

SENATE BILL 317

INTRODUCED BY BLAYLOCK,  
HIMSL, GRAHAM, GAGE

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

January 28, 1983	Introduced and referred to Committee on State Administration.
February 4, 1983	Rereferred to Committee on Agriculture, Livestock and Irrigation.
February 18, 1983	Committee recommend bill do pass as amended. Report adopted.
February 21, 1983	Bill printed and placed on members' desks.
February 22, 1983	Second reading, do pass. Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 15, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 21, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in.

IN THE SENATE

March 23, 1983	Returned to Senate with amendments.
March 31, 1983	Second reading, amendments not concurred in. Ayes, 30; Noes, 17.
	On motion Free Conference Committee requested and appointed.
April 8, 1983	House recedes from House amendments.
April 19, 1983	Free Conference Committee dissolved.
	On motion Conference Committee requested and appointed.
April 20, 1983	Conference Committee reported.
	Second reading, Conference Committee report adopted.
April 21, 1983	Third reading, Conference Committee report adopted.
	Conference Committee report adopted by House.
	Sent to enrolling.
	Correctly enrolled.
	Signed by President.
	Signed by Speaker.
	Delivered to Governor.
	Returned from Governor with recommended amendments.

April 21, 1983

Second reading, Governor's  
amendments concurred in.

Third reading, Governor's  
amendments concurred in.

IN THE HOUSE

April 21, 1983

Governor's amendments  
transmitted to House.

Second reading, Governor's  
amendments concurred in.

Third reading, Governor's  
amendments concurred in.

IN THE SENATE

April 21, 1983

Returned to Senate. Sent to  
enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *317*  
2 INTRODUCED BY *Blaylock*  
3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE  
6 BOARD OF HAIL INSURANCE UNDER EXISTING STATUTORY AUTHORITY  
7 AND RULES; REVISING PROVISIONS RELATING TO THE BOARD AND TO  
8 THE HAIL INSURANCE PROGRAM; EXCLUDING CROP HAIL INSURANCE  
9 ADJUSTMENT FROM CERTAIN EMPLOYMENT LAWS; REMOVING RATE  
10 LIMITS; INCREASING COVERAGE LIMITS; AMENDING SECTIONS  
11 2-8-103, 2-15-3003, 39-3-406, 39-51-204, 80-2-201, 80-2-204,  
12 80-2-208, 80-2-221, 80-2-222, 80-2-224, 80-2-228, 80-2-241,  
13 80-2-242, AND 80-2-244, MCA; AND PROVIDING AN IMMEDIATE  
14 EFFECTIVE DATE."  
15

16 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,  
17 MCA, terminates the Board of Hail Insurance and requires a  
18 performance evaluation of the Board by the Legislative Audit  
19 Committee; and

20 WHEREAS, as a result of the performance evaluation the  
21 Legislative Audit Committee recommends that the Board of  
22 Hail Insurance be reestablished.

23  
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 NEW SECTION. Section 1. Reestablishment. The board of

1 hail insurance, created by 2-15-3003, is reestablished under  
2 existing statutory authority and rules for 6 years pursuant  
3 to 2-8-122.

4 Section 2. Section 2-8-103, MCA, is amended to read:

5 "2-8-103. Agencies to terminate. (1) The following  
6 agencies shall terminate on July 1, 1979:

7 (a) board of abstracters, department of professional  
8 and occupational licensing, created by 2-15-1643;

9 (b) board of real estate, department of professional  
10 and occupational licensing, created by 2-15-1642;

11 (c) state board of warm air heating, ventilation, and  
12 air conditioning, department of professional and  
13 occupational licensing, created by 2-15-1656;

14 (d) board of institutions, department of institutions,  
15 created by 2-15-2303.

16 (2) The following agencies shall terminate on July 1,  
17 1981:

18 (a) board of athletics, department of professional and  
19 occupational licensing, created by 2-15-1661;

20 (b) board of massage therapists, department of  
21 professional and occupational licensing, created by  
22 2-15-1627;

23 (c) board of osteopathic physicians, department of  
24 professional and occupational licensing, created by  
25 2-15-1607;

1 (d) board of podiatry examiners, department of  
2 professional and occupational licensing, created by  
3 2-15-1608<sup>1</sup>;

4 (3) The following units of state government shall  
5 terminate on July 1, 1983:

6 (a) board of aeronautics, department of commerce,  
7 created by 2-15-1812;

8 ~~(b) state board of health insurance, department of~~  
9 ~~agriculture, created by 2-15-3003;~~

10 ~~(c) board of horseracing, department of commerce,~~  
11 ~~created by 2-15-1881;~~

12 ~~(d) board of livestock, department of livestock,~~  
13 ~~created by 2-15-3102;~~

14 ~~(e) board of milk control, department of commerce,~~  
15 ~~created by 2-15-1802;~~

16 ~~(f) board of oil and gas conservation, department~~  
17 ~~of natural resources and conservation, created by 2-15-3303;~~

18 ~~(g) Montana outfitters' council, department of~~  
19 ~~fish, wildlife, and parks, created by 2-15-3403;~~

20 ~~(h) public service commission, department of public~~  
21 ~~service regulation, created by 69-1-102;~~

22 ~~(i) board of water and wastewater operators,~~  
23 ~~department of health and environmental sciences, created by~~  
24 ~~2-15-2105;~~

25 ~~(j) board of water well contractors, department of~~

1 commerce, created by 2-15-1862.

2 (4) The following agencies terminate on July 1, 1985:

3 (a) the board of public accountants, department of  
4 commerce, created by 2-15-1866;

5 (b) the board of architects, department of commerce,  
6 created by 2-15-1871;

7 (c) state banking board, department of commerce,  
8 created by 2-15-1803;

9 (d) the state electrical board, department of  
10 commerce, created by 2-15-1874;

11 (e) the board of professional engineers and land  
12 surveyors, department of commerce, created by 2-15-1873;

13 (f) office of commissioner of insurance and the  
14 insurance department, state auditor's office, created by  
15 2-15-1902 and 2-15-1903;

16 (g) office of the securities commissioner, state  
17 auditor's office, created by 2-15-1901;

18 (h) the board of landscape architects, department of  
19 commerce, created by 2-15-1872;

20 (i) the board of county printing, department of  
21 commerce, created by 2-15-1811;

22 (j) the board of plumbers, department of commerce,  
23 created by 2-15-1875;

24 (k) board of physical therapy examiners, department of  
25 commerce, created by 2-15-1858.

1 (5) The following agencies terminate on July 1, 1987:  
 2 (a) commission for human rights, department of labor  
 3 and industry, created by 2-15-1706;  
 4 (b) Montana state board of medical examiners,  
 5 department of commerce, created by 2-15-1841;  
 6 (c) board of dentistry, department of commerce,  
 7 created by 2-15-1842;  
 8 (d) board of pharmacists, department of commerce,  
 9 created by 2-15-1843;  
 10 (e) board of nursing, department of commerce, created  
 11 by 2-15-1844;  
 12 (f) board of nursing home administrators, department  
 13 of commerce, created by 2-15-1845;  
 14 (g) board of optometrists, department of commerce,  
 15 created by 2-15-1846;  
 16 (h) board of chiropractors, department of commerce,  
 17 created by 2-15-1847;  
 18 (i) board of radiologic technologists, department of  
 19 commerce, created by 2-15-1848;  
 20 (j) board of speech pathologists and audiologists,  
 21 department of commerce, created by 2-15-1849;  
 22 (k) board of hearing aid dispensers, department of  
 23 commerce, created by 2-15-1850;  
 24 (l) board of psychologists, department of commerce,  
 25 created by 2-15-1851;

1 (m) board of veterinarians, department of commerce,  
 2 created by 2-15-1852;  
 3 (n) board of morticians, department of commerce,  
 4 created by 2-15-1853;  
 5 (o) board of barbers, department of commerce, created  
 6 by 2-15-1856;  
 7 (p) board of cosmetologists, department of commerce,  
 8 created by 2-15-1857;  
 9 (q) board of sanitarians, department of commerce,  
 10 created by 2-15-1861;  
 11 (r) board of veterans' affairs, department of social  
 12 and rehabilitation services, created by 2-15-2202.  
 13 (6) The following agency terminates July 1, 1982:  
 14 board of hail insurance, department of agriculture, created  
 15 by 2-15-3003."  
 16 Section 3. Section 2-15-3003, MCA, is amended to read:  
 17 "2-15-3003. Board of hail insurance. (1) There is a  
 18 board of hail insurance of five members consisting of the  
 19 state auditor, the director of agriculture, who is secretary  
 20 of the board, and three other members to be appointed by the  
 21 governor from names submitted by former organizations having  
 22 a general membership throughout the state and confirmed by  
 23 the senate.  
 24 (2) The governor shall designate one of the appointive  
 25 members to act as chairman of the board.

(3) Whenever the term of any member expires, either by death, resignation, removal for cause, or expiration of his term of office, the governor shall appoint his successor and shall also appoint one of the board for chairman in case of a vacancy in that office.

(4) Each appointive member of the board shall be appointed for 3 years, except when such appointment is made to fill a vacancy on the board, in which event such appointee shall fill out the unexpired term of the member whose place he fills.

(5) All members of the board shall be subject to removal for cause by the governor.

(6) The board is allocated to the department of agriculture for administrative purposes only as prescribed in 2-15-121. The department may charge the board for services provided by the department pursuant to 2-15-121. The costs charged by the department must be commensurate with the cost of the services provided."

