8 furniture and fixtures not customarily used away from
9 premises where such property is usually kept.

10 (12) installment sales and leased property policies
11 covering property pertaining to a household and sold under
12 conditional contract of sale, partial payment contract, or
13 installment sales contract or leased but excluding motor
14 vehicles designed for highway use. Such policies must cover
15 property in transit but shall not extend beyond the
16 termination of the seller's or lessor's interest; and

17 (13) live animal floaters.

18 NEW SECTION. Section 8. Commercial property. Risks
19 generally covered by commercial property floaters covering
20 property pertaining to a business, profession, or occupation
21 may be covered by marine, inland marine, and transportation
22 policies. This category includes:

23 (1) radium floaters;

24 (2) physicians' and surgeons' instrument floaters.

25 Such policies may include coverage of such furniture,

1 fixtures, and tenant assured's interest in such improvements
2 of buildings as are located in that portion of the premises
3 occupied by the assured in the practice of his profession.

4 (3) pattern and die floaters;

5 (4) theatrical floaters, excluding buildings and
6 improvements, furniture, and fixtures that do not travel
7 about with theatrical troupes;

8 (5) film floaters, including a builders' risk during
9 the production and coverage on completed negatives,
10 positives, and sound records;

11 (6) salesman's samples floaters;

12 (7) exhibition policies on property while it is on
13 exhibition and in transit to or from such exhibitions;

14 (8) live animal floaters;

15 (9) builders' risks and installation risks policies
16 covering the interest of owner, seller, or contractor
17 against loss or damage to machinery, equipment, building
18 materials, or supplies being used with and during the course
19 of installation, testing, building, renovating, or
20 repairing. These policies may cover property at points or
21 places, where work is being performed, while in transit, and
22 during temporary storage or deposit of property designated
23 for an awaiting specific installation, building, renovating
24 or repairing. Such coverage is limited to builders' risks
25 or installation risks where perils in addition to fire and

1 extended coverage are to be insured. If written for the
2 account of the owner, the coverage ceases upon completion of
3 work and acceptance thereof; or if written for the account
4 of a seller or contractor the coverage terminates when the
5 interest of the seller or contractor terminates.

6 (10) mobile articles, machinery, and equipment floaters
7 (excluding motor vehicles designed for highway use and ~~auto~~
8 MOTOR homes, trailers, and semitrailers except when hauled
9 by tractors not designed for highway use and snowplows
10 constructed exclusively for highway use) covering identified
11 property of a mobile or floating nature, not on sale or
12 consignment or in the course of manufacture, that has come
13 into custody or control of parties who intend to use such
14 property for which it was manufactured or created. Such
15 policies may not cover furniture and fixtures not
16 customarily used away from premises where such property is
17 usually kept.

18 (11) property in transit to or from and in the custody
19 of bailees (not owned, controlled, or operated by the
20 bailor), but such policies may not cover the bailee's
21 property at his premises.

22 (12) installment sales and leased property policies
23 covering property sold under conditional contract of sale,
24 partial payment contract or installment sales contract or
25 leased, but excluding motor vehicles designed for highway

1 use. These policies must cover property in transit but may
 2 not extend beyond the termination of the seller's or
 3 lessor's interest. This subsection does not include
 4 machinery and equipment under certain "lease-back"
 5 contracts.

6 (13) garment contracts' floaters;

7 (14) furriers' or fur storers' customer's policies,
 8 which are policies under which certificates or receipts are
 9 issued by furriers or fur storers, covering specified
 10 articles that are the property of customers;

11 (15) accounts receivable policies and valuable papers
 12 and records policies;

13 (16) floor plan policies, covering property for sale
 14 while in possession of dealers under a floor plan or any
 15 similar plan under which the dealer borrows money from a
 16 bank or lending institution to pay the manufacturer, if:

17 (a) the merchandise is specifically identifiable as
 18 encumbered to the bank or lending institution;

19 (b) the dealer's right to sell or otherwise dispose of
 20 the merchandise is conditioned upon its being released from
 21 encumbrance by the bank or lending institution; and

22 (c) the policies cover property in transit and do not
 23 extend beyond the termination of the dealer's interest;

24 (17) sign and street clock policies, including neon
 25 signs, automatic or mechanical signs, and street clocks,

1 while in use as such;

2 (18) fine arts policies covering paintings, etchings,
 3 pictures, tapestries, art glass windows and other bona fide
 4 works of art of rarity, historical value or artistic merit,
 5 for account of museums, galleries, universities, businesses,
 6 municipalities, and other similar interests;

7 (19) policies covering personal property, which may
 8 include coverage of money in locked safes or vaults on the
 9 assured's premises and may also include coverage of
 10 furniture, fixtures, tools, machinery, patterns, molds,
 11 dies, and a tenant insured's interest in improvements of
 12 buildings, which when sold to the ultimate purchaser may be
 13 covered specifically by the owner under inland marine
 14 policies including:

15 (a) musical instrument dealers' policies, covering
 16 property consisting principally of musical instruments and
 17 their accessories, but radios, televisions, record players,
 18 and combinations of them are not musical instruments for the
 19 purposes of this subsection.

20 (b) camera dealers' policies covering property
 21 consisting principally of cameras and their accessories;

22 (c) furrier dealers' policies covering property
 23 consisting principally of furs and fur garments;

24 (d) equipment dealers' policies covering mobile
 25 equipment consisting of binders, reapers, tractors,

1 harvesters, harrows, tedders, and other similar agricultural
 2 equipment and accessories therefor; construction equipment
 3 consisting of bulldozers, road scrapers, tractors,
 4 compressors, pneumatic tools, and similar equipment and
 5 accessories therefor, but excluding motor vehicles designed
 6 for highway use;

7 (e) stamp and coin dealers' policies covering property
 8 of philatelic and numismatic nature;

9 (f) jewelers' block policies; and

10 (g) fine arts dealers' policies;

11 (20) wool growers' floaters;

12 (21) domestic bulk liquids policies covering tanks and
 13 domestic bulk liquids stored therein;

14 (22) "difference in conditions" coverage, excluding
 15 fire and extended coverage perils; and

16 (23) electronic data processing policies.

17 NEW SECTION. Section 9. Exceptions. Unless otherwise
 18 permitted, nothing in [sections 3 through 9] may be
 19 construed to permit marine, inland marine, or transportation
 20 insurance policies to cover:

21 (1) storage of an assured's merchandise, except as
 22 specifically provided;

23 (2) merchandise in the course of manufacture which is
 24 the property of and on the premises of the manufacturer;

25 (3) furniture, fixtures, and improvements to

1 buildings; or

2 (4) money or securities in safes, vaults, safety
 3 deposit vaults, or banks or on the assured's premises,
 4 except while in the course of transportation.

5 Section 10. Section 2-18-809, MCA, is amended to read:
 6 "2-18-809. Definitions. As used in this part, the
 7 following definitions apply:

8 (1) "Advisory council" means the state employee group
 9 benefits advisory council provided for in 2-15-1016.

10 (2) "Department" means the department of
 11 administration provided for in 2-15-1001.

12 (3) "State employee" means an employee of the state,
 13 specifically including a member or employee of the
 14 legislative branch of state government. The term "state
 15 employee" does not include employees of counties, cities,
 16 towns, school districts, or the Montana university system.

17 (4) "Group benefits" means group hospitalization,
 18 health, medical, surgical, disability, life, and other
 19 similar and related group benefits provided to officers and
 20 employees of the state. The term "group benefits" does not
 21 include casualty insurance, defined in 33-1-206; marine
 22 insurance, defined authorized in 33-1-209 [sections 1
 23 through 9]; property insurance, defined in 33-1-210; surety
 24 insurance, defined in 33-1-211; and title insurance, defined
 25 in 33-1-212."

1 Section 11. Section 33-2-705, MCA, is amended to read:
 2 "33-2-705. Report on premiums and other consideration
 3 -- tax. (1) Each authorized insurer and each formerly
 4 authorized insurer with respect to premiums so received
 5 while an authorized insurer in this state shall file with
 6 the commissioner, on or before March 1 each year, a report
 7 (except as to wet marine and transportation insurance taxed
 8 under subsection (3) below) in form as prescribed by the
 9 commissioner showing total direct premium income, including
 10 policy, membership, and other fees, premiums paid by
 11 application of dividends, refunds, savings, savings coupons,
 12 and similar returns or credits to payment of premiums for
 13 new or additional or extended or renewed insurance, charges
 14 for payment of premium in installments, and all other
 15 consideration for insurance from all kinds and classes of
 16 insurance whether designated as a premium or otherwise,
 17 received by it during the preceding calendar year on account
 18 of policies covering property, subjects, or risks located,
 19 resident, or to be performed in Montana, with proper
 20 proportionate allocation of premium as to such property,
 21 subjects, or risks in Montana insured under policies or
 22 contracts covering property, subjects, or risks located or
 23 resident in more than one state, after deducting from such
 24 total direct premium income applicable cancellations,
 25 returned premiums, the unabsorbed portion of any deposit

1 premium, the amount of reduction in or refund of premiums
 2 allowed to industrial life policyholders for payment of
 3 premiums direct to an office of the insurer, all policy
 4 dividends, refunds, savings, savings coupons, and other
 5 similar returns paid or credited to policyholders with
 6 respect to such policies. As to title insurance, "premium"
 7 includes only the risk portion of the charge for such
 8 insurance. No deduction shall be made of the cash surrender
 9 values of policies. Considerations received on annuity
 10 contracts shall not be included in total direct premium
 11 income and shall not be subject to tax.

12 (2) Coincident with the filing of the tax report
 13 referred to in subsection (1) above, each such insurer shall
 14 pay to the commissioner a tax upon such net premiums. This
 15 tax may be computed in either of the following ways:

16 (a) (i) A domestic insurer may choose to compute its
 17 tax based on the percentage of its admitted assets invested
 18 in Montana securities according to the following schedule:

19 (A) 2 3/4% of net premiums if the insurer has 0% of
 20 its admitted assets invested in Montana securities;

21 (B) 2 1/4% of net premiums if the insurer has at least
 22 25% of its admitted assets invested in Montana securities;

23 (C) 1 3/4% of net premiums if the insurer has at least
 24 50% of its admitted assets invested in Montana securities;

25 (D) 1 1/4% of net premiums if the insurer has at least

1 75% of its admitted assets invested in Montana securities;
2 and

3 (E) 3/4% of net premiums if the insurer has 100% of
4 its admitted assets invested in Montana securities.

5 (ii) "Admitted assets" are those assets allowed in
6 33-2-501.

7 (iii) An insurer choosing this method of computation
8 must itemize its Montana securities on a detailed schedule
9 attached to its annual tax report.

10 (b) (i) If the method provided for in subsection (a)
11 is not used, the insurer shall compute its tax at the rate
12 of 2 3/4% of the net premiums.

13 (ii) An insurer choosing this method and having not
14 less than 50% of its paid-in capital stock invested in
15 Montana securities is allowed to deduct whatever tax it may
16 have already paid to the state of Montana and its political
17 subdivisions, during the same calendar year as to which
18 premium tax is being paid, from the amount otherwise due
19 under this section.

20 (3) For the purpose of subsection (2):

21 (a) "paid-in capital stock" as to a mutual or
22 reciprocal insurer shall be deemed to be an amount equal to
23 10% of the insurer's assets; and

24 (b) "Montana securities" shall be deemed to include
25 only general obligations of the state of Montana or of its

1 political subdivisions, mortgage loans secured by a first
2 lien upon real estate located in Montana, and real estate
3 located in Montana owned by the insurer, all if otherwise
4 lawful investments of the insurer under this code.

5 (4) (a) On or before March 1 of each year each insurer
6 shall file with the commissioner, on forms as prescribed and
7 furnished or accepted by him, a report of its gross
8 underwriting profit on wet marine, INLAND MARINE, and
9 transportation insurance, as-defined authorized in 33-1-209
10 [sections 1 through 9], written in this state during the
11 calendar year next preceding and shall at the same time pay
12 to the commissioner a tax of 3/4 of 1% of such gross
13 underwriting profit.

14 (b) Such gross underwriting profit shall be
15 ascertained by deducting from the net premiums (i.e., gross
16 premiums less all return premiums and premiums for
17 reinsurance) on such wet marine and transportation insurance
18 contracts the net losses paid (i.e., gross losses paid less
19 salvage and recoveries on reinsurance ceded) during such
20 calendar year under such contracts. In the case of insurers
21 issuing participating contracts, such gross underwriting
22 profit shall not include for computation of the tax
23 prescribed by this subsection (3) the amounts refunded,
24 credited, or paid as participation dividends or savings by
25 such insurers to the holders of such contracts.

1 (5) That portion of the tax paid hereunder by an
 2 insurer on account of premiums received for fire insurance
 3 shall be separately specified in the report as required by
 4 the commissioner, for apportionment as provided by law.
 5 Where insurance against fire is included with insurance of
 6 property against other perils at an undivided premium, the
 7 insurer shall make such reasonable allocation from such
 8 entire premium to the fire portion of the coverage as shall
 9 be stated in such report and as may be approved or accepted
 10 by the commissioner.

11 (6) With respect to authorized insurers the premium
 12 tax provided by this section shall be payment in full and in
 13 lieu of all other demands for any and all state, county,
 14 city, district, municipal, and school taxes, licenses, fees,
 15 and excises of whatever kind or character, excepting only
 16 those prescribed by this code, taxes on real and tangible
 17 personal property located in this state, and taxes payable
 18 under 50-3-109.

19 (7) The commissioner may suspend or revoke the
 20 certificate of authority of any insurer which fails to pay
 21 its taxes as required under this section."

22 Section 12. Section 33-17-504, MCA, is amended to
 23 read:

24 "33-17-504. Issuing license -- limitations. The
 25 commissioner may issue an insurance consultant's license to

1 any natural person who has complied with the requirements of
 2 this chapter with respect to either life insurance, meaning
 3 all of those kinds of insurance authorized in 33-1-207,
 4 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601,
 5 or general insurance, meaning all of those kinds of
 6 insurance authorized in 33-1-206, 33-1-207, ~~and 33-1-209~~
 7 33-1-210 through 33-1-212, and [sections 1 through 9], as
 8 specified in such license."

9 Section 13. Codification instruction. Sections 1
 10 through 9 are intended to be codified as an integral part of
 11 Title 33, chapter 1, part 2, and the provisions of Title 33
 12 apply to sections 1 through 9.

13 Section 14. Repealer. Section 33-1-209, MCA, is
 14 repealed.

-End-

1 SENATE BILL NO. 335

2 INTRODUCED BY HAZELBAKER

3 BY REQUEST OF THE INSURANCE DEPARTMENT

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT A NEW
6 DEFINITION OF MARINE, INLAND MARINE, AND TRANSPORTATION
7 INSURANCE; DESCRIBING THE KINDS OF RISKS AND COVERAGES THAT
8 MAY BE INSURED BY MARINE, INLAND MARINE, OR TRANSPORTATION
9 INSURANCE POLICIES; AMENDING SECTIONS 2-18-809, 33-2-705,
10 AND 33-17-504, MCA; AND REPEALING SECTION 33-1-209, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 NEW SECTION. Section 1. Short title. [Sections 1
14 through 9] may be cited as the "Nationwide Inland Marine
15 Definition Act".

16 NEW SECTION. Section 2. Purpose. (1) The purpose of
17 [sections 1 through 9] is to describe the kinds of risks and
18 coverages which may be classified or identified under state
19 insurance laws as marine, inland marine, or transportation
20 insurance, but [sections 1 through 9] do not include all of
21 the kinds of risks and coverages which may be written,
22 classified, or identified under marine, inland marine, or
23 transportation insuring powers. [Sections 1 through 9] may
24 not be construed to mean that the kinds of risks and
25 coverages described herein are solely marine, inland marine,

1 or transportation insurance in all instances.

2 (2) [Sections 1 through 9] may not be construed to
3 restrict or limit in any way the exercise of any insuring
4 powers granted under charters and licenses whether used
5 separately, in combination, or otherwise.

6 NEW SECTION. Section 3. Imports. Imports may be
7 covered by marine, inland marine, and transportation
8 policies subject to the following conditions:

9 (1) Imports are covered wherever they are located,
10 without restriction as to time, provided the coverage of the
11 issuing companies includes hazards of transportation.

12 (2) Property is an import and the proper subject of
13 marine, inland marine, or transportation insurance as long
14 as the property remains segregated in such a way that it can
15 be identified and has not become incorporated into and mixed
16 with the general mass of property in the United States;
17 property ceases to be an import and the proper subject of
18 marine, inland marine, or transportation insurance when it
19 has been:

20 (a) sold and delivered by the importer, factor, or
21 consignee;

22 (b) removed from its place of storage and placed on
23 sale as part of an importer's stock in trade at a point of
24 sale or distribution; or

25 (c) delivered for manufacture, processing, or change

1 in form to premises of the importer or another, to be used
2 for such purposes.

3 NEW SECTION. Section 4. Exports. Exports may be
4 covered by marine, inland marine, and transportation
5 policies subject to the following conditions:

6 (1) Exports are covered wherever they are located,
7 without restriction as to time, provided the coverage of the
8 issuing companies includes hazards of transportation.

9 (2) Property is an export and the proper subject of
10 marine, inland marine, or transportation insurance when
11 designated or while being prepared for export and remains an
12 export unless diverted for domestic trade. If the property
13 is diverted for domestic trade, the provisions of [section
14 5] apply. This section does not apply to long established
15 methods of insuring certain commodities such as cotton.

16 NEW SECTION. Section 5. Domestic shipments. Domestic
17 shipments may be covered by marine, inland marine, and
18 transportation policies subject to the following conditions:

19 (1) Domestic shipments on consignment for sale,
20 distribution, exhibit, trial, approval, or auction may be
21 covered while in transit, while in the custody of others,
22 and while being returned, except that the policy may not
23 cover property while it is on premises owned, leased, or
24 operated by the consignor.

25 (2) Domestic shipments not on consignment may be

1 covered if the coverage of the issuing companies includes
2 hazards of transportation beginning and ending within the
3 United States. Such shipments are not covered at the
4 manufacturing premises or after arrival at premises owned,
5 leased, or operated by the assured or the purchaser.

6 NEW SECTION. Section 6. Instrumentalities of
7 transportation and commerce. Bridges, tunnels, and other
8 instrumentalities of transportation and communication
9 (excluding buildings and improvements, furniture,
10 furnishings, fixed contents, and supplies held in storage)
11 may be covered by marine, inland marine, and transportation
12 policies. This category includes:

13 (1) bridges, tunnels, and other similar
14 instrumentalities, including auxiliary facilities and
15 equipment attendant thereto;

16 (2) piers, wharves, docks, slips, drydocks, and marine
17 railways;

18 (3) pipelines, including on-line propulsion,
19 regulating, and other equipment appurtenant to such
20 pipelines but excluding all property at manufacturing,
21 producing, refining, converting, treating, or conditioning
22 plants;

23 (4) power transmission, telephone, and telegraph
24 lines, excluding all property at generating, converting, or
25 transforming stations, substations, and exchanges;

1 (5) radio and television communication equipment in
2 use as such, including towers and antennas with auxiliary
3 equipment, and appurtenant electrical operating and control
4 apparatus; and

5 (6) outdoor cranes, loading bridges, and similar
6 equipment used to load, unload, and transport.

7 NEW SECTION. Section 7. Personal property. Risks
8 generally covered by personal property floaters covering
9 individuals or items of personal property may be covered by
10 marine, inland marine, and transportation policies. This
11 category includes:

12 (1) personal effects floater policies;

13 (2) personal property floaters;

14 (3) government service floaters;

15 (4) personal fur floaters;

16 (5) personal jewelry floaters;

17 (6) wedding present floaters for a period not
18 exceeding 90 days after the date of the wedding;

19 (7) silverware floaters;

20 (8) fine arts floaters covering paintings, etchings,
21 pictures, tapestries, art glass windows, and other bona fide
22 works of art of rarity, historical value, or artistic merit;

23 (9) stamp and coin floaters;

24 (10) musical instrument floaters. For purposes of this
25 section, radios, televisions, record players, and

1 combinations thereof are not musical instruments.

2 (11) mobile articles, machinery, and equipment floaters
3 (excluding motor vehicles designed for highway use and motor
4 homes, trailers, and semitrailers except when hauled by
5 tractors not designed for highway use) covering identified
6 property of a mobile or floating nature pertaining to or
7 usual to a household. Such policies shall not cover
8 furniture and fixtures not customarily used away from
9 premises where such property is usually kept.

10 (12) installment sales and leased property policies
11 covering property pertaining to a household and sold under
12 conditional contract of sale, partial payment contract, or
13 installment sales contract or leased but excluding motor
14 vehicles designed for highway use. Such policies must cover
15 property in transit but shall not extend beyond the
16 termination of the seller's or lessor's interest; and

17 (13) live animal floaters.

18 NEW SECTION. Section 8. Commercial property. Risks
19 generally covered by commercial property floaters covering
20 property pertaining to a business, profession, or occupation
21 may be covered by marine, inland marine, and transportation
22 policies. This category includes:

23 (1) radium floaters;

24 (2) physicians' and surgeons' instrument floaters.

25 Such policies may include coverage of such furniture,

1 fixtures, and tenant assured's interest in such improvements
2 of buildings as are located in that portion of the premises
3 occupied by the assured in the practice of his profession.