Section 4. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 shall not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties

consist of menial chores such as babysitting, mowing lawns, cleaning sidewalks;

(c) persons employed directly by the head of a household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) any persons not regular employees thereof who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) handicapped workers engaged in work which is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;

(h) learners under the age of 18 who are employed as farm workers, provided that such exclusion shall not exceed a period of 180 days from their initial date of employment and further provided that during this exclusion period wages paid such learners may not be less than 50% of the minimum wage rate established in this part;

(i) retired or semiretired persons performing

1 part-time incidental work as a condition of their residence  
2 on a farm or ranch;

3 (j) any individual employed in a bona fide executive,  
4 administrative, or professional capacity as these terms are  
5 defined and delimited by regulations of the commissioner;

6 (k) any individual employed by the United States of  
7 America.

8 (2) The provisions of 39-3-405 do not apply to:

9 (a) an employee with respect to whom the United States  
10 Secretary of Transportation has power to establish  
11 qualifications and maximum hours of service pursuant to the  
12 provisions of 49 U.S.C. 304;

13 (b) an employee of an employer subject to the  
14 provisions of part I of the Interstate Commerce Act;

15 (c) an individual employed as an outside buyer of  
16 poultry, eggs, cream, or milk, in their raw or natural  
17 state;

18 (d) a salesman, partsman, or mechanic paid on a  
19 commission or contract basis and primarily engaged in  
20 selling or servicing automobiles, trucks, mobile homes,  
21 recreational vehicles, or farm implements if he is employed  
22 by a nonmanufacturing establishment primarily engaged in the  
23 business of selling such vehicles or implements to ultimate  
24 purchasers;

25 (e) a salesman primarily engaged in selling trailers,

1 boats, or aircraft if he is employed by a nonmanufacturing  
2 establishment primarily engaged in the business of selling  
3 trailers, boats, or aircraft to ultimate purchasers;

4 (f) an employee employed as a driver or driver's  
5 helper making local deliveries who is compensated for such  
6 employment on the basis of trip rates, or other delivery  
7 payment plan, if the commissioner finds that such plan has  
8 the general purpose and effect of reducing hours worked by  
9 such employees to or below the maximum workweek applicable  
10 to them under 39-3-405;

11 (g) an employee employed in agriculture or in  
12 connection with the operation or maintenance of ditches,  
13 canals, reservoirs, or waterways not owned or operated for  
14 profit and not operated on a sharecrop basis and which are  
15 used exclusively for supply and storing of water for  
16 agricultural purposes;

17 (h) an employee with respect to his employment in  
18 agriculture by a farmer, notwithstanding other employment of  
19 such employee in connection with livestock auction  
20 operations in which such farmer is engaged as an adjunct to  
21 the raising of livestock, either on his own account or in  
22 conjunction with other farmers, if such employee is:

23 (i) primarily employed during his workweek in  
24 agriculture by such farmer; and

25 (ii) paid for his employment in connection with such



1 livestock auction operations at a wage rate not less than  
2 that prescribed by 39-3-404;

3 (i) an employee of an establishment commonly  
4 recognized as a country elevator, including an establishment  
5 which sells products and services used in the operation of a  
6 farm, if no more than five employees are employed by the  
7 establishment;

8 (j) a driver employed by an employer engaged in the  
9 business of operating taxicabs;

10 (k) an employee who is employed with his spouse by a  
11 nonprofit educational institution to serve as the parents of  
12 children who are orphans or one of whose natural parents is  
13 deceased or who are enrolled in such institution and reside  
14 in residential facilities of the institution so long as the  
15 children are in residence at the institution and so long as  
16 such employee and his spouse reside in such facilities and  
17 receive, without cost, board and lodging from the  
18 institution and are together compensated, on a cash basis,  
19 at an annual rate of not less than \$10,000;

20 (l) an employee employed in planting or tending trees;  
21 cruising, surveying, or felling timber; or transporting logs  
22 or other forestry products to a mill, processing plant,  
23 railroad, or other transportation terminal if the number of  
24 employees employed by his employer in such forestry or  
25 lumbering operations does not exceed eight; or

1 (m) an employee of a sheriff's department who is  
2 working under an established work period in lieu of a  
3 workweek pursuant to 7-4-2509(1)=1-OR

4 ~~(n) an individual working as a crop hail insurance~~  
5 ~~adjuster."~~

6 Section 5. Section 39-51-204, MCA, is amended to read:

7 "39-51-204. Exclusions from definition of employment.

8 (1) The term "employment" does not include:

9 (a) agricultural labor, except as provided in  
10 39-51-203(8);

11 (b) domestic service in a private home, local college  
12 club, or local chapter of a college fraternity or sorority,  
13 except as provided in 39-51-203(9);

14 (c) service performed as an officer or member of the  
15 crew of a vessel on the navigable waters of the United  
16 States;

17 (d) service performed by an individual in the employ  
18 of his son, daughter, or spouse and service performed by a  
19 child under the age of 18 in the employ of his father or  
20 mother;

21 (e) service performed in the employ of any other state  
22 or its political subdivisions or of the United States  
23 government or of an instrumentality of any other state or  
24 states or their political subdivisions or of the United  
25 States, except that national banks organized under the

1 national banking law shall not be entitled to exemption  
 2 under this subsection and shall be subject to this chapter  
 3 the same as state banks, provided that such service is  
 4 excluded from employment as defined in the Federal  
 5 Unemployment Tax Act by section 3306(c)(7) of that act;

6 (f) service with respect to which unemployment  
 7 insurance is payable under an unemployment insurance system  
 8 established by an act of congress, provided that the  
 9 department must enter into agreements with the proper  
 10 agencies under such act of congress, which agreements shall  
 11 become effective in the manner prescribed in the Montana  
 12 Administrative Procedure Act for the adoption of rules, to  
 13 provide reciprocal treatment to individuals who have, after  
 14 acquiring potential rights to benefits under this chapter,  
 15 acquired rights to unemployment insurance under such act of  
 16 congress or who have, after acquiring potential rights to  
 17 unemployment insurance under such act of congress, acquired  
 18 rights to benefits under this chapter;

19 (g) services performed in the delivery and  
 20 distribution of newspapers or shopping news from house to  
 21 house and business establishments by an individual under the  
 22 age of 18 years, but not including the delivery or  
 23 distribution to any point or points for subsequent delivery  
 24 or distribution;

25 (h) services performed by real estate, securities, and

1 insurance salesmen paid solely by commissions and without  
 2 guarantee of minimum earnings;

3 (i) service performed in the employ of a school,  
 4 college, or university if such service is performed by a  
 5 student who is enrolled and is regularly attending classes  
 6 at such school, college, or university or by the spouse of  
 7 such a student if such spouse is advised, at the time such  
 8 spouse commences to perform such service, that the  
 9 employment of such spouse to perform such service is  
 10 provided under a program to provide financial assistance to  
 11 such student by such school, college, or university and such  
 12 employment will not be covered by any program of  
 13 unemployment insurance;

14 (j) service performed by an individual under the age  
 15 of 22 who is enrolled at a nonprofit or public educational  
 16 institution, which normally maintains a regular faculty and  
 17 curriculum and normally has a regularly organized body of  
 18 students in attendance at the place where its educational  
 19 activities are carried on, as a student in a full-time  
 20 program taken for credit at such institution which combines  
 21 academic instruction with work experience if such service is  
 22 an integral part of such program and such institution has so  
 23 certified to the employer, except that this subsection shall  
 24 not apply to service performed in a program established for  
 25 or on behalf of an employer or group of employers;

(k) service performed in the employ of a hospital if such service is performed by a patient of the hospital;

(l) casual labor not in the course of an employer's trade or business performed in any calendar quarter, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service;

~~(m) insurance adjustment by a crop hail insurance adjuster.~~

(2) "Employment" does not include elected public officials.

(3) For the purposes of 39-51-203(6), the term "employment" does not apply to service performed:

(a) in the employ of a church or convention or association of churches or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(b) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(c) in the employ of a school which is not an institution of higher education, prior to December 31, 1977;

(d) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(e) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or any agency of a state or political subdivision thereof by an individual receiving such work relief or work training; or

(f) for a state prison or other state correctional or custodial institution by an inmate of that institution."

Section 6. Section 80-2-201, MCA, is amended to read:  
"80-2-201. Powers and duties of board of hail insurance. The board of hail insurance provided for in 2-15-3003:

(1) shall hold meetings when necessary and essential for the proper conduct of its business ~~at the state capitol in the office of the director of agriculture who is secretary of the board;~~

(2) is hereby authorized, directed, and empowered to make rules as it may from time to time find practical,

necessary, and beneficial for the administration of this part;

(3) shall prescribe blank forms for all purposes necessary, proper, and incidental to the effective operation and enforcement of this part; and

(4) shall ~~prescribe a special form outlining use any appropriate means of communication to inform Montana producers of the purposes, scope, and benefits of this part in furnishing protection against loss by hail at the actual cost of the risk to all taxpayers who may elect to become subject to the provisions of this part, the form to be submitted by the agent of the department of revenue in each county at the time in which the regular assessments of property are made by the agents to each farmer in each county in the state engaged in growing of crops subject to injury or destruction by hail. Each such farmer taxpayer shall signify on such forms whether he desires to become subject to the provisions of this part or not.~~

Section 7. Section 80-2-204, MCA, is amended to read:

"80-2-204. Duty of agent of the department of revenue -- election of benefits of law. It shall be the duty of the agent of the department of revenue in each county in the state ~~at the time in which the annual assessment of property is made~~ upon request to explain to each taxpayer engaged in the growing of crops subject to injury or

destruction by hail the provisions of this part and the protection afforded thereby and to ~~request each such taxpayer to certify~~ issue insurance policies, on the forms provided for such purpose, if such taxpayer desires to become subject to this part and liable for the tax levies provided hereby and thereby eligible to the benefits and protection of this part. Each such taxpayer who elects to become subject to this part shall be liable for the taxes levied for hail insurance and shall participate in the benefits and protection afforded by this part, provided that the owners of lands worked by others under lease or contract shall elect if such lands shall be subject to the tax levies herein provided for and the crops grown thereon protected for hail insurance, or the lessee of such land may tender payment of the tax levied for hail insurance to protect his crops, in cash, to the officer authorized to receive same, whereupon such crops shall become eligible to the benefits and protection afforded by this part for hail insurance."

Section 8. Section 80-2-208, MCA, is amended to read:

"80-2-208. Maximum insurance. When the reserve fund is determined actuarially sound, as provided in 80-2-228, the board may write not more than \$24 ~~\$30~~ insurance on each acre of grain which is on nonirrigated land and not more than \$48 ~~\$60~~ per acre on irrigated land. When more than one party desires hail insurance on the same crop, each party is

entitled to the share of the maximum provided per acre as represented by his interest in the crop. Either party may insure his share in the crop for any amount up to and including the maximum per acre if the others waive their right to insure."

Section 9. Section 80-2-221, MCA, is amended to read:

"80-2-221. Tax for hail insurance ~~---limitation--on~~ levy. (1) A tax is hereby authorized and directed to be levied on all lands in this state growing crops subject to injury or destruction by hail, the owners of which have elected to become subject to the provisions of this part.

(2) The board of hail insurance shall annually estimate, as accurately as possible, the amount required to pay all losses, interest on warrants, and costs of administration and shall recommend a levy to be made on each kind of land respectively, subject to the provisions of this part, to the department of revenue. The rates recommended to apply on the lands of owners shall be applied in the same proportions to the crops of those insured on a personal assessment basis.

~~{3}--it--is--hereby--provided,--however,--that--such--tax--may not--exceed--in--any--one--year--\$2.40--per--acre--on--lands--sown--to grain--crops--on--nonirrigated--lands,--\$4.00--per--acre--on irrigated--lands,--or--\$2.40--per--acre--on--lands--producing--hay crops.~~

~~{4}--if--the--tax--required--to--pay--the--estimated--losses, interest--on--warrants--and--costs--of--administration--is--less than--\$1.20--per--acre--on--lands--sown--to--grain--crops--on nonirrigated--lands--and--\$2.40--per--acre--on--irrigated--lands--and a--proportionate--amount--on--lands--sown--to--hay--crops,--the--board of--hail--insurance--must--recommend--a--tax--levy--sufficient--to raise--the--full--amount--thereof.~~

Section 10. Section 80-2-222, MCA, is amended to read:

"80-2-222. Board to establish amount of levy -- disposition of funds. (1) The board of hail insurance may, when it considers it advisable, establish as many districts as it considers advisable and may maintain maximum rates in various parts of the state, which rates shall be commensurate with the risk incurred as nearly as it can determine from past experiences or from any records available. ~~The--highest--of--these--rates--shall--be--the--same--as the--maximum--established--herein--and--the--lowest--may--not--be less--than--\$1.20--per--acre--on--lands--sown--to--grain--crops--and--a proportionate--amount--on--lands--sown--to--hay--crops.~~

(2) Notice of the various rates established for any year shall be plainly printed on the application for hail insurance, and ~~in--any--year--when--the--requirements--of--the--hail insurance--law--as--herein--provided--do--not--require--a--levy--of the--maximum--rates--as--established,--then~~ the rates for the year shall be determined and levied by the board of hail

1 insurance for each of the various districts as established,  
2 in such proportions as will in its judgment be fair and  
3 equitable.

4 (3) In making the levy provided in this section and  
5 80-2-223, the board of hail insurance shall provide for:

6 (a) the payment of all expenses of administration,  
7 together with all interest owed or to be owing on registered  
8 warrants;

9 (b) that portion of the losses incurred during the  
10 current year which are not paid from funds drawn from the  
11 reserve;

12 (c) the maintenance of the reserve, a part or all of  
13 which may be used in any one year for the purpose of paying  
14 the costs of administration, interest on the warrants, and  
15 losses as the same shall be settled and adjusted by the  
16 board, including the losses sustained in any prior year or  
17 years under the hail insurance law during-or-subsequent-to  
18 the-year-1919 that have not been paid.

19 (4) If at the end of any hail insurance season the  
20 board determines and finds that more funds are accumulating  
21 from the current year's levies than were estimated when the  
22 levy was made and are in excess of the need for the payment  
23 of losses and expenses and maintenance of the reserve, the  
24 board may, at its discretion, refund the excess to the  
25 farmers insured for the year, on a pro rata or percentage

1 basis.

2 (5) The board of hail insurance may direct the board  
3 of investments to invest funds from the agency fund pursuant  
4 to the provisions of the unified investment program for  
5 state funds. The income from such investments shall be  
6 credited to the board of hail insurance account in the  
7 agency fund."

8 Section 11. Section 80-2-224, MCA, is amended to read:

9 "80-2-224. Assessment -- notice -- when payable.  
10 Notice of such assessment shall be mailed by the county  
11 treasurer to each person insured in the same manner and at  
12 the same time as are all other notices of property taxes  
13 due. The assessment shall be payable at the office of the  
14 county treasurer of each respective county."

15 Section 12. Section 80-2-228, MCA, is amended to read:

16 "80-2-228. Reserve fund. (1) Each year when the hail  
17 board makes its annual levy for the payment of current  
18 losses, expenses of administration, and for an addition to  
19 the reserve if conditions permit, it may not increase the  
20 levy enough in any year so that such addition to the reserve  
21 will exceed 5% of the maximum risk written for that year.

22 ~~(2) -- The reserve fund may not exceed \$4 million prior~~  
23 ~~to January 1, 1976. -- On January 1, 1976, and thereafter, the~~  
24 ~~maximum permissible reserve fund shall be established as set~~  
25 ~~forth in subsection (3) of this section.~~

~~{3}~~(2) The board may engage the services of a qualified actuary to conduct an actuarial valuation of the reserve. This valuation shall include the actuary's determination of the amount of reserve necessary to absorb all reasonably anticipated catastrophic losses. This amount shall be the maximum permissible reserve fund for the next year.

~~{4}~~(3) The reserve hereby created shall be deposited in the agency fund, and the board is hereby granted the power to draw from its moneys in the fund such amounts as it considers necessary for the purpose of paying costs of administration, interest, and losses.

~~{5}~~(4) ~~Whenever there are no unpaid losses for prior years and whenever in any one year the cost of administration, interest, and losses for the current year is less than the sum of 60 cents per acre on nonirrigated grains and a proportionate amount on irrigated grains and other crops, the~~ The board may not draw on the reserve for any purpose unless the amount required for the payment of losses for the current year, including interest on warrants and costs of administration, exceeds the amount of the estimate made by the board for the current year pursuant to 80-2-221.

Section 13. Section 80-2-241, MCA, is amended to read:

"80-2-241. Report of losses. All losses by hail to

crops insured under this part shall be reported within 3 14 days thereafter by the owner of such crops, his agent or attorney, to the board of hail insurance, which shall require the claimant to make a statement of the losses sustained, the cause thereof, and such other information as the board may require on the forms to be provided for such purpose. If a loss is reported more than 14 days after it occurs, the board shall charge the claimant for all costs incurred in making the adjustment."

Section 14. Section 80-2-242, MCA, is amended to read:

"80-2-242. Appraisers -- appointment -- qualifications -- duties. (1) ~~The board of hail insurance department of agriculture~~ shall as soon as practicable each year appoint retain as independent contractors, under terms mutually agreed upon, which may include benefits accorded state employees, a sufficient number of appraisers to appraise all losses by hail incurred under this part in the various counties. ~~The men~~ persons so appointed shall be actively engaged in farming or shall have had practical experience in farming ~~and shall be selected from names submitted by regularly organized farmers societies in the various counties if the recommendations are not made as provided above then the board shall select the appraisers from men actively engaged in farming or men who have had practical experience in farming as heretofore provided.~~

(2) The board may call on one or more of the duly appointed appraisers for the adjustment of each and every loss, and the said appraisers shall promptly report their findings to the board according to the rules provided by the board.

(3) No appraiser who shall be a relative, attorney, agent, employee, or creditor or in any manner interested by lien, mortgage, or otherwise in the crop injured or destroyed shall assist in adjusting any such loss.

(4) The board may ~~in case of emergency appoint more than three appraisers in any county. Also it may~~ send any duly appointed appraiser or appraisers into any county as the occasion may require."