4 (3) pattern and die floaters;

5 (4) theatrical floaters, excluding buildings and
6 improvements, furniture, and fixtures that do not travel
7 about with theatrical troupes;

8 (5) film floaters, including a builders' risk during
9 the production and coverage on completed negatives,
10 positives, and sound records;

11 (6) salesman's samples floaters;

12 (7) exhibition policies on property while it is on
13 exhibition and in transit to or from such exhibitions;

14 (8) live animal floaters;

15 (9) builders' risks and installation risks policies
16 covering the interest of owner, seller, or contractor
17 against loss or damage to machinery, equipment, building
18 materials, or supplies being used with and during the course
19 of installation, testing, building, renovating, or
20 repairing. These policies may cover property at points or
21 places where work is being performed, while in transit, and
22 during temporary storage or deposit of property designated
23 for an awaiting specific installation, building, renovating
24 or repairing. Such coverage is limited to builders' risks
25 or installation risks where perils in addition to fire and

1 extended coverage are to be insured. If written for the
2 account of the owner, the coverage ceases upon completion of
3 work and acceptance thereof; or if written for the account
4 of a seller or contractor the coverage terminates when the
5 interest of the seller or contractor terminates.

6 (10) mobile articles, machinery, and equipment floaters
7 (excluding motor vehicles designed for highway use and ~~auto~~
8 MOTOR homes, trailers, and semitrailers except when hauled
9 by tractors not designed for highway use and snowplows
10 constructed exclusively for highway use) covering identified
11 property of a mobile or floating nature, not on sale or
12 consignment or in the course of manufacture, that has come
13 into custody or control of parties who intend to use such
14 property for which it was manufactured or created. Such
15 policies may not cover furniture and fixtures not
16 customarily used away from premises where such property is
17 usually kept.

18 (11) property in transit to or from and in the custody
19 of bailees (not owned, controlled, or operated by the
20 bailor), but such policies may not cover the bailee's
21 property at his premises.

22 (12) installment sales and leased property policies
23 covering property sold under conditional contract of sale,
24 partial payment contract or installment sales contract or
25 leased, but excluding motor vehicles designed for highway

1 use. These policies must cover property in transit but may
 2 not extend beyond the termination of the seller's or
 3 lessor's interest. This subsection does not include
 4 machinery and equipment under certain "lease-back"
 5 contracts.

6 (13) garment contracts' floaters;

7 (14) furriers' or fur storers' customer's policies,
 8 which are policies under which certificates or receipts are
 9 issued by furriers or fur storers, covering specified
 10 articles that are the property of customers;

11 (15) accounts receivable policies and valuable papers
 12 and records policies;

13 (16) floor plan policies, covering property for sale
 14 while in possession of dealers under a floor plan or any
 15 similar plan under which the dealer borrows money from a
 16 bank or lending institution to pay the manufacturer, if:

17 (a) the merchandise is specifically identifiable as
 18 encumbered to the bank or lending institution;

19 (b) the dealer's right to sell or otherwise dispose of
 20 the merchandise is conditioned upon its being released from
 21 encumbrance by the bank or lending institution; and

22 (c) the policies cover property in transit and do not
 23 extend beyond the termination of the dealer's interest;

24 (17) sign and street clock policies, including neon
 25 signs, automatic or mechanical signs, and street clocks,

1 while in use as such;

2 (18) fine arts policies covering paintings, etchings,
 3 pictures, tapestries, art glass windows and other bona fide
 4 works of art of rarity, historical value or artistic merit,
 5 for account of museums, galleries, universities, businesses,
 6 municipalities, and other similar interests;

7 (19) policies covering personal property, which may
 8 include coverage of money in locked safes or vaults on the
 9 assured's premises and may also include coverage of
 10 furniture, fixtures, tools, machinery, patterns, molds,
 11 dies, and a tenant insured's interest in improvements of
 12 buildings, which when sold to the ultimate purchaser may be
 13 covered specifically by the owner under inland marine
 14 policies including:

15 (a) musical instrument dealers' policies, covering
 16 property consisting principally of musical instruments and
 17 their accessories, but radios, televisions, record players,
 18 and combinations of them are not musical instruments for the
 19 purposes of this subsection.

20 (b) camera dealers' policies covering property
 21 consisting principally of cameras and their accessories;

22 (c) furrier dealers' policies covering property
 23 consisting principally of furs and fur garments;

24 (d) equipment dealers' policies covering mobile
 25 equipment consisting of binders, reapers, tractors,

1 harvesters, harrows, tedders, and other similar agricultural
 2 equipment and accessories therefor; construction equipment
 3 consisting of bulldozers, road scrapers, tractors,
 4 compressors, pneumatic tools, and similar equipment and
 5 accessories therefor, but excluding motor vehicles designed
 6 for highway use;

7 (e) stamp and coin dealers' policies covering property
 8 of philatelic and numismatic nature;

9 (f) jewelers' block policies; and

10 (g) fine arts dealers' policies;

11 (20) wool growers' floaters;

12 (21) domestic bulk liquids policies covering tanks and
 13 domestic bulk liquids stored therein;

14 (22) "difference in conditions" coverage, excluding
 15 fire and extended coverage perils; and

16 (23) electronic data processing policies.

17 NEW SECTION. Section 9. Exceptions. Unless otherwise
 18 permitted, nothing in [sections 3 through 9] may be
 19 construed to permit marine, inland marine, or transportation
 20 insurance policies to cover:

21 ~~(1) storage of an assured's merchandise, except as~~
 22 specifically provided;

23 (2) merchandise in the course of manufacture which is
 24 the property of and on the premises of the manufacturer;

25 (3) furniture, fixtures, and improvements to

1 buildings; or

2 (4) money or securities in safes, vaults, safety
 3 deposit vaults, or banks or on the assured's premises,
 4 except while in the course of transportation.

5 Section 10. Section 2-18-809, MCA, is amended to read:

6 "2-18-809. Definitions. As used in this part, the
 7 following definitions apply:

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 9 benefits advisory council provided for in 2-15-1016.

10 (2) "Department" means the department of
 11 administration provided for in 2-15-1001.

12 (3) "State employee" means an employee of the state,
 13 specifically including a member or employee of the
 14 legislative branch of state government. The term "state
 15 employee" does not include employees of counties, cities,
 16 towns, school districts, or the Montana university system.

17 (4) "Group benefits" means group hospitalization,
 18 health, medical, surgical, disability, life, and other
 19 similar and related group benefits provided to officers and
 20 employees of the state. The term "group benefits" does not
 21 include casualty insurance, defined in 33-1-206; marine
 22 insurance, defined authorized in 33-1-209 [sections 1
 23 through 9]; property insurance, defined in 33-1-210; surety
 24 insurance, defined in 33-1-211; and title insurance, defined
 25 in 33-1-212."

1 Section 11. Section 33-2-705, MCA, is amended to read:
 2 "33-2-705. Report on premiums and other consideration
 3 -- tax. (1) Each authorized insurer and each formerly
 4 authorized insurer with respect to premiums so received
 5 while an authorized insurer in this state shall file with
 6 the commissioner, on or before March 1 each year, a report
 7 (except as to wet marine and transportation insurance taxed
 8 under subsection (3) below) in form as prescribed by the
 9 commissioner showing total direct premium income, including
 10 policy, membership, and other fees, premiums paid by
 11 application of dividends, refunds, savings, savings coupons,
 12 and similar returns or credits to payment of premiums for
 13 new or additional or extended or renewed insurance, charges
 14 for payment of premium in installments, and all other
 15 consideration for insurance from all kinds and classes of
 16 insurance whether designated as a premium or otherwise,
 17 received by it during the preceding calendar year on account
 18 of policies covering property, subjects, or risks located,
 19 resident, or to be performed in Montana, with proper
 20 proportionate allocation of premium as to such property,
 21 subjects, or risks in Montana insured under policies or
 22 contracts covering property, subjects, or risks located or
 23 resident in more than one state, after deducting from such
 24 total direct premium income applicable cancellations,
 25 returned premiums, the unabsorbed portion of any deposit

1 premium, the amount of reduction in or refund of premiums
 2 allowed to industrial life policyholders for payment of
 3 premiums direct to an office of the insurer, all policy
 4 dividends, refunds, savings, savings coupons, and other
 5 similar returns paid or credited to policyholders with
 6 respect to such policies. As to title insurance, "premium"
 7 includes only the risk portion of the charge for such
 8 insurance. No deduction shall be made of the cash surrender
 9 values of policies. Considerations received on annuity
 10 contracts shall not be included in total direct premium
 11 income and shall not be subject to tax.

12 (2) Coincident with the filing of the tax report
 13 referred to in subsection (1) above, each such insurer shall
 14 pay to the commissioner a tax upon such net premiums. This
 15 tax may be computed in either of the following ways:

16 (a) (i) A domestic insurer may choose to compute its
 17 tax based on the percentage of its admitted assets invested
 18 in Montana securities according to the following schedule:

19 (A) 2 3/4% of net premiums if the insurer has 0% of
 20 its admitted assets invested in Montana securities;

21 (B) 2 1/4% of net premiums if the insurer has at least
 22 25% of its admitted assets invested in Montana securities;

23 (C) 1 3/4% of net premiums if the insurer has at least
 24 50% of its admitted assets invested in Montana securities;

25 (D) 1 1/4% of net premiums if the insurer has at least

1 75% of its admitted assets invested in Montana securities;
2 and

3 (E) 3/4% of net premiums if the insurer has 100% of
4 its admitted assets invested in Montana securities.

5 (ii) "Admitted assets" are those assets allowed in
6 33-2-501.

7 (iii) An insurer choosing this method of computation
8 must itemize its Montana securities on a detailed schedule
9 attached to its annual tax report.

10 (b) (i) If the method provided for in subsection (a)
11 is not used, the insurer shall compute its tax at the rate
12 of 2 3/4% of the net premiums.

13 (ii) An insurer choosing this method and having not
14 less than 50% of its paid-in capital stock invested in
15 Montana securities is allowed to deduct whatever tax it may
16 have already paid to the state of Montana and its political
17 subdivisions, during the same calendar year as to which
18 premium tax is being paid, from the amount otherwise due
19 under this section.

20 (3) For the purpose of subsection (2):

21 (a) "paid-in capital stock" as to a mutual or
22 reciprocal insurer shall be deemed to be an amount equal to
23 10% of the insurer's assets; and

24 (b) "Montana securities" shall be deemed to include
25 only general obligations of the state of Montana or of its

1 political subdivisions, mortgage loans secured by a first
2 lien upon real estate located in Montana, and real estate
3 located in Montana owned by the insurer, all if otherwise
4 lawful investments of the insurer under this code.

5 (4) (a) On or before March 1 of each year each insurer
6 shall file with the commissioner, on forms as prescribed and
7 furnished or accepted by him, a report of its gross
8 underwriting profit on wet marine, INLAND MARINE, and
9 transportation insurance, as defined authorized in 33-1-209
10 [sections 1 through 9], written in this state during the
11 calendar year next preceding and shall at the same time pay
12 to the commissioner a tax of 3/4 of 1% of such gross
13 underwriting profit.