Section 15. Section 80-2-244, MCA, is amended to read:

"80-2-244. Payment of losses. (1) The board of hail insurance shall, as soon as practicable after the loss has been sustained, arrange for the payment of the loss in the following manner. From the amount of the loss as adjusted for each claimant, the board shall deduct the amount the claimant then owes as delinquent hail insurance tax and the maximum amount assessed as hail insurance tax for the current year ~~and shall make settlement within 40 days from the time loss is sustained by paying either by registered warrant or otherwise if funds are immediately available 50% of the total loss as agreed upon, less the maximum rate of~~

~~assessment. The balance shall be paid at the expiration of the hail season.~~

(2) The board shall on or before November 1 order payment for the amount so deducted, which payment shall be remitted to the county treasurer of the county in which the tax was assessed. The board shall then order payment for the balance of the adjustment to be sent to the claimant, provided that in no case may the payment for loss exceed \$24 ~~\$30~~ per acre for grain crops on nonirrigated lands, \$40 ~~\$60~~ per acre on irrigated lands, and \$24 ~~\$30~~ per acre on hay crops. No claimant may receive payment for any loss incurred where the loss does not equal or exceed 5% of the total value of the crop insured. If the losses in any year exceed the current levy plus the reserve, if any, then the payment of all losses shall be prorated, share and share alike, among all grain growers having loss claims adjusted and approved, and the unpaid balance of the losses shall be paid out of the reserve without interest in such order as the board directs, when in the judgment of the board there are sufficient moneys to provide for the payment of the same and other items payable out of the reserve. In any year the board may by resolution authorize its chairman and secretary to borrow as needed from any person, bank, or corporation such sum or sums of money as the board may consider necessary for the purpose of paying all warrants as issued.



1       (3) For any moneys borrowed under the provisions of  
2 this part, the board shall cause warrants to be drawn. The  
3 warrants shall bear interest at not to exceed 6% a year, and  
4 the warrants and the interest thereon shall be paid out of  
5 funds from the state hail insurance program as they are  
6 collected from the various counties in the state. The board  
7 may not at any time borrow a total sum greater than the  
8 amount of levies as made for taxes for the current year  
9 together with such delinquent taxes as remain unpaid on the  
10 books of the county treasurer."

11       NEW SECTION. Section 16. Effective date. This act is  
12 effective on passage and approval.

-End-

Approved by Committee  
on Agriculture Livestock  
& Irrigation

SENATE BILL NO. 317  
INTRODUCED BY BLAYLOCK,  
HIMSL, GRAHAM, GAGE  
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE  
BOARD OF HAIL INSURANCE UNDER EXISTING STATUTORY AUTHORITY  
AND RULES; REVISING PROVISIONS RELATING TO THE BOARD AND TO  
THE HAIL INSURANCE PROGRAM; EXCLUDING CROP HAIL INSURANCE  
ADJUSTMENT FROM CERTAIN EMPLOYMENT LAWS; REMOVING RATE  
LIMITS; ~~INCREASING---AVERAGE---LIMITS~~ AMENDING SECTIONS  
2-8-103, 2-15-3003, 39-3-406, 39-51-204, 80-2-201, 80-2-204,  
~~80-2-200, 80-2-221, 80-2-222, 80-2-224, 80-2-228, 80-2-232,~~  
~~80-2-241, 80-2-242, AND THROUGH 80-2-244, MCA; AND PROVIDING~~  
AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,  
MCA, terminates the Board of Hail Insurance and requires a  
performance evaluation of the Board by the Legislative Audit  
Committee; and

WHEREAS, as a result of the performance evaluation the  
Legislative Audit Committee recommends that the Board of  
Hail Insurance be reestablished.

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

~~NEW SECTION.~~ Section 1. Reestablishment. The board of  
hail insurance, created by 2-15-3003, is reestablished under  
existing statutory authority and rules for 6 years pursuant  
to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following  
agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional  
and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional  
and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and  
air conditioning, department of professional and  
occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions,  
created by 2-15-2303.

(2) The following agencies shall terminate on July 1,  
1981:

(a) board of athletics, department of professional and  
occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of  
professional and occupational licensing, created by  
2-15-1627;

(c) board of osteopathic physicians, department of  
professional and occupational licensing, created by

1 2-15-1607;

2 (j) board of podiatry examiners, department of

3 professional and occupational licensing, created by

4 2-15-1508;

5 (j) The following units of state government shall

6 terminate on July 1, 1983:

7 (a) board of aeronautics, department of commerce,

8 created by 2-15-1812;

9 ~~(b) state board of health insurance department of~~

10 ~~agriculture created by 2-15-3093;~~

11 ~~(c) board of horseracing, department of commerce,~~

12 ~~created by 2-15-1881;~~

13 ~~(d) board of livestock, department of livestock,~~

14 ~~created by 2-15-3102;~~

15 ~~(e) board of milk control, department of commerce,~~

16 ~~created by 2-15-1802;~~

17 ~~(f) board of oil and gas conservation, department~~

18 ~~of natural resources and conservation, created by 2-15-3303;~~

19 ~~(g) Montana outfitters' council, department of~~

20 ~~fish, wildlife, and parks, created by 2-15-3403;~~

21 ~~(h) public service commission, department of public~~

22 ~~service regulation, created by 69-1-102;~~

23 ~~(i) board of water and wastewater operators,~~

24 ~~department of health and environmental sciences, created by~~

25 ~~2-15-2105;~~

1 ~~(j) board of water well contractors, department of~~

2 ~~commerce, created by 2-15-1862.~~

3 (4) The following agencies terminate on July 1, 1985:

4 (a) the board of public accountants, department of

5 commerce, created by 2-15-1866;

6 (b) the board of architects, department of commerce,

7 created by 2-15-1871;

8 (c) state banking board, department of commerce,

9 created by 2-15-1803;

10 (d) the state electrical board, department of

11 commerce, created by 2-15-1874;

12 (e) the board of professional engineers and land

13 surveyors, department of commerce, created by 2-15-1873;

14 (f) office of commissioner of insurance and the

15 insurance department, state auditor's office, created by

16 2-15-1902 and 2-15-1903;

17 (g) office of the securities commissioner, state

18 auditor's office, created by 2-15-1901;

19 (h) the board of landscape architects, department of

20 commerce, created by 2-15-1872;

21 (i) the board of county printing, department of

22 commerce, created by 2-15-1811;

23 (j) the board of plumbers, department of commerce,

24 created by 2-15-1875;

25 (k) board of physical therapy examiners, department of

1 commerce, created by 2-15-1858.

2 (5) The following agencies terminate on July 1, 1987:

3 (a) commission for human rights, department of labor  
4 and industry, created by 2-15-1706;

5 (b) Montana state board of medical examiners,  
6 department of commerce, created by 2-15-1841;

7 (c) board of dentistry, department of commerce,  
8 created by 2-15-1842;

9 (d) board of pharmacists, department of commerce,  
10 created by 2-15-1843;

11 (e) board of nursing, department of commerce, created  
12 by 2-15-1844;

13 (f) board of nursing home administrators, department  
14 of commerce, created by 2-15-1845;

15 (g) board of optometrists, department of commerce,  
16 created by 2-15-1846;

17 (h) board of chiropractors, department of commerce,  
18 created by 2-15-1847;

19 (i) board of radiologic technologists, department of  
20 commerce, created by 2-15-1848;

21 (j) board of speech pathologists and audiologists,  
22 department of commerce, created by 2-15-1849;

23 (k) board of hearing aid dispensers, department of  
24 commerce, created by 2-15-1850;

25 (l) board of psychologists, department of commerce,

1 created by 2-15-1851;

2 (m) board of veterinarians, department of commerce,  
3 created by 2-15-1852;

4 (n) board of morticians, department of commerce,  
5 created by 2-15-1853;

6 (o) board of barbers, department of commerce, created  
7 by 2-15-1856;

8 (p) board of cosmetologists, department of commerce,  
9 created by 2-15-1857;

10 (q) board of sanitarians, department of commerce,  
11 created by 2-15-1861;

12 (r) board of veterans' affairs, department of social  
13 and rehabilitation services, created by 2-15-2202.

14 ~~(5) The following agency terminates July 1, 1989:~~  
15 ~~board of hail insurance, department of agriculture, created~~  
16 ~~by 2-15-3003.~~

17 Section 3. Section 2-15-3003, MCA, is amended to read:

18 "2-15-3003. Board of hail insurance. (1) There is a  
19 board of hail insurance of five members consisting of the  
20 state auditor, the director of agriculture, who is secretary  
21 of the board, and three other members to be appointed by the  
22 governor from names submitted by farmer organizations having  
23 a general membership throughout the state and confirmed by  
24 the senate.

25 (2) The governor shall designate one of the appointive

1 members to act as chairman of the board.

2 (3) Whenever the term of any member expires, either by  
3 death, resignation, removal for cause, or expiration of his  
4 term of office, the governor shall appoint his successor and  
5 shall also appoint one of the board for chairman in case of  
6 a vacancy in that office.

7 (4) Each appointive member of the board shall be  
8 appointed for 3 years, except when such appointment is made  
9 to fill a vacancy on the board, in which event such  
10 appointee shall fill out the unexpired term of the member  
11 whose place he fills.

12 (5) All members of the board shall be subject to  
13 removal for cause by the governor.

14 (6) The board is allocated to the department of  
15 agriculture for administrative purposes only as prescribed  
16 in 2-15-121. ~~The department may charge the board for~~  
17 ~~services provided by the department pursuant to 2-15-121.~~  
18 ~~The costs charged by the department must be commensurate~~  
19 ~~with the cost of the services provided."~~

20 Section 4. Section 39-3-406, MCA, is amended to read:

21 "39-3-406. Exclusions. (1) The provisions of 39-3-404  
22 and 39-3-405 shall not apply with respect to:

23 (a) students participating in a distributive education  
24 program established under the auspices of an accredited  
25 educational agency;

1 (b) persons employed in private homes whose duties  
2 consist of menial chores such as babysitting, mowing lawns,  
3 cleaning sidewalks;

4 (c) persons employed directly by the head of a  
5 household to care for children dependent upon the head of  
6 the household;

7 (d) immediate members of the family of an employer or  
8 persons dependent upon an employer for half or more of their  
9 support in the customary sense of being a dependent;

10 (e) any persons not regular employees thereof who  
11 voluntarily offer their services to a nonprofit organization  
12 on a fully or partially reimbursed basis;

13 (f) handicapped workers engaged in work which is  
14 incidental to training or evaluation programs or whose  
15 earning capacity is so severely impaired that they are  
16 unable to engage in competitive employment;

17 (g) apprentices or learners, who may be exempted by  
18 the commissioner for a period not to exceed 30 days of their  
19 employment;

20 (h) learners under the age of 18 who are employed as  
21 farm workers, provided that such exclusion shall not exceed  
22 a period of 180 days from their initial date of employment  
23 and further provided that during this exclusion period wages  
24 paid such learners may not be less than 50% of the minimum  
25 wage rate established in this part;

1 (i) retired or semiretired persons performing  
2 part-time incidental work as a condition of their residence  
3 on a farm or ranch;

4 (j) any individual employed in a bona fide executive,  
5 administrative, or professional capacity as these terms are  
6 defined and delimited by regulations of the commissioner;

7 (k) any individual employed by the United States of  
8 America.

9 (2) The provisions of 39-3-405 do not apply to:

10 (a) an employee with respect to whom the United States  
11 Secretary of Transportation has power to establish  
12 qualifications and maximum hours of service pursuant to the  
13 provisions of 49 U.S.C. 304;

14 (b) an employee of an employer subject to the  
15 provisions of part I of the Interstate Commerce Act;

16 (c) an individual employed as an outside buyer of  
17 poultry, eggs, cream, or milk, in their raw or natural  
18 states;

19 (d) a salesman, partsman, or mechanic paid on a  
20 commission or contract basis and primarily engaged in  
21 selling or servicing automobiles, trucks, mobile homes,  
22 recreational vehicles, or farm implements if he is employed  
23 by a nonmanufacturing establishment primarily engaged in the  
24 business of selling such vehicles or implements to ultimate  
25 purchasers;

1 (e) a salesman primarily engaged in selling trailers,  
2 boats, or aircraft if he is employed by a nonmanufacturing  
3 establishment primarily engaged in the business of selling  
4 trailers, boats, or aircraft to ultimate purchasers;

5 (f) an employee employed as a driver or driver's  
6 helper making local deliveries who is compensated for such  
7 employment on the basis of trip rates, or other delivery  
8 payment plan, if the commissioner finds that such plan has  
9 the general purpose and effect of reducing hours worked by  
10 such employees to or below the maximum workweek applicable  
11 to them under 39-3-405;

12 (g) an employee employed in agriculture or in  
13 connection with the operation or maintenance of ditches,  
14 canals, reservoirs, or waterways not owned or operated for  
15 profit and not operated on a sharecrop basis and which are  
16 used exclusively for supply and storing of water for  
17 agricultural purposes;

18 (h) an employee with respect to his employment in  
19 agriculture by a farmer, notwithstanding other employment of  
20 such employee in connection with livestock auction  
21 operations in which such farmer is engaged as an adjunct to  
22 the raising of livestock, either on his own account or in  
23 conjunction with other farmers, if such employee is:

24 (i) primarily employed during his workweek in  
25 agriculture by such farmer; and

(ii) paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by 39-3-404;

(i) an employee of an establishment commonly recognized as a country elevator, including an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed by the establishment;

(j) a driver employed by an employer engaged in the business of operating taxicabs;

(k) an employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in such institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as such employee and his spouse reside in such facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than \$10,000;

(l) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by his employer in such forestry or

lumbering operations does not exceed eight; or

(n) an employee of a sheriff's department who is working under an established work period in lieu of a workweek pursuant to 7-4-2509(1) ~~or~~

~~(o) an individual working as a crop hail insurance adjuster."~~

Section 5. Section 39-51-204, MCA, is amended to read:

"39-51-204. Exclusions from definition of employment.

(1) The term "employment" does not include:

(a) agricultural labor, except as provided in 39-51-203(8);

(b) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in 39-51-203(9);

(c) service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(d) service performed by an individual in the employ of his son, daughter, or spouse and service performed by a child under the age of 18 in the employ of his father or mother;

(e) service performed in the employ of any other state or its political subdivisions or of the United States government or of an instrumentality of any other state or states or their political subdivisions or of the United

1 States, except that national banks organized under the  
 2 national banking law shall not be entitled to exemption  
 3 under this subsection and shall be subject to this chapter  
 4 the same as state banks, provided that such service is  
 5 excluded from employment as defined in the Federal  
 6 Unemployment Tax Act by section 3306(c)(7) of that act;

7 (f) service with respect to which unemployment  
 8 insurance is payable under an unemployment insurance system  
 9 established by an act of congress, provided that the  
 10 department must enter into agreements with the proper  
 11 agencies under such act of congress, which agreements shall  
 12 become effective in the manner prescribed in the Montana  
 13 Administrative Procedure Act for the adoption of rules, to  
 14 provide reciprocal treatment to individuals who have, after  
 15 acquiring potential rights to benefits under this chapter,  
 16 acquired rights to unemployment insurance under such act of  
 17 congress or who have, after acquiring potential rights to  
 18 unemployment insurance under such act of congress, acquired  
 19 rights to benefits under this chapter;

20 (g) services performed in the delivery and  
 21 distribution of newspapers or shopping news from house to  
 22 house and business establishments by an individual under the  
 23 age of 18 years, but not including the delivery or  
 24 distribution to any point or points for subsequent delivery  
 25 or distribution;

1 (h) services performed by real estate, securities, and  
 2 insurance salesmen paid solely by commissions and without  
 3 guarantee of minimum earnings;

4 (i) service performed in the employ of a school,  
 5 college, or university if such service is performed by a  
 6 student who is enrolled and is regularly attending classes  
 7 at such school, college, or university or by the spouse of  
 8 such a student if such spouse is advised, at the time such  
 9 spouse commences to perform such service, that the  
 10 employment of such spouse to perform such service is  
 11 provided under a program to provide financial assistance to  
 12 such student by such school, college, or university and such  
 13 employment will not be covered by any program of  
 14 unemployment insurance;

15 (j) service performed by an individual under the age  
 16 of 22 who is enrolled at a nonprofit or public educational  
 17 institution, which normally maintains a regular faculty and  
 18 curriculum and normally has a regularly organized body of  
 19 students in attendance at the place where its educational  
 20 activities are carried on, as a student in a full-time  
 21 program taken for credit at such institution which combines  
 22 academic instruction with work experience if such service is  
 23 an integral part of such program and such institution has so  
 24 certified to the employer, except that this subsection shall  
 25 not apply to service performed in a program established for



or on behalf of an employer or group of employers;

(k) service performed in the employ of a hospital if such service is performed by a patient of the hospital;

(l) casual labor not in the course of an employer's trade or business performed in any calendar quarter, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service;

~~(m) insurance adjustment by a crop hail insurance adjuster.~~

(2) "Employment" does not include elected public officials.

(3) For the purposes of 39-51-203(6), the term "employment" does not apply to service performed:

(a) in the employ of a church or convention or association of churches or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(b) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(c) in the employ of a school which is not an

institution of higher education, prior to December 31, 1977;

(d) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(e) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or any agency of a state or political subdivision thereof by an individual receiving such work relief or work training; or

(f) for a state prison or other state correctional or custodial institution by an inmate of that institution."

Section 6. Section 80-2-201, MCA, is amended to read:

"80-2-201. Powers and duties of board of hail insurance. The board of hail insurance provided for in 2-15-3003:

(1) shall hold meetings when necessary and essential for the proper conduct of its business ~~at the state capital in the office of the director of agriculture who is secretary of the board;~~

(2) is hereby authorized, directed, and empowered to

1 make rules as it may from time to time find practical,  
2 necessary, and beneficial for the administration of this  
3 part;

4 (3) shall prescribe blank forms for all purposes  
5 necessary, proper, and incidental to the effective operation  
6 and enforcement of this part; and

7 (4) shall prescribe--a-special-form-outlining use-any  
8 appropriate--means--of--communication--to--inform--Montana  
9 producers--of the purposes, scope, and benefits of this part  
10 in furnishing protection against loss by hail at the actual  
11 cost of the risk to all taxpayers who may elect to become  
12 subject to the provisions of this part--the--form--to--be  
13 submitted--by-the-agent-of-the-department-of-revenue-in-each  
14 county-at-the-time--in--which--the--regular--assessments--of  
15 property--are--made--by--the--agents--to--each-farmer-in-each  
16 county-in-the-state-engaged-in-growing-of-crops--subject--to  
17 injury--or--destruction--by--hail--Each-such-farmer-taxpayer  
18 shall-signify-on-such-forms-whether--he--desires--to--become  
19 subject-to-the-provisions-of-this-part-or-not."