14 (b) Such gross underwriting profit shall be
15 ascertained by deducting from the net premiums (i.e., gross
16 premiums less all return premiums and premiums for
17 reinsurance) on such wet marine and transportation insurance
18 contracts the net losses paid (i.e., gross losses paid less
19 salvage and recoveries on reinsurance ceded) during such
20 calendar year under such contracts. In the case of insurer's
21 issuing participating contracts, such gross underwriting
22 profit shall not include for computation of the tax
23 prescribed by this subsection (3) the amounts refunded,
24 credited, or paid as participation dividends or savings by
25 such insurers to the holders of such contracts.

1 (5) That portion of the tax paid hereunder by an
 2 insurer on account of premiums received for fire insurance
 3 shall be separately specified in the report as required by
 4 the commissioner, for apportionment as provided by law.
 5 Where insurance against fire is included with insurance of
 6 property against other perils at an undivided premium, the
 7 insurer shall make such reasonable allocation from such
 8 entire premium to the fire portion of the coverage as shall
 9 be stated in such report and as may be approved or accepted
 10 by the commissioner.

11 (6) With respect to authorized insurers the premium
 12 tax provided by this section shall be payment in full and in
 13 lieu of all other demands for any and all state, county,
 14 city, district, municipal, and school taxes, licenses, fees,
 15 and excises of whatever kind or character, excepting only
 16 those prescribed by this code, taxes on real and tangible
 17 personal property located in this state, and taxes payable
 18 under 50-3-109.

19 (7) The commissioner may suspend or revoke the
 20 certificate of authority of any insurer which fails to pay
 21 its taxes as required under this section."

22 Section 12. Section 33-17-504, MCA, is amended to
 23 read:

24 "33-17-504. Issuing license -- limitations. The
 25 commissioner may issue an insurance consultant's license to

1 any natural person who has complied with the requirements of
 2 this chapter with respect to either life insurance, meaning
 3 all of those kinds of insurance authorized in 33-1-207,
 4 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601,
 5 or general insurance, meaning all of those kinds of
 6 insurance authorized in 33-1-206, 33-1-207, ~~and 33-1-209~~
 7 33-1-210 through 33-1-212, and [sections 1 through 9], as
 8 specified in such license."

9 Section 13. Codification instruction. Sections 1
 10 through 9 are intended to be codified as an integral part of
 11 Title 33, chapter 1, part 2, and the provisions of Title 33
 12 apply to sections 1 through 9.

13 Section 14. Repealer. Section 33-1-209, MCA, is
 14 repealed.

-End-

1 SENATE BILL NO. 335

2 INTRODUCED BY HAZELBAKER

3 BY REQUEST OF THE INSURANCE DEPARTMENT

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT A NEW
6 DEFINITION OF MARINE, INLAND MARINE, AND TRANSPORTATION
7 INSURANCE; DESCRIBING THE KINDS OF RISKS AND COVERAGES THAT
8 MAY BE INSURED BY MARINE, INLAND MARINE, OR TRANSPORTATION
9 INSURANCE POLICIES; AMENDING SECTIONS 2-18-809, ~~33-1-209,~~
10 ~~33-2-705,~~ AND ~~33-17-504,~~ ~~MCA~~---AND---REPEALING---SECTIONS
11 ~~33-1-209~~---MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14 NEW SECTION. Section 1. Short title. [Sections 1
15 through 9] may be cited as the "Nationwide Inland Marine
16 Definition Act".17 NEW SECTION. Section 2. Purpose. (1) The purpose of
18 [sections 1 through 9] is to describe the kinds of risks and
19 coverages which may be classified or identified under state
20 insurance laws as marine, inland marine, or transportation
21 insurance, but [sections 1 through 9] do not include all of
22 the kinds of risks and coverages which may be written,
23 classified, or identified under marine, inland marine, or
24 transportation insuring powers. [Sections 1 through 9] may
25 not be construed to mean that the kinds of risks and
1 coverages described herein are solely marine, inland marine,
2 or transportation insurance in all instances.3 (2) [Sections 1 through 9] may not be construed to
4 restrict or limit in any way the exercise of any insuring
5 powers granted under charters and licenses whether used
6 separately, in combination, or otherwise.7 NEW SECTION. Section 3. Imports. Imports may be
8 covered by marine, inland marine, and transportation
9 policies subject to the following conditions:10 (1) Imports are covered wherever they are located,
11 without restriction as to time, provided the coverage of the
12 issuing companies includes hazards of transportation.13 (2) Property is an import and the proper subject of
14 marine, inland marine, or transportation insurance as long
15 as the property remains segregated in such a way that it can
16 be identified and has not become incorporated into and mixed
17 with the general mass of property in the United States;
18 property ceases to be an import and the proper subject of
19 marine, inland marine, or transportation insurance when it
20 has been:21 (a) sold and delivered by the importer, factor, or
22 consignee;23 (b) removed from its place of storage and placed on
24 sale as part of an importer's stock in trade at a point of
25 sale or distribution; or

1 (c) delivered for manufacture, processing, or change
2 in form to premises of the importer or another, to be used
3 for such purposes.

4 NEW SECTION. Section 4. Exports. Exports may be
5 covered by marine, inland marine, and transportation
6 policies subject to the following conditions:

7 (1) Exports are covered wherever they are located,
8 without restriction as to time, provided the coverage of the
9 issuing companies includes hazards of transportation.

10 (2) Property is an export and the proper subject of
11 marine, inland marine, or transportation insurance when
12 designated or while being prepared for export and remains an
13 export unless diverted for domestic trade. If the property
14 is diverted for domestic trade, the provisions of [section
15 5] apply. This section does not apply to long established
16 methods of insuring certain commodities such as cotton.

17 NEW SECTION. Section 5. Domestic shipments. Domestic
18 shipments may be covered by marine, inland marine, and
19 transportation policies subject to the following conditions:

20 (1) Domestic shipments on consignment for sale,
21 distribution, exhibit, trial, approval, or auction may be
22 covered while in transit, while in the custody of others,
23 and while being returned, except that the policy may not
24 cover property while it is on premises owned, leased, or
25 operated by the consignor.

1 (2) Domestic shipments not on consignment may be
2 covered if the coverage of the issuing companies includes
3 hazards of transportation beginning and ending within the
4 United States. Such shipments are not covered at the
5 manufacturing premises or after arrival at premises owned,
6 leased, or operated by the assured or the purchaser.

7 NEW SECTION. Section 6. Instrumentalities of
8 transportation and commerce. Bridges, tunnels, and other
9 instrumentalities of transportation and communication
10 (excluding buildings and improvements, furniture,
11 furnishings, fixed contents, and supplies held in storage)
12 may be covered by marine, inland marine, and transportation
13 policies. This category includes:

14 (1) bridges, tunnels, and other similar
15 instrumentalities, including auxiliary facilities and
16 equipment attendant thereto;

17 (2) piers, wharves, docks, slips, drydocks, and marine
18 railways;

19 (3) pipelines, including on-line propulsion,
20 regulating, and other equipment appurtenant to such
21 pipelines but excluding all property at manufacturing,
22 producing, refining, converting, treating, or conditioning
23 plants;

24 (4) power transmission, telephone, and telegraph
25 lines, excluding all property at generating, converting, or

1 transforming stations, substations, and exchanges;
 2 (5) radio and television communication equipment in
 3 use as such, including towers and antennas with auxiliary
 4 equipment, and appurtenant electrical operating and control
 5 apparatus; and
 6 (6) outdoor cranes, loading bridges, and similar
 7 equipment used to load, unload, and transport.
 8 NEW SECTION. Section 7. Personal property. Risks
 9 generally covered by personal property floaters covering
 10 individuals or items of personal property may be covered by
 11 marine, inland marine, and transportation policies. This
 12 category includes:
 13 (1) personal effects floater policies;
 14 (2) personal property floaters;
 15 (3) government service floaters;
 16 (4) personal fur floaters;
 17 (5) personal jewelry floaters;
 18 (6) wedding present floaters for a period not
 19 exceeding 90 days after the date of the wedding;
 20 (7) silverware floaters;
 21 (8) fine arts floaters covering paintings, etchings,
 22 pictures, tapestries, art glass windows, and other bona fide
 23 works of art of rarity, historical value, or artistic merit;
 24 (9) stamp and coin floaters;
 25 (10) musical instrument floaters. For purposes of this

1 section, radios, televisions, record players, and
 2 combinations thereof are not musical instruments.
 3 (11) mobile articles, machinery, and equipment floaters
 4 (excluding motor vehicles designed for highway use and motor
 5 homes, trailers, and semitrailers except when hauled by
 6 tractors not designed for highway use) covering identified
 7 property of a mobile or floating nature pertaining to or
 8 usual to a household. Such policies shall not cover
 9 furniture and fixtures not customarily used away from
 10 premises where such property is usually kept.
 11 (12) installment sales and leased property policies
 12 covering property pertaining to a household and sold under
 13 conditional contract of sale, partial payment contract, or
 14 installment sales contract or leased but excluding motor
 15 vehicles designed for highway use. Such policies must cover
 16 property in transit but shall not extend beyond the
 17 termination of the seller's or lessor's interest; and
 18 (13) live animal floaters.
 19 NEW SECTION. Section 8. Commercial property. Risks
 20 generally covered by commercial property floaters covering
 21 property pertaining to a business, profession, or occupation
 22 may be covered by marine, inland marine, and transportation
 23 policies. This category includes:
 24 (1) radium floaters;
 25 (2) physicians' and surgeons' instrument floaters.

1 Such policies may include coverage of such furniture,
2 fixtures, and tenant assured's interest in such improvements
3 of buildings as are located in that portion of the premises
4 occupied by the assured in the practice of his profession.

5 (3) pattern and die floaters;

6 (4) theatrical floaters, excluding buildings and
7 improvements, furniture, and fixtures that do not travel
8 about with theatrical troupes;

9 (5) film floaters, including a builders' risk during
10 the production and coverage on completed negatives,
11 positives, and sound records;

12 (6) salesmen's samples floaters;

13 (7) exhibition policies on property while it is on
14 exhibition and in transit to or from such exhibitions;

15 (8) live animal floaters;

16 (9) builders' risks and installation risks policies
17 covering the interest of owner, seller, or contractor
18 against loss or damage to machinery, equipment, building
19 materials, or supplies being used with and during the course
20 of installation, testing, building, renovating, or
21 repairing. These policies may cover property at points or
22 places where work is being performed, while in transit, and
23 during temporary storage or deposit of property designated
24 for an awaiting specific installation, building, renovating
25 or repairing. Such coverage is limited to builders' risks

1 or installation risks where perils in addition to fire and
2 extended coverage are to be insured. If written for the
3 account of the owner, the coverage ceases upon completion of
4 work and acceptance thereof; or if written for the account
5 of a seller or contractor the coverage terminates when the
6 interest of the seller or contractor terminates.