20 Section 7. Section 80-2-204, MCA, is amended to read:

21 "80-2-204. Duty of agent of the department of revenue  
22 -- election of benefits of law. It shall be the duty of the  
23 agent of the department of revenue in each county in the  
24 state--at-the-time-in-which--the--annual--assessment-of  
25 property-is-made, upon request to explain to each taxpayer

1 engaged in the growing of crops subject to injury or  
2 destruction by hail the provisions of this part and the  
3 protection afforded thereby and to request--each--such  
4 taxpayer--to--certify issue insurance policies, on the forms  
5 provided for such purpose, if such taxpayer desires to  
6 become subject to this part and liable for the tax levies  
7 provided hereby and thereby eligible to the benefits and  
8 protection of this part. Each such taxpayer who elects to  
9 become subject to this part shall be liable for the taxes  
10 levied for hail insurance and shall participate in the  
11 benefits and protection afforded by this part, provided that  
12 the owners of lands worked by others under lease or contract  
13 shall elect if such lands shall be subject to the tax levies  
14 herein provided for and the crops grown thereon protected  
15 for hail insurance, or the lessee of such land may tender  
16 payment of the tax levied for hail insurance to protect his  
17 crops, in cash, to the officer authorized to receive same,  
18 whereupon such crops shall become eligible to the benefits  
19 and protection afforded by this part for hail insurance."

20 Section 8. Section 80-2-208, MCA, is amended to read:

21 "80-2-208. Maximum insurance--When the reserve fund  
22 is determined actuarially sound, as provided in 80-2-220,  
23 the board may write not more than \$24 120 insurance on each  
24 acre of grain which is on nonirrigated land--and--not--more  
25 than--\$40 160 per acre on irrigated lands when more than one

1 party desires hail insurance on the same crops, each party is  
 2 entitled to the share of the maximum provided per acre as  
 3 represented by his interest in the crops. Either party may  
 4 insure his share in the crop for any amount up to and  
 5 including the maximum per acre if the others waive their  
 6 right to insure."

7 Section 8. Section 80-2-221, MCA, is amended to read:

8 "80-2-221. Tax for hail insurance -- limitation on  
 9 levy. (1) A tax is hereby authorized and directed to be  
 10 levied on all lands in this state growing crops subject to  
 11 injury or destruction by hail, the owners of which have  
 12 elected to become subject to the provisions of this part.

13 (2) The board of hail insurance shall annually  
 14 estimate, as accurately as possible, the amount required to  
 15 pay all losses, interest on warrants, and costs of  
 16 administration and shall recommend a levy to be made on each  
 17 kind of land respectively, subject to the provisions of this  
 18 part, to the department of revenue. The rates recommended to  
 19 apply on the lands of owners shall be applied in the same  
 20 proportions to the crops of those insured on a personal  
 21 assessment basis.

22 (3) It is hereby provided, however, that such tax may  
 23 not exceed in any one year \$2.40 per acre on lands sown to  
 24 grain crops on nonirrigated lands, \$4.80 per acre on  
 25 irrigated lands, or \$2.40 per acre on lands producing hay

1 crops.

2 (4) If the tax required to pay the estimated losses,  
 3 interest on warrants, and costs of administration is less  
 4 than \$1.20 per acre on lands sown to grain crops on  
 5 nonirrigated lands and \$2.40 per acre on irrigated lands and  
 6 a proportionate amount on lands sown to hay crops, the board  
 7 of hail insurance must recommend a tax levy sufficient to  
 8 raise the full amount thereof."

9 Section 9. Section 80-2-222, MCA, is amended to read:

10 "80-2-222. Board to establish amount of levy --  
 11 disposition of funds. (1) The board of hail insurance may,  
 12 when it considers it advisable, establish as many districts  
 13 as it considers advisable and may maintain maximum rates in  
 14 various parts of the state, which rates shall be  
 15 commensurate with the risk incurred as nearly as it can  
 16 determine from past experiences or from any records  
 17 available. The highest of these rates shall be the same as  
 18 the maximum established herein and the lowest may not be  
 19 less than \$1.20 per acre on lands sown to grain crops and a  
 20 proportionate amount on lands sown to hay crops.

21 (2) Notice of the various rates established for any  
 22 year shall be plainly printed on the application for hail  
 23 insurance, and in any year when the requirements of the hail  
 24 insurance tax as herein provided do not require a levy of  
 25 the maximum rates as established, then the rates for the

1 year shall be determined and levied by the board of hail  
2 insurance for each of the various districts as established,  
3 in such proportions as will in its judgment be fair and  
4 equitable.

5 (J) In making the levy provided in this section and  
6 80-2-223, the board of hail insurance shall provide for:

7 (a) the payment of all expenses of administration,  
8 together with all interest owed or to be owing on registered  
9 warrants;

10 (b) that portion of the losses incurred during the  
11 current year which are not paid from funds drawn from the  
12 reserve;

13 (c) the maintenance of the reserve, a part or all of  
14 which may be used in any one year for the purpose of paying  
15 the costs of administration, interest on the warrants, and  
16 losses as the same shall be settled and adjusted by the  
17 board, including the losses sustained in any prior year or  
18 years under the hail insurance law ~~during or subsequent to~~  
19 ~~the year 1919~~ that have not been paid.

20 (4) If at the end of any hail insurance season the  
21 board determines and finds that more funds are accumulating  
22 from the current year's levies than were estimated when the  
23 levy was made and are in excess of the need for the payment  
24 of losses and expenses and maintenance of the reserve, the  
25 board may, at its discretion, refund the excess to the

1 farmers insured for the year, on a pro rata or percentage  
2 basis.

3 (5) The board of hail insurance may direct the board  
4 of investments to invest funds from the agency fund pursuant  
5 to the provisions of the unified investment program for  
6 state funds. The income from such investments shall be  
7 credited to the board of hail insurance account in the  
8 agency fund."

9 Section 10. Section 80-2-224, MCA, is amended to read:

10 "80-2-224. Assessment -- notice -- when payable.  
11 Notice of such assessment shall be mailed by the county  
12 treasurer to each person insured in the same manner ~~and at~~  
13 ~~the same time as are all other~~ notices of property taxes  
14 due. The assessment shall be payable at the office of the  
15 county treasurer of each respective county."

16 Section 11. Section 80-2-228, MCA, is amended to read:

17 "80-2-228. Reserve fund. (1) Each year when the hail  
18 board makes its annual levy for the payment of current  
19 losses, expenses of administration, and for an addition to  
20 the reserve if conditions permit, it may not increase the  
21 levy enough in any year so that such addition to the reserve  
22 will exceed 5% of the maximum risk written for that year.

23 ~~(2) -- The reserve fund may not exceed \$4 million prior~~  
24 ~~to January 1, 1976 -- On January 1, 1976, and thereafter the~~  
25 ~~maximum permissible reserve fund shall be established as set~~

~~forth in subsection (3) of this section:~~

~~(3)(21) The board may engage the services of a qualified actuary to conduct an actuarial valuation of the reserve. This valuation shall include the actuary's determination of the amount of reserve necessary to absorb all reasonably anticipated catastrophic losses. This amount shall be the maximum permissible reserve fund for the next year.~~

~~(4)(31) The reserve hereby created shall be deposited in the agency fund, and the board is hereby granted the power to draw from its moneys in the fund such amounts as it considers necessary for the purpose of paying costs of administration, interest, and losses.~~

~~(5)(41) Whenever there are no unpaid losses for prior years and whenever in any one year the cost of administration, interest, and losses for the current year is less than the sum of 60 cents per acre on nonirrigated grains and a proportionate amount on irrigated grains and other crops, the board may not draw on the reserve for any purpose unless the amount required for the payment of losses for the current year, including interest on warrants and costs of administration, exceeds the amount of the estimate made by the board for the current year pursuant to 80-2-221."~~

SECTION 12. SECTION 80-2-232, MCA, IS AMENDED TO READ:

"80-2-232. State treasurer's duty -- transfer of funds -- warrants -- transfers to county and state general fund.

(1) The state treasurer shall receive all moneys paid to him under this part and shall place same to the credit of the agency fund and may from time to time transfer to the earmarked revenue fund such sums as the board of hail insurance may deem necessary and proper to pay the expenses of administration. All moneys collected by the board shall be deposited in the agency fund, and all losses shall be paid from that fund. All other costs are administrative expenses and shall be paid from the board's account in the earmarked revenue fund. If registered warrants be presented and there be no money to pay the same, such warrants shall be registered and thereafter bear interest at the rate of 4% per annum until called for payment by the state treasurer. If at any time more funds are in the earmarked revenue fund than the board estimates are needed for administrative expenses, the state treasurer may on the order of the board transfer such funds back to the agency fund as the board may direct.

(2) Upon warrants drawn by order of the board, the state treasurer shall pay out of the board's account in the agency fund to the county treasurer of each county where state hail insurance coverage is in force ~~at~~ 2% of the gross annual levies made and collected in such county under this

1 part for the use of the county as the board of county  
2 commissioners may determine.

3 (3) Upon authorization from the board of hail  
4 insurance, the state treasurer shall transfer out of the  
5 board's account in the agency fund to the general fund of  
6 the state of Montana ~~2% 1.5%~~ of the gross annual levies made  
7 and collected in the state of Montana."