7 (10) mobile articles, machinery, and equipment floaters
8 (excluding motor vehicles designed for highway use and auto
9 MOTOR homes, trailers, and semitrailers except when hauled
10 by tractors not designed for highway use and snowplows
11 constructed exclusively for highway use) covering identified
12 property of a mobile or floating nature, not on sale or
13 consignment or in the course of manufacture, that has come
14 into custody or control of parties who intend to use such
15 property for which it was manufactured or created. Such
16 policies may not cover furniture and fixtures not
17 customarily used away from premises where such property is
18 usually kept.

19 (11) property in transit to or from and in the custody
20 of bailees (not owned, controlled, or operated by the
21 bailor), but such policies may not cover the bailee's
22 property at his premises.

23 (12) installment sales and leased property policies
24 covering property sold under conditional contract of sale,
25 partial payment contract or installment sales contract or

1 leased, but excluding motor vehicles designed for highway
 2 use. These policies must cover property in transit but may
 3 not extend beyond the termination of the seller's or
 4 lessor's interest. This subsection does not include
 5 machinery and equipment under certain "lease-back"
 6 contracts.

7 (13) garment contracts' floaters;

8 (14) furriers' or fur storers' customer's policies,
 9 which are policies under which certificates or receipts are
 10 issued by furriers or fur storers, covering specified
 11 articles that are the property of customers;

12 (15) accounts receivable policies and valuable papers
 13 and records policies;

14 (16) floor plan policies, covering property for sale
 15 while in possession of dealers under a floor plan or any
 16 similar plan under which the dealer borrows money from a
 17 bank or lending institution to pay the manufacturer, if:

18 (a) the merchandise is specifically identifiable as
 19 encumbered to the bank or lending institution;

20 (b) the dealer's right to sell or otherwise dispose of
 21 the merchandise is conditioned upon its being released from
 22 encumbrance by the bank or lending institution; and

23 (c) the policies cover property in transit and do not
 24 extend beyond the termination of the dealer's interest;

25 (17) sign and street clock policies, including neon

1 signs, automatic or mechanical signs, and street clocks,
 2 while in use as such;

3 (18) fine arts policies covering paintings, etchings,
 4 pictures, tapestries, art glass windows and other bona fide
 5 works of art of rarity, historical value or artistic merit,
 6 for account of museums, galleries, universities, businesses,
 7 municipalities, and other similar interests;

8 (19) policies covering personal property, which may
 9 include coverage of money in locked safes or vaults on the
 10 assured's premises and may also include coverage of
 11 furniture, fixtures, tools, machinery, patterns, molds,
 12 dies, and a tenant insured's interest in improvements of
 13 buildings, which when sold to the ultimate purchaser may be
 14 covered specifically by the owner under inland marine
 15 policies including:

16 (a) musical instrument dealers' policies, covering
 17 property consisting principally of musical instruments and
 18 their accessories, but radios, televisions, record players,
 19 and combinations of them are not musical instruments for the
 20 purposes of this subsection.

21 (b) camera dealers' policies covering property
 22 consisting principally of cameras and their accessories;

23 (c) furrier dealers' policies covering property
 24 consisting principally of furs and fur garments;

25 (d) equipment dealers' policies covering mobile

1 equipment consisting of binders, reapers, tractors,
 2 harvesters, harrows, tedders, and other similar agricultural
 3 equipment and accessories therefor; construction equipment
 4 consisting of bulldozers, road scrapers, tractors,
 5 compressors, pneumatic tools, and similar equipment and
 6 accessories therefor, but excluding motor vehicles designed
 7 for highway use;

8 (e) stamp and coin dealers' policies covering property
 9 of philatelic and numismatic nature;

10 (f) jewelers' block policies; and

11 (g) fine arts dealers' policies;

12 (20) wool growers' floaters;

13 (21) domestic bulk liquids policies covering tanks and
 14 domestic bulk liquids stored therein;

15 (22) "difference in conditions" coverage, excluding
 16 fire and extended coverage perils; and

17 (23) electronic data processing policies.

18 NEW SECTION. Section 9. Exceptions. Unless otherwise
 19 permitted, nothing in [sections 3 through 9] may be
 20 construed to permit marine, inland marine, or transportation
 21 insurance policies to cover:

22 (1) storage of an assured's merchandise, except as
 23 specifically provided;

24 (2) merchandise in the course of manufacture which is
 25 the property of and on the premises of the manufacturer;

1 (3) furniture, fixtures, and improvements to
 2 buildings; or

3 (4) money or securities in safes, vaults, safety
 4 deposit vaults, or banks or on the assured's premises,
 5 except while in the course of transportation.

6 Section 10. Section 2-18-809, MCA, is amended to read:
 7 "2-18-809. Definitions. As used in this part, the
 8 following definitions apply:

9 (1) "Advisory council" means the state employee group
 10 benefits advisory council provided for in 2-15-1016.

11 (2) "Department" means the department of
 12 administration provided for in 2-15-1001.

13 (3) "State employee" means an employee of the state,
 14 specifically including a member or employee of the
 15 legislative branch of state government. The term "state
 16 employee" does not include employees of counties, cities,
 17 towns, school districts, or the Montana university system.

18 (4) "Group benefits" means group hospitalization,
 19 health, medical, surgical, disability, life, and other
 20 similar and related group benefits provided to officers and
 21 employees of the state. The term "group benefits" does not
 22 include casualty insurance, defined in 33-1-206; marine
 23 insurance, defined authorized in 33-1-209 [sections 1
 24 through 9]; property insurance, defined in 33-1-210; surety
 25 insurance, defined in 33-1-211; and title insurance, defined

1 in 33-1-212."

2 SECTION 11. SECTION 33-1-209, MCA, IS AMENDED TO READ:

3 "33-1-209. Marine--marine protection and indemnity
4 and wet marine and--transportation insurance. (1) Marine
5 insurance includes:

6 (a) ~~insurance against any and all kinds of loss or
7 damage to:~~

8 (i) ~~vessels, craft, aircraft, cars, automobiles, and
9 vehicles of every kind as well as all goods, freights,
10 cargoes, merchandise, effects, disbursements, profits,
11 moneys, bullions, precious stones, securities, choses-in
12 action, evidences of debt, valuable papers, bottomry, and
13 respondentia, interests, and all other kinds of property and
14 interests therein in respect to, appertaining to, or in
15 connection with any and all risks or perils of navigation,
16 transit, or transportation, including war risks, on or under
17 any seas or other waters, on land or in the air, or while
18 being assembled, packed, crated, baled, compressed, or
19 similarly prepared for shipment or while awaiting the same
20 or during any delays, storage, transshipment, or reshipment,
21 incident thereto, including marine builder's risks and all
22 personal property floater risks;~~

23 (ii) ~~person or to property in connection with or
24 appertaining to a marine, inland marine, transit, or
25 transportation insurance, including liability for loss of or~~

1 ~~damage to either arising out of or in connection with the
2 construction, repair, operation, maintenance, or use of the
3 subject matter of such insurance but not including life
4 insurance, surety bonds, or insurance against loss by reason
5 of bodily injury to the person arising out of the ownership,
6 maintenance, or use of automobiles;~~

7 (iii) ~~precious stones, jewels, jewelry, gold, silver,
8 and other precious metals, whether used in business or trade
9 or otherwise and whether the same be in course of
10 transportation or otherwise; and~~

11 (iv) ~~bridges, tunnels, and other instrumentalities of
12 transportation and communication, excluding buildings, their
13 furniture and furnishings, fixed contents, and supplies held
14 in storage, unless fire, tornado, sprinkler leakage, hail,
15 explosion, earthquake, riot, and/or civil commotion are the
16 only hazards to be covered; piers, wharves, docks, and
17 slips, excluding the risks of fire, tornado, sprinkler
18 leakage, hail, explosion, earthquake, riot, and/or civil
19 commotion; other aids to navigation and transportation,
20 including dry docks and marine railways, against all risks;~~

21 (b) ~~marine protection and indemnity insurance, meaning
22 insurance against, or against legal liability of the insured
23 for, loss, damage, or expense arising out of or incident to
24 the ownership, operation, chartering, maintenance, use,
25 repair, or construction of any vessel, craft, or~~

1 instrumentality in use in ocean or inland waterways,
2 including liability of the insured for personal injury,
3 illness, or death or for loss of or damage to the property
4 of another person.

5 (2) For the purposes of this code wet marine and
6 transportation insurance is that part of marine insurance
7 which includes only:

8 (a) insurance upon vessels, crafts, and hulls and of
9 interests therein or with relation thereto;

10 (b) insurance of marine builders' risks, marine war
11 risks, and contracts of marine protection and indemnity
12 insurance;

13 (c) insurance of freights and disbursements pertaining
14 to a subject of insurance coming within this subsection; and

15 (d) insurance of personal property and interests
16 therein, in course of exportation from or importation into
17 any country and in course of transportation coastwise or on
18 inland waters, including transportation by land, water, or
19 air from point of origin to final destination, in respect
20 to, appertaining to, or in connection with any and all risks
21 or perils of navigation, transit, or transportation while
22 being prepared for and while awaiting shipment and during
23 any delays, storage, transshipment, or reshipment incident
24 thereto."

25 Section 12. Section 33-2-705, MCA, is amended to read:

1 *33-2-705. Report on premiums and other consideration
2 -- tax. (1) Each authorized insurer and each formerly
3 authorized insurer with respect to premiums so received
4 while an authorized insurer in this state shall file with
5 the commissioner, on or before March 1 each year, a report
6 (except as to wet marine and transportation insurance taxed
7 under subsection (3) below) in form as prescribed by the
8 commissioner showing total direct premium income, including
9 policy, membership, and other fees, premiums paid by
10 application of dividends, refunds, savings, savings coupons,
11 and similar returns or credits to payment of premiums for
12 new or additional or extended or renewed insurance, charges
13 for payment of premium in installments, and all other
14 consideration for insurance from all kinds and classes of
15 insurance whether designated as a premium or otherwise,
16 received by it during the preceding calendar year on account
17 of policies covering property, subjects, or risks located,
18 resident, or to be performed in Montana, with proper
19 proportionate allocation of premium as to such property,
20 subjects, or risks in Montana insured under policies or
21 contracts covering property, subjects, or risks located or
22 resident in more than one state, after deducting from such
23 total direct premium income applicable cancellations,
24 returned premiums, the unabsorbed portion of any deposit
25 premium, the amount of reduction in or refund of premiums

1 allowed to industrial life policyholders for payment of
 2 premiums direct to an office of the insurer, all policy
 3 dividends, refunds, savings, savings coupons, and other
 4 similar returns paid or credited to policyholders with
 5 respect to such policies. As to title insurance, "premium"
 6 includes only the risk portion of the charge for such
 7 insurance. No deduction shall be made of the cash surrender
 8 values of policies. Considerations received on annuity
 9 contracts shall not be included in total direct premium
 10 income and shall not be subject to tax.