8 Section 13. Section 80-2-241, MCA, is amended to read:

9 "80-2-241. Report of losses. All losses by hail to  
10 crops insured under this part shall be reported within 3 ~~14~~  
11 days thereafter by the owner of such crops, his agent or  
12 attorney, to the board of hail insurance, which shall  
13 require the claimant to make a statement of the losses  
14 sustained, the cause thereof, and such other information as  
15 the board may require on the forms to be provided for such  
16 purpose. If a loss is reported more than 14 days after it  
17 occurs, the board shall charge the claimant for all costs  
18 incurred in making the adjustment."

19 Section 14. Section 80-2-242, MCA, is amended to read:

20 "80-2-242. Appraisers -- appointment -- qualifications  
21 -- duties. (1) The ~~board of hail insurance department of~~  
22 ~~agriculture~~ shall as soon as practicable each year appoint  
23 ~~retain as independent contractors, under terms mutually~~  
24 ~~agreed upon, which may include benefits accorded state~~  
25 ~~employees,~~ a sufficient number of appraisers to appraise all

1 losses by hail incurred under this part in the various  
2 counties. The ~~men persons~~ so appointed shall be actively  
3 engaged in farming or shall have had practical experience in  
4 farming ~~and shall be selected from names submitted by~~  
5 ~~regularly organized farmers societies in the various~~  
6 ~~counties, if the recommendations are not made as provided~~  
7 ~~above, then the board shall select the appraisers from men~~  
8 ~~actively engaged in farming or men who have had practical~~  
9 ~~experience in farming as heretofore provided.~~

10 (2) The board may call on one or more of the duly  
11 appointed appraisers for the adjustment of each and every  
12 loss, and the said appraisers shall promptly report their  
13 findings to the board according to the rules provided by the  
14 board.

15 (3) No appraiser who shall be a relative, attorney,  
16 agent, employee, or creditor or in any manner interested by  
17 lien, mortgage, or otherwise in the crop injured or  
18 destroyed shall assist in adjusting any such loss.

19 (4) The board may ~~in case of emergency appoint more~~  
20 ~~than three appraisers in any county. Also it may~~ send any  
21 duly appointed appraiser or appraisers into any county as  
22 the occasion may require."

23 SECTION 15. SECTION 80-2-243, MCA, IS AMENDED TO READ:

24 "80-2-243. Disputed appraisal. (1) In case the party  
25 that has sustained the loss is dissatisfied with and refuses

1 to accept the adjustment made by the official appraiser,  
 2 then he shall have the right to appeal to the board of hail  
 3 insurance. He shall make such appeal by registered or  
 4 certified mail within 10 days after receiving the adjustment  
 5 offer of the board in writing. Also the board may require  
 6 the posting of a cash bond of ~~\$10~~ \$25 with the request for  
 7 reappraisal of the first adjustment. In cases where the  
 8 board requires the posting of the ~~\$10~~ \$25 bond, the board  
 9 may retain it if no increase is allowed. If an increase is  
 10 obtained, the board will return the bond to the claimant.

11 (2) In case the adjuster who makes the second  
 12 appraisal fails to secure an agreement, the claimant may at  
 13 his option submit the matter to arbitration as herein  
 14 provided or sue the board in the district court of the  
 15 county where the loss occurred, within 90 days from the date  
 16 of receipt of written notice of the second appraisal. Such  
 17 actions shall be trials de novo and the Montana Rules of  
 18 Civil Procedure shall apply. Where any claimant demands  
 19 arbitration, he shall, if required by the board, furnish a  
 20 cash bond to the board in the sum of ~~\$25~~ \$50 which shall  
 21 accompany his application. If there is not sufficient  
 22 allowance made to any claimant after arbitration to cover  
 23 the cost of arbitration without the use of the ~~\$25~~ \$50 bond,  
 24 then the board may use a part or all of said cash bond. In  
 25 cases where the claimant secures an increase, the bond shall

1 be promptly returned to the claimant. If the claimant  
 2 elects to submit the matter to arbitration, he shall then  
 3 appoint one disinterested person as appraiser and the  
 4 official appraiser shall appoint another person as appraiser  
 5 and the two shall select a third disinterested person and  
 6 the three shall then proceed to adjust the loss in the same  
 7 manner as specified in 80-2-242. The judgment of the  
 8 majority shall be the judgment of said appraisers and shall  
 9 be binding upon both parties as the final determination of  
 10 said loss.

11 (3) (a) If the insured does not recover a greater sum  
 12 than allowed by the official appraiser in the first  
 13 instance, he shall pay the expenses of the three appraisers  
 14 and their witnesses in making said adjustment, but if he is  
 15 awarded a larger sum, then the same shall be paid by the  
 16 board.

17 (b) If the insured shall be required to pay the  
 18 expenses of such reappraisement as above provided, the board  
 19 is hereby authorized to deduct the amount of such expenses  
 20 from the amount allowed said insured before making  
 21 settlement for said loss.

22 (4) The board shall examine all reports of appraisers  
 23 and verify the same and adjust all losses and for such  
 24 purposes may order hearings, subpoena witnesses, conduct  
 25 examinations, and do all things necessary to secure a fair

1 and impartial appraisal of losses by hail."

2 Section 16. Section 80-2-244, MCA, is amended to read:

3 "80-2-244. Payment of losses. (1) The board of hail  
4 insurance shall, as soon as practicable after the loss has  
5 been sustained, arrange for the payment of the loss in the  
6 following manner. From the amount of the loss as adjusted  
7 for each claimant, the board shall deduct the amount the  
8 claimant then owes as delinquent hail insurance tax and the  
9 maximum amount assessed as hail insurance tax for the  
10 current year ~~and shall make settlement within 40 days from~~  
11 ~~the time loss is sustained by paying, either by registered~~  
12 ~~warrant or otherwise if funds are immediately available, 50%~~  
13 ~~of the total loss as agreed upon, less the maximum rate of~~  
14 ~~assessment. The balance shall be paid at the expiration of~~  
15 ~~the hail season.~~

16 (2) The board shall on or before November 1 order  
17 payment for the amount so deducted, which payment shall be  
18 remitted to the county treasurer of the county in which the  
19 tax was assessed. The board shall then order payment for the  
20 balance of the adjustment to be sent to the claimant,  
21 provided that in no case may the payment for loss exceed \$24  
22 ~~\$20~~ ~~\$24~~ per acre for grain crops on nonirrigated lands, \$40  
23 ~~\$60~~ ~~\$13~~ per acre on irrigated lands ~~and \$24 \$20 per acre on~~  
24 ~~hay crops.~~ No claimant may receive payment for any loss  
25 incurred where the loss does not equal or exceed 5% of the

1 total value of the crop insured. If the losses in any year  
2 exceed the current levy plus the reserve, if any, then the  
3 payment of all losses shall be prorated, share and share  
4 alike, among all grain growers having loss claims adjusted  
5 and approved, and the unpaid balance of the losses shall be  
6 paid out of the reserve without interest in such order as  
7 the board directs, when in the judgment of the board there  
8 are sufficient moneys to provide for the payment of the same  
9 and other items payable out of the reserve. In any year the  
10 board may by resolution authorize its chairman and secretary  
11 to borrow as needed from any person, bank, or corporation  
12 such sum or sums of money as the board may consider  
13 necessary for the purpose of paying all warrants as issued.

14 (3) For any moneys borrowed under the provisions of  
15 this part, the board shall cause warrants to be drawn. The  
16 warrants shall bear interest at not to exceed 6% a year, and  
17 the warrants and the interest thereon shall be paid out of  
18 funds from the state hail insurance program as they are  
19 collected from the various counties in the state. The board  
20 may not at any time borrow a total sum greater than the  
21 amount of levies as made for taxes for the current year  
22 together with such delinquent taxes as remain unpaid on the  
23 books of the county treasurer."

24 ~~NEW SECTION.~~ Section 17. Effective date. This act is  
25 effective on passage and approval.



April 19, 1983

CONFERENCE COMMITTEE ON SENATE BILL NO. 317

MR. PRESIDENT AND SPEAKER OF THE HOUSE:

We, your Conference Committee on Senate Bill No. 317, met on April 19, 1983, and considered:

House Agriculture, Livestock and Irrigation Committee Amendments to the third reading (blue copy), dated March 14, 1983; and recommend as follows:

That the House recede from all House Agriculture, Livestock and Irrigation Committee Amendments dated March 14, 1983; and

That the reference copy of Senate Bill No. 317 read as specified in the CLERICAL INSTRUCTIONS;

And, that the Conference Committee Report on Senate Bill No. 317 be adopted.

CLERICAL INSTRUCTIONS:

1. Page 17, line 7.

Following: "(4)"

Strike: "may"

Insert: "shall"

2. Page 17, line 8.

Following: "communication"

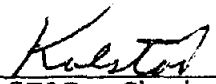
Strike: "not to exceed \$1500 in cost per year"

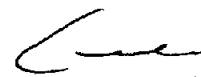
3. Page 17, line 7.