11 (2) Coincident with the filing of the tax report
 12 referred to in subsection (1) above, each such insurer shall
 13 pay to the commissioner a tax upon such net premiums. This
 14 tax may be computed in either of the following ways:

15 (a) (i) A domestic insurer may choose to compute its
 16 tax based on the percentage of its admitted assets invested
 17 in Montana securities according to the following schedule:

18 (A) 2 3/4% of net premiums if the insurer has 0% of
 19 its admitted assets invested in Montana securities;

20 (B) 2 1/4% of net premiums if the insurer has at least
 21 25% of its admitted assets invested in Montana securities;

22 (C) 1 3/4% of net premiums if the insurer has at least
 23 50% of its admitted assets invested in Montana securities;

24 (D) 1 1/4% of net premiums if the insurer has at least
 25 75% of its admitted assets invested in Montana securities;

1 and

2 (E) 3/4% of net premiums if the insurer has 100% of
 3 its admitted assets invested in Montana securities.

4 (ii) "Admitted assets" are those assets allowed in
 5 33-2-501.

6 (iii) An insurer choosing this method of computation
 7 must itemize its Montana securities on a detailed schedule
 8 attached to its annual tax report.

9 (b) (i) If the method provided for in subsection (a)
 10 is not used, the insurer shall compute its tax at the rate
 11 of 2 3/4% of the net premiums.

12 (ii) An insurer choosing this method and having not
 13 less than 50% of its paid-in capital stock invested in
 14 Montana securities is allowed to deduct whatever tax it may
 15 have already paid to the state of Montana and its political
 16 subdivisions, during the same calendar year as to which
 17 premium tax is being paid, from the amount otherwise due
 18 under this section.

19 (3) For the purpose of subsection (2):

20 (a) "paid-in capital stock" as to a mutual or
 21 reciprocal insurer shall be deemed to be an amount equal to
 22 10% of the insurer's assets; and

23 (b) "Montana securities" shall be deemed to include
 24 only general obligations of the state of Montana or of its
 25 political subdivisions, mortgage loans secured by a first

1 lien upon real estate located in Montana, and real estate
2 located in Montana owned by the insurer, all if otherwise
3 lawful investments of the insurer under this code.

4 (4) (a) On or before March 1 of each year each insurer
5 shall file with the commissioner, on forms as prescribed and
6 furnished or accepted by him, a report of its gross
7 underwriting profit on wet marine, INLAND MARINE, and
8 transportation insurance, as defined authorized in 33-1-209
9 [sections 1 through 9], written in this state during the
10 calendar year next preceding and shall at the same time pay
11 to the commissioner a tax of 3/4 of 1% of such gross
12 underwriting profit.

13 (b) Such gross underwriting profit shall be
14 ascertained by deducting from the net premiums (i.e., gross
15 premiums less all return premiums and premiums for
16 reinsurance) on such wet marine and transportation insurance
17 contracts the net losses paid (i.e., gross losses paid less
18 salvage and recoveries on reinsurance ceded) during such
19 calendar year under such contracts. In the case of insurers
20 issuing participating contracts, such gross underwriting
21 profit shall not include for computation of the tax
22 prescribed by this subsection (3) the amounts refunded,
23 credited, or paid as participation dividends or savings by
24 such insurers to the holders of such contracts.

25 (5) That portion of the tax paid hereunder by an

1 insurer on account of premiums received for fire insurance
2 shall be separately specified in the report as required by
3 the commissioner, for apportionment as provided by law.
4 Where insurance against fire is included with insurance of
5 property against other perils at an undivided premium, the
6 insurer shall make such reasonable allocation from such
7 entire premium to the fire portion of the coverage as shall
8 be stated in such report and as may be approved or accepted
9 by the commissioner.

10 (6) With respect to authorized insurers the premium
11 tax provided by this section shall be payment in full and in
12 lieu of all other demands for any and all state, county,
13 city, district, municipal, and school taxes, licenses, fees,
14 and excises of whatever kind or character, excepting only
15 those prescribed by this code, taxes on real and tangible
16 personal property located in this state, and taxes payable
17 under 50-3-109.

18 (7) The commissioner may suspend or revoke the
19 certificate of authority of any insurer which fails to pay
20 its taxes as required under this section."

21 Section 13. Section 33-17-504, MCA, is amended to
22 read:

23 "33-17-504. Issuing license -- limitations. The
24 commissioner may issue an insurance consultant's license to
25 any natural person who has complied with the requirements of

1 this chapter with respect to either life insurance, meaning
2 all of those kinds of insurance authorized in 33-1-207,
3 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601,
4 or general insurance, meaning all of those kinds of
5 insurance authorized in 33-1-206, 33-1-207, ~~and 33-1-209~~
6 33-1-210 through 33-1-212, and [sections 1 through 9], as
7 specified in such license."

8 Section 14. Codification instruction. Sections 1
9 through 9 are intended to be codified as an integral part of
10 Title 33, chapter 1, part 2, and the provisions of Title 33
11 apply to sections 1 through 9.

12 ~~Section 15. Repeater. Section 33-1-209, MCA, is~~
13 ~~repeated.~~

-End-

1 SENATE BILL NO. 335

2 INTRODUCED BY HAZELBAKER

3 BY REQUEST OF THE INSURANCE DEPARTMENT

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT A NEW
6 DEFINITION OF MARINE, INLAND MARINE, AND TRANSPORTATION
7 INSURANCE; DESCRIBING THE KINDS OF RISKS AND COVERAGES THAT
8 MAY BE INSURED BY MARINE, INLAND MARINE, OR TRANSPORTATION
9 INSURANCE POLICIES; AMENDING SECTIONS 2-18-809, ~~33-1-209,~~
10 ~~33-2-705,~~ AND ~~33-17-504,~~ MCA; ~~AND REPEALING SECTION~~
11 ~~33-1-209-MEA."~~

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Short title. [Sections 1
15 through 9] may be cited as the "Nationwide Inland Marine
16 Definition Act".

17 NEW SECTION. Section 2. Purpose. (1) The purpose of
18 [sections 1 through 9] is to describe the kinds of risks and
19 coverages which may be classified or identified under state
20 insurance laws as marine, inland marine, or transportation
21 insurance, but [sections 1 through 9] do not include all of
22 the kinds of risks and coverages which may be written,
23 classified, or identified under marine, inland marine, or
24 transportation insuring powers. [Sections 1 through 9] may
25 not be construed to mean that the kinds of risks and

1 coverages described herein are solely marine, inland marine,
2 or transportation insurance in all instances.

3 (2) [Sections 1 through 9] may not be construed to
4 restrict or limit in any way the exercise of any insuring
5 powers granted under charters and licenses whether used
6 separately, in combination, or otherwise.

7 NEW SECTION. Section 3. Imports. Imports may be
8 covered by marine, inland marine, and transportation
9 policies subject to the following conditions:

10 (1) Imports are covered wherever they are located,
11 without restriction as to time, provided the coverage of the
12 issuing companies includes hazards of transportation.

13 (2) Property is an import and the proper subject of
14 marine, inland marine, or transportation insurance as long
15 as the property remains segregated in such a way that it can
16 be identified and has not become incorporated into and mixed
17 with the general mass of property in the United States;
18 property ceases to be an import and the proper subject of
19 marine, inland marine, or transportation insurance when it
20 has been:

21 (a) sold and delivered by the importer, factor, or
22 consignee;

23 (b) removed from its place of storage and placed on
24 sale as part of an importer's stock in trade at a point of
25 sale or distribution; or

1 (c) delivered for manufacture, processing, or change
2 in form to premises of the importer or another, to be used
3 for such purposes.

4 NEW SECTION. Section 4. Exports. Exports may be
5 covered by marine, inland marine, and transportation
6 policies subject to the following conditions:

7 (1) Exports are covered wherever they are located,
8 without restriction as to time, provided the coverage of the
9 issuing companies includes hazards of transportation.

10 (2) Property is an export and the proper subject of
11 marine, inland marine, or transportation insurance when
12 designated or while being prepared for export and remains an
13 export unless diverted for domestic trade. If the property
14 is diverted for domestic trade, the provisions of [section
15 5] apply. This section does not apply to long established
16 methods of insuring certain commodities such as cotton.

17 NEW SECTION. Section 5. Domestic shipments. Domestic
18 shipments may be covered by marine, inland marine, and
19 transportation policies subject to the following conditions:

20 (1) Domestic shipments on consignment for sale,
21 distribution, exhibit, trial, approval, or auction may be
22 covered while in transit, while in the custody of others,
23 and while being returned, except that the policy may not
24 cover property while it is on premises owned, leased, or
25 operated by the consignor.

1 (2) Domestic shipments not on consignment may be
2 covered if the coverage of the issuing companies includes
3 hazards of transportation beginning and ending within the
4 United States. Such shipments are not covered at the
5 manufacturing premises or after arrival at premises owned,
6 leased, or operated by the assured or the purchaser.

7 NEW SECTION. Section 6. Instrumentalities of
8 transportation and commerce. Bridges, tunnels, and other
9 instrumentalities of transportation and communication
10 (excluding buildings and improvements, furniture,
11 furnishings, fixed contents, and supplies held in storage)
12 may be covered by marine, inland marine, and transportation
13 policies. This category includes:

14 (1) bridges, tunnels, and other similar
15 instrumentalities, including auxiliary facilities and
16 equipment attendant thereto;

17 (2) piers, wharves, docks, slips, drydocks, and marine
18 railways;

19 (3) pipelines, including on-line propulsion,
20 regulating, and other equipment appurtenant to such
21 pipelines but excluding all property at manufacturing,
22 producing, refining, converting, treating, or conditioning
23 plants;

24 (4) power transmission, telephone, and telegraph
25 lines, excluding all property at generating, converting, or

1 transforming stations, substations, and exchanges;
 2 (5) radio and television communication equipment in
 3 use as such, including towers and antennas with auxiliary
 4 equipment, and appurtenant electrical operating and control
 5 apparatus; and
 6 (6) outdoor cranes, loading bridges, and similar
 7 equipment used to load, unload, and transport.

8 NEW SECTION. Section 7. Personal property. Risks
 9 generally covered by personal property floaters covering
 10 individuals or items of personal property may be covered by
 11 marine, inland marine, and transportation policies. This
 12 category includes:

13 (1) personal effects floater policies;
 14 (2) personal property floaters;
 15 (3) government service floaters;
 16 (4) personal fur floaters;
 17 (5) personal jewelry floaters;
 18 (6) wedding present floaters for a period not
 19 exceeding 90 days after the date of the wedding;
 20 (7) silverware floaters;
 21 (8) fine arts floaters covering paintings, etchings,
 22 pictures, tapestries, art glass windows, and other bona fide
 23 works of art of rarity, historical value, or artistic merit;
 24 (9) stamp and coin floaters;
 25 (10) musical instrument floaters. For purposes of this

1 section, radios, televisions, record players, and
 2 combinations thereof are not musical instruments.

3 (11) mobile articles, machinery, and equipment floaters
 4 (excluding motor vehicles designed for highway use and motor
 5 homes, trailers, and semitrailers except when hauled by
 6 tractors not designed for highway use) covering identified
 7 property of a mobile or floating nature pertaining to or
 8 usual to a household. Such policies shall not cover
 9 furniture and fixtures not customarily used away from
 10 premises where such property is usually kept.

11 (12) installment sales and leased property policies
 12 covering property pertaining to a household and sold under
 13 conditional contract of sale, partial payment contract, or
 14 installment sales contract or leased but excluding motor
 15 vehicles designed for highway use. Such policies must cover
 16 property in transit but shall not extend beyond the
 17 termination of the seller's or lessor's interest; and
 18 (13) live animal floaters.

19 NEW SECTION. Section 8. Commercial property. Risks
 20 generally covered by commercial property floaters covering
 21 property pertaining to a business, profession, or occupation
 22 may be covered by marine, inland marine, and transportation
 23 policies. This category includes:

24 (1) radium floaters;
 25 (2) physicians' and surgeons' instrument floaters.

1 Such policies may include coverage of such furniture,
2 fixtures, and tenant assured's interest in such improvements
3 of buildings as are located in that portion of the premises
4 occupied by the assured in the practice of his profession.

5 (3) pattern and die floaters;

6 (4) theatrical floaters, excluding buildings and
7 improvements, furniture, and fixtures that do not travel
8 about with theatrical troupes;

9 (5) film floaters, including a builders' risk during
10 the production and coverage on completed negatives,
11 positives, and sound records;

12 (6) salesmen's samples floaters;

13 (7) exhibition policies on property while it is on
14 exhibition and in transit to or from such exhibitions;

15 (8) live animal floaters;

16 (9) builders' risks and installation risks policies
17 covering the interest of owner, seller, or contractor
18 against loss or damage to machinery, equipment, building
19 materials, or supplies being used with and during the course
20 of installation, testing, building, renovating, or
21 repairing. These policies may cover property at points or
22 places where work is being performed, while in transit, and
23 during temporary storage or deposit of property designated
24 for an awaiting specific installation, building, renovating
25 or repairing. Such coverage is limited to builders' risks

1 or installation risks where perils in addition to fire and
2 extended coverage are to be insured. If written for the
3 account of the owner, the coverage ceases upon completion of
4 work and acceptance thereof; or if written for the account
5 of a seller or contractor the coverage terminates when the
6 interest of the seller or contractor terminates.

7 (10) mobile articles, machinery, and equipment floaters
8 (excluding motor vehicles designed for highway use and ~~auto~~
9 MOTOR homes, trailers, and semitrailers except when hauled
10 by tractors not designed for highway use and snowplows
11 constructed exclusively for highway use) covering identified
12 property of a mobile or floating nature, not on sale or
13 consignment or in the course of manufacture, that has come
14 into custody or control of parties who intend to use such
15 property for which it was manufactured or created. Such
16 policies may not cover furniture and fixtures not
17 customarily used away from premises where such property is
18 usually kept.

19 (11) property in transit to or from and in the custody
20 of bailees (not owned, controlled, or operated by the
21 bailor), but such policies may not cover the bailee's
22 property at his premises.

23 (12) installment sales and leased property policies
24 covering property sold under conditional contract of sale,
25 partial payment contract or installment sales contract or

1 leased, but excluding motor vehicles designed for highway
 2 use. These policies must cover property in transit but may
 3 not extend beyond the termination of the seller's or
 4 lessor's interest. This subsection does not include
 5 machinery and equipment under certain "lease-back"
 6 contracts.

7 (13) garment contracts' floaters;

8 (14) furriers' or fur storers' customer's policies,
 9 which are policies under which certificates or receipts are
 10 issued by furriers or fur storers, covering specified
 11 articles that are the property of customers;

12 (15) accounts receivable policies and valuable papers
 13 and records policies;

14 (16) floor plan policies, covering property for sale
 15 while in possession of dealers under a floor plan or any
 16 similar plan under which the dealer borrows money from a
 17 bank or lending institution to pay the manufacturer, if:

18 (a) the merchandise is specifically identifiable as
 19 encumbered to the bank or lending institution;

20 (b) the dealer's right to sell or otherwise dispose of
 21 the merchandise is conditioned upon its being released from
 22 encumbrance by the bank or lending institution; and

23 (c) the policies cover property in transit and do not
 24 extend beyond the termination of the dealer's interest;

25 (17) sign and street clock policies, including neon

1 signs, automatic or mechanical signs, and street clocks,
 2 while in use as such;

3 (18) fine arts policies covering paintings, etchings,
 4 pictures, tapestries, art glass windows and other bona fide
 5 works of art of rarity, historical value or artistic merit,
 6 for account of museums, galleries, universities, businesses,
 7 municipalities, and other similar interests;

8 (19) policies covering personal property, which may
 9 include coverage of money in locked safes or vaults on the
 10 assured's premises and may also include coverage of
 11 furniture, fixtures, tools, machinery, patterns, molds,
 12 dies, and a tenant insured's interest in improvements of
 13 buildings, which when sold to the ultimate purchaser may be
 14 covered specifically by the owner under inland marine
 15 policies including:

16 (a) musical instrument dealers' policies, covering
 17 property consisting principally of musical instruments and
 18 their accessories, but radios, televisions, record players,
 19 and combinations of them are not musical instruments for the
 20 purposes of this subsection.

21 (b) camera dealers' policies covering property
 22 consisting principally of cameras and their accessories;

23 (c) furrier dealers' policies covering property
 24 consisting principally of furs and fur garments;

25 (d) equipment dealers' policies covering mobile

1 equipment consisting of binders, reapers, tractors,
 2 harvesters, harrows, tedders, and other similar agricultural
 3 equipment and accessories therefor; construction equipment
 4 consisting of bulldozers, road scrapers, tractors,
 5 compressors, pneumatic tools, and similar equipment and
 6 accessories therefor, but excluding motor vehicles designed
 7 for highway use;

8 (e) stamp and coin dealers' policies covering property
 9 of philatelic and numismatic nature;

10 (f) jewelers' block policies; and

11 (g) fine arts dealers' policies;

12 (20) wool growers' floaters;

13 (21) domestic bulk liquids policies covering tanks and
 14 domestic bulk liquids stored therein;

15 (22) "difference in conditions" coverage, excluding
 16 fire and extended coverage perils; and

17 (23) electronic data processing policies.

18 NEW SECTION. Section 9. Exceptions. Unless otherwise
 19 permitted, nothing in [sections 3 through 9] may be
 20 construed to permit marine, inland marine, or transportation
 21 insurance policies to cover:

22 (1) storage of an assured's merchandise, except as
 23 specifically provided;

24 (2) merchandise in the course of manufacture which is
 25 the property of and on the premises of the manufacturer;

1 (3) furniture, fixtures, and improvements to
 2 buildings; or

3 (4) money or securities in safes, vaults, safety
 4 deposit vaults, or banks or on the assured's premises,
 5 except while in the course of transportation.

6 Section 10. Section 2-18-809, MCA, is amended to read:

7 "2-18-809. Definitions. As used in this part, the
 8 following definitions apply:

9 (1) "Advisory council" means the state employee group
 10 benefits advisory council provided for in 2-15-1016.

11 (2) "Department" means the department of
 12 administration provided for in 2-15-1001.

13 (3) "State employee" means an employee of the state,
 14 specifically including a member or employee of the
 15 legislative branch of state government. The term "state
 16 employee" does not include employees of counties, cities,
 17 towns, school districts, or the Montana university system.

18 (4) "Group benefits" means group hospitalization,
 19 health, medical, surgical, disability, life, and other
 20 similar and related group benefits provided to officers and
 21 employees of the state. The term "group benefits" does not
 22 include casualty insurance, defined in 33-1-206; marine
 23 insurance, defined authorized in 33-1-209 33-1-209 AND
 24 [sections 1 through 9]; property insurance, defined in
 25 33-1-210; surety insurance, defined in 33-1-211; and title

1 insurance, defined in 33-1-212."

2 SECTION 11. SECTION 33-1-209, MCA, IS AMENDED TO READ:

3 "33-1-209. Marine, marine protection and indemnity
4 and wet marine and transportation insurance. (1) Marine
5 insurance includes:

6 (a) insurance against any and all kinds of loss or
7 damage to:

8 (i) vessels, craft, aircraft, cars, automobiles, and
9 vehicles of every kind, as well as all goods, freights,
10 cargoes, merchandise, effects, disbursements, profits,
11 moneys, bullions, precious stones, securities, choses in
12 action, evidences of debt, valuable papers, bottomry and
13 respondentia interests, and all other kinds of property and
14 interests therein in respect to appertaining to, or in
15 connection with any and all risks or perils of navigation,
16 transit, or transportation, including war risks, on or under
17 any seas or other waters, on land or in the air, or while
18 being assembled, packed, crated, boxed, compressed, or
19 similarly prepared for shipment or while awaiting the same
20 or during any delays, storage, transshipments, or reshipments,
21 incident thereto, including marine builders' risks, and all
22 personal property floater risks;

23 (ii) person or to property in connection with or
24 appertaining to a marine inland marine transit, or
25 transportation insurance, including liability for loss of or

1 damage to either, arising out of or in connection with the
2 construction, repair, operation, maintenance, or use of the
3 subject matter of such insurance but not including life
4 insurance, surety bonds, or insurance against loss by reason
5 of bodily injury to the person arising out of the ownership,
6 maintenance, or use of automobiles;

7 (iii) precious stones, jewels, jewelry, gold, silver,
8 and other precious metals, whether used in business or trade
9 or otherwise, and whether the same be in course of
10 transportation or otherwise; and

11 (iv) bridges, tunnels, and other instrumentalities of
12 transportation and communication, excluding buildings, their
13 furniture and furnishings, fixed contents, and supplies held
14 in storage, unless fire, tornado, sprinkler leakage, hoist,
15 explosion, earthquake, riot, and/or civil commotion are the
16 only hazards to be covered; piers, wharves, docks, and
17 slips, excluding the risks of fire, tornado, sprinkler
18 leakage, hoist, explosion, earthquake, riot, and/or civil
19 commotion; other aids to navigation and transportation,
20 including dry docks and marine railways, against all risks;

21 (b) marine protection and indemnity insurance, meaning
22 insurance against, or against legal liability of the insured
23 for, loss, damage, or expense arising out of or incident to
24 the ownership, operation, chartering, maintenance, use,
25 repair, or construction of any vessel, craft, or

1 instrumentality in use in ocean or inland waterways,
2 including liability of the insured for personal injury,
3 illness, or death or for loss of or damage to the property
4 of another person.

5 (2) For the purposes of this code wet marine and
6 transportation insurance is that part of marine insurance
7 which includes only:

8 (a) insurance upon vessels, crafts, and hulls and of
9 interests therein or with relation thereto;

10 (b) insurance of marine builders' risks, marine war
11 risks, and contracts of marine protection and indemnity
12 insurance;

13 (c) insurance of freights and disbursements pertaining
14 to a subject of insurance coming within this subsection; and

15 (d) insurance of personal property and interests
16 therein, in course of exportation from or importation into
17 any country and in course of transportation coastwise or on
18 inland waters, including transportation by land, water, or
19 air from point of origin to final destination, in respect
20 to, appertaining to, or in connection with any and all risks
21 or perils of navigation, transit, or transportation while
22 being prepared for and while awaiting shipment and during
23 any delays, storage, transshipment, or reshipment incident
24 thereto."

25 Section 12. Section 33-2-705, MCA, is amended to read:

1 "33-2-705. Report on premiums and other consideration
2 -- tax. (1) Each authorized insurer and each formerly
3 authorized insurer with respect to premiums so received
4 while an authorized insurer in this state shall file with
5 the commissioner, on or before March 1 each year, a report
6 (except as to wet marine and transportation insurance taxed
7 under subsection ~~(3)~~ (4) below) in form as prescribed by the
8 commissioner showing total direct premium income, including
9 policy, membership, and other fees, premiums paid by
10 application of dividends, refunds, savings, savings coupons,
11 and similar returns or credits to payment of premiums for
12 new or additional or extended or renewed insurance, charges
13 for payment of premium in installments, and all other
14 consideration for insurance from all kinds and classes of
15 insurance whether designated as a premium or otherwise,
16 received by it during the preceding calendar year on account
17 of policies covering property, subjects, or risks located,
18 resident, or to be performed in Montana, with proper
19 proportionate allocation of premium as to such property,
20 subjects, or risks in Montana insured under policies or
21 contracts covering property, subjects, or risks located or
22 resident in more than one state, after deducting from such
23 total direct premium income applicable cancellations,
24 returned premiums, the unabsorbed portion of any deposit
25 premium, the amount of reduction in or refund of premiums

1 allowed to industrial life policyholders for payment of
 2 premiums direct to an office of the insurer, all policy
 3 dividends, refunds, savings, savings coupons, and other
 4 similar returns paid or credited to policyholders with
 5 respect to such policies. As to title insurance, "premium"
 6 includes only the risk portion of the charge for such
 7 insurance. No deduction shall be made of the cash surrender
 8 values of policies. Considerations received on annuity
 9 contracts shall not be included in total direct premium
 10 income and shall not be subject to tax.

11 (2) Coincident with the filing of the tax report
 12 referred to in subsection (1) above, each such insurer shall
 13 pay to the commissioner a tax upon such net premiums. This
 14 tax may be computed in either of the following ways:

15 (a) (i) A domestic insurer may choose to compute its
 16 tax based on the percentage of its admitted assets invested
 17 in Montana securities according to the following schedule:

18 (A) 2 3/4% of net premiums if the insurer has 0% of
 19 its admitted assets invested in Montana securities;

20 (B) 2 1/4% of net premiums if the insurer has at least
 21 25% of its admitted assets invested in Montana securities;

22 (C) 1 3/4% of net premiums if the insurer has at least
 23 50% of its admitted assets invested in Montana securities;

24 (D) 1 1/4% of net premiums if the insurer has at least
 25 75% of its admitted assets invested in Montana securities;

1 and

2 (E) 3/4% of net premiums if the insurer has 100% of
 3 its admitted assets invested in Montana securities.

4 (ii) "Admitted assets" are those assets allowed in
 5 33-2-501.

6 (iii) An insurer choosing this method of computation
 7 must itemize its Montana securities on a detailed schedule
 8 attached to its annual tax report.

9 (b) (i) If the method provided for in subsection (a)
 10 is not used, the insurer shall compute its tax at the rate
 11 of 2 3/4% of the net premiums.

12 (ii) An insurer choosing this method and having not
 13 less than 50% of its paid-in capital stock invested in
 14 Montana securities is allowed to deduct whatever tax it may
 15 have already paid to the state of Montana and its political
 16 subdivisions, during the same calendar year as to which
 17 premium tax is being paid, from the amount otherwise due
 18 under this section.

19 (3) For the purpose of subsection (2):

20 (a) "paid-in capital stock" as to a mutual or
 21 reciprocal insurer shall be deemed to be an amount equal to
 22 10% of the insurer's assets; and

23 (b) "Montana securities" shall be deemed to include
 24 only general obligations of the state of Montana or of its
 25 political subdivisions, mortgage loans secured by a first

1 lien upon real estate located in Montana, and real estate
2 located in Montana owned by the insurer, all if otherwise
3 lawful investments of the insurer under this code.

4 (4) (a) On or before March 1 of each year each insurer
5 shall file with the commissioner, on forms as prescribed and
6 furnished or accepted by him, a report of its gross
7 underwriting profit on wet WEI marine, INLAND MARINE, and
8 transportation insurance, as defined authorized in 33-1-209
9 33-1-209 AND [sections 1 through 9], written in this state
10 during the calendar year next preceding and shall at the
11 same time pay to the commissioner a tax of 3/4 of 1% of such
12 gross underwriting profit.

13 (b) Such gross underwriting profit shall be
14 ascertained by deducting from the net premiums (i.e., gross
15 premiums less all return premiums and premiums for
16 reinsurance) on such wet marine and transportation insurance
17 contracts the net losses paid (i.e., gross losses paid less
18 salvage and recoveries on reinsurance ceded) during such
19 calendar year under such contracts. In the case of insurers
20 issuing participating contracts, such gross underwriting
21 profit shall not include for computation of the tax
22 prescribed by this subsection (3) the amounts refunded,
23 credited, or paid as participation dividends or savings by
24 such insurers to the holders of such contracts.

25 (5) That portion of the tax paid hereunder by an

1 insurer on account of premiums received for fire insurance
2 shall be separately specified in the report as required by
3 the commissioner, for apportionment as provided by law.
4 Where insurance against fire is included with insurance of
5 property against other perils at an undivided premium, the
6 insurer shall make such reasonable allocation from such
7 entire premium to the fire portion of the coverage as shall
8 be stated in such report and as may be approved or accepted
9 by the commissioner.

10 (6) With respect to authorized insurers the premium
11 tax provided by this section shall be payment in full and in
12 lieu of all other demands for any and all state, county,
13 city, district, municipal, and school taxes, licenses, fees,
14 and excises of whatever kind or character, excepting only
15 those prescribed by this code, taxes on real and tangible
16 personal property located in this state, and taxes payable
17 under 50-3-109.

18 (7) The commissioner may suspend or revoke the
19 certificate of authority of any insurer which fails to pay
20 its taxes as required under this section."

21 Section 13. Section 33-17-504, MCA, is amended to
22 read:

23 "33-17-504. Issuing license -- limitations. The
24 commissioner may issue an insurance consultant's license to
25 any natural person who has complied with the requirements of

1 this chapter with respect to either life insurance, meaning
2 all of those kinds of insurance authorized in 33-1-207,
3 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601,
4 or general insurance, meaning all of those kinds of
5 insurance authorized in 33-1-206, 33-1-207, ~~and 33-1-209~~
6 ~~33-1-210~~ 33-1-209 through 33-1-212, and sections 1 through
7 9, as specified in such license."

8 Section 14. Codification instruction. Sections 1
9 through 9 are intended to be codified as an integral part of
10 Title 33, chapter 1, part 2, and the provisions of Title 33
11 apply to sections 1 through 9.

12 ~~Section 14. Repeater. Section 33-1-209. MEA. is~~
13 ~~repeated.~~

-End-

House amendments to Senate Bill 335:

1. Page 12, line 23.
Following: "~~33-1-209~~"
Insert: "33-1-209 and"

2. Page 16, line 7.
Following: "subsection"
Strike: "(3)"
Insert: "(4)"

3. Page 19, line 7.
Following: "~~wet~~"
Insert: "wet"

4. Page 19, line 8.
Following: "~~33-1-209~~"
Insert: "33-1-209 and"

5. Page 21, line 6.
Strike: "~~33-1-210~~"
Insert: "33-1-209"

House amendments to Senate Bill 335:

1. Title, line 9.

Following: "2-18-809,"

Insert: "33-1-209,"

2. Title, line 10.

Following: "33-17-504, MCA"

Strike: "; AND REPEALING SECTION 33-1-209, MCA"

3. Page 13.

Following: line 25 on page 12

Insert: "Section 10. Section 33-1-209, MCA, is amended to read:

"33-1-209. Marine~~y~~-marine protection and indemnity~~y~~, and wet marine and-transportation insurance. (1) Marine insurance includes:

~~(a) insurance against any and all kinds of loss or damage to:~~

~~(i) vessels, craft, aircraft, cars, automobiles, and vehicles of every kind as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests, and all other kinds of property and interests therein in respect to, appertaining to, or in connection with any and all risks or perils of navigation, transit, or transportation, including wat risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed, or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment, incident thereto, including marine builder's risks and all personal property floater risks;~~

~~(ii) person or to property in connection with or appertaining to a marine, inland marine, transit, or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of such insurance but not including life insurance, surety bonds, or insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance, or use of automobiles;~~

~~(iii) precious stones, jewels, jewelry, gold, silver, and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise; and~~

~~(iv) bridges, tunnels, and other instrumentalities of transportation and communication, excluding buildings, their furniture and furnishings, fixed contents, and supplies held in storage, unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot, and/or civil commotion are the only hazards to be covered; piers, wharves, docks, and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot, and/or civil commotion; other aids to navigation and transportation, including dry docks and marine railways, against all risks;~~

(b) marine protection and indemnity insurance, meaning insurance against, or against legal liability of the insured for, loss, damage, or expense arising out of or incident to the ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death or for loss of or damage to the property of another person.

(2) For the purposes of this code wet marine and transportation insurance is that part of marine insurance which includes only:

(a) insurance upon vessels, crafts, and hulls and of interests therein or with relation thereto;

(b) insurance of marine builders' risks, marine war risks, and contracts of marine protection and indemnity insurance;

(c) insurance of freights and disbursements pertaining to a subject of insurance coming within this subsection; and

(d) insurance of personal property and interests therein, in course of exportation from or importation into any country and in course of transportation coastwise or on inland waters, including transportation by land, water, or air from point of origin to final destination, in respect to, appertaining to, or in connection with any and all risks or perils of navigation, transit, or transportation while being prepared for and while awaiting shipment and during any delays, storage, transshipment, or reshipment incident thereto."

Renumber: subsequent sections.

4. Page 18, lines 13 and 14.

Following: line 12

Strike: section 14 in its entirety.