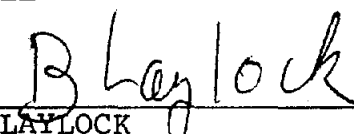
Following: "use"

Insert: "any"


FOR THE SENATE:

  
KOLSTAD, Chairman

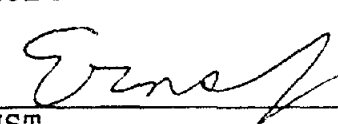
  
LEE

  
BLAYLOCK

FOR THE HOUSE:

  
JACOBSON, Chairman

  
MANUEL

  
ERNST

GOVERNOR'S PROPOSED AMENDMENTS  
TO SENATE BILL NO. 317  
REFERENCE BILL

1. Title, lines 9 and 10  
Following: "PROGRAM;" on line 9  
Strike: "EXCLUDING CROP HAIL INSURANCE ADJUSTMENT  
FROM CERTAIN EMPLOYMENT LAWS;
2. Title, line 12  
Following: "2-15-3003,"  
Strike: "39-3-406, 39-51-204,"
3. Page 12, lines 5 and 6  
Following: Line 4  
Strike: "(n) an individual working as a crop hail  
insurance adjuster."
4. Page 15, lines 10 and 11  
Following: "service;" on line 9  
Strike: "(m) insurance adjustment by a crop hail insurance  
adjuster."
5. Page 25, lines 24 and 25 and line 1 on page 26  
Following: "retain" on page 25, line 24  
Strike: "as independent contractors, under terms mutually  
agreed upon, which may include benefits accorded  
state employees,"

## SENATE BILL NO. 317

INTRODUCED BY BLAYLOCK,

HINSL, GRAHAM, GAGE

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF HAIL INSURANCE UNDER EXISTING STATUTORY AUTHORITY AND RULES; REVISING PROVISIONS RELATING TO THE BOARD AND TO THE HAIL INSURANCE PROGRAM; EXCLUDING CROP HAIL INSURANCE ADJUSTMENT FROM CERTAIN EMPLOYMENT LAWS; REMOVING RATE LIMITS; ~~INCREASING---COVERAGE---LIMITS~~; AMENDING SECTIONS 2-8-103, 2-15-3003, 39-3-406, 39-51-204, 80-2-201, 80-2-204, ~~80-2-200~~, 80-2-221, 80-2-222, 80-2-224, 80-2-228, ~~80-2-232~~, 80-2-241, ~~80-2-242~~, AND THROUGH 80-2-244, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Board of Hail Insurance and requires a performance evaluation of the Board by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation the Legislative Audit Committee recommends that the Board of Hail Insurance be reestablished.

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

~~NEW SECTION.~~ Section 1. Reestablishment. The board of hail insurance, created by 2-15-3003, is reestablished under existing statutory authority and rules for 6 years pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read: "2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by

1 2-15-1607;  
 2 (d) board of podiatry examiners, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1608;  
 5 (3) The following units of state government shall  
 6 terminate on July 1, 1983:  
 7 (a) board of aeronautics, department of commerce,  
 8 created by 2-15-1812;  
 9 ~~(b) state board of health insurance, department of~~  
 10 ~~agriculture, created by 2-15-3003;~~  
 11 ~~(c) board of horseracing, department of commerce,~~  
 12 ~~created by 2-15-1881;~~  
 13 ~~(d) board of livestock, department of livestock,~~  
 14 ~~created by 2-15-3102;~~  
 15 ~~(e) board of milk control, department of commerce,~~  
 16 ~~created by 2-15-1802;~~  
 17 ~~(f) board of oil and gas conservation, department~~  
 18 ~~of natural resources and conservation, created by 2-15-3303;~~  
 19 ~~(g) Montana outfitters' council, department of~~  
 20 ~~fish, wildlife, and parks, created by 2-15-3403;~~  
 21 ~~(h) public service commission, department of public~~  
 22 ~~service regulation, created by 69-1-102;~~  
 23 ~~(i) board of water and wastewater operators,~~  
 24 ~~department of health and environmental sciences, created by~~  
 25 ~~2-15-2105;~~

1 ~~(j) board of water well contractors, department of~~  
 2 ~~commerce, created by 2-15-1862.~~  
 3 (4) The following agencies terminate on July 1, 1985:  
 4 (a) the board of public accountants, department of  
 5 commerce, created by 2-15-1866;  
 6 (b) the board of architects, department of commerce,  
 7 created by 2-15-1871;  
 8 (c) state banking board, department of commerce,  
 9 created by 2-15-1803;  
 10 (d) the state electrical board, department of  
 11 commerce, created by 2-15-1874;  
 12 (e) the board of professional engineers and land  
 13 surveyors, department of commerce, created by 2-15-1873;  
 14 (f) office of commissioner of insurance and the  
 15 insurance department, state auditor's office, created by  
 16 2-15-1902 and 2-15-1903;  
 17 (g) office of the securities commissioner, state  
 18 auditor's office, created by 2-15-1901;  
 19 (h) the board of landscape architects, department of  
 20 commerce, created by 2-15-1872;  
 21 (i) the board of county printing, department of  
 22 commerce, created by 2-15-1811;  
 23 (j) the board of plumbers, department of commerce,  
 24 created by 2-15-1875;  
 25 (k) board of physical therapy examiners, department of

1 commerce, created by 2-15-1858.

2 (5) The following agencies terminate on July 1, 1987:

3 (a) commission for human rights, department of labor

4 and industry, created by 2-15-1706;

5 (b) Montana state board of medical examiners,

6 department of commerce, created by 2-15-1841;

7 (c) board of dentistry, department of commerce,

8 created by 2-15-1842;

9 (d) board of pharmacists, department of commerce,

10 created by 2-15-1843;

11 (e) board of nursing, department of commerce, created

12 by 2-15-1844;

13 (f) board of nursing home administrators, department

14 of commerce, created by 2-15-1845;

15 (g) board of optometrists, department of commerce,

16 created by 2-15-1846;

17 (h) board of chiropractors, department of commerce,

18 created by 2-15-1847;

19 (i) board of radiologic technologists, department of

20 commerce, created by 2-15-1848;

21 (j) board of speech pathologists and audiologists,

22 department of commerce, created by 2-15-1849;

23 (k) board of hearing aid dispensers, department of

24 commerce, created by 2-15-1850;

25 (l) board of psychologists, department of commerce,

1 created by 2-15-1851;

2 (m) board of veterinarians, department of commerce,

3 created by 2-15-1852;

4 (n) board of morticians, department of commerce,

5 created by 2-15-1853;

6 (o) board of barbers, department of commerce, created

7 by 2-15-1856;

8 (p) board of cosmetologists, department of commerce,

9 created by 2-15-1857;

10 (q) board of sanitarians, department of commerce,

11 created by 2-15-1861;

12 (r) board of veterans' affairs, department of social

13 and rehabilitation services, created by 2-15-2202.

14 ~~(5) The following agency terminates July 1, 1989:~~

15 ~~board of hail insurance, department of agriculture, created~~

16 ~~by 2-15-3003.~~

17 Section 3. Section 2-15-3003, MCA, is amended to read:

18 "2-15-3003. Board of hail insurance. (1) There is a

19 board of hail insurance of five members consisting of the

20 state auditor, the director of agriculture, who is secretary

21 of the board, and three other members to be appointed by the

22 governor from names submitted by farmer organizations having

23 a general membership throughout the state and confirmed by

24 the senate.

25 (2) The governor shall designate one of the appointive

1 members to act as chairman of the board.

2 (3) Whenever the term of any member expires, either by  
3 death, resignation, removal for cause, or expiration of his  
4 term of office, the governor shall appoint his successor and  
5 shall also appoint one of the board for chairman in case of  
6 a vacancy in that office.

7 (4) Each appointive member of the board shall be  
8 appointed for 3 years, except when such appointment is made  
9 to fill a vacancy on the board, in which event such  
10 appointee shall fill out the unexpired term of the member  
11 whose place he fills.

12 (5) All members of the board shall be subject to  
13 removal for cause by the governor.

14 (6) The board is allocated to the department of  
15 agriculture for administrative purposes only as prescribed  
16 in 2-15-121. ~~The department may charge the board for~~  
17 ~~services provided by the department pursuant to 2-15-121.~~  
18 ~~The costs charged by the department must be commensurate~~  
19 ~~with the cost of the services provided."~~

20 Section 4. Section 39-3-406, MCA, is amended to read:

21 "39-3-406. Exclusions. (1) The provisions of 39-3-404  
22 and 39-3-405 shall not apply with respect to:

23 (a) students participating in a distributive education  
24 program established under the auspices of an accredited  
25 educational agency;

1 (b) persons employed in private homes whose duties  
2 consist of menial chores such as babysitting, mowing lawns,  
3 cleaning sidewalks;

4 (c) persons employed directly by the head of a  
5 household to care for children dependent upon the head of  
6 the household;

7 (d) immediate members of the family of an employer or  
8 persons dependent upon an employer for half or more of their  
9 support in the customary sense of being a dependent;

10 (e) any persons not regular employees thereof who  
11 voluntarily offer their services to a nonprofit organization  
12 on a fully or partially reimbursed basis;

13 (f) handicapped workers engaged in work which is  
14 incidental to training or evaluation programs or whose  
15 earning capacity is so severely impaired that they are  
16 unable to engage in competitive employment;

17 (g) apprentices or learners, who may be exempted by  
18 the commissioner for a period not to exceed 30 days of their  
19 employment;

20 (h) learners under the age of 18 who are employed as  
21 farm workers, provided that such exclusion shall not exceed  
22 a period of 180 days from their initial date of employment  
23 and further provided that during this exclusion period wages  
24 paid such learners may not be less than 50% of the minimum  
25 wage rate established in this part;

(i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;

(j) any individual employed in a bona fide executive, administrative, or professional capacity as these terms are defined and delimited by regulations of the commissioner;

(k) any individual employed by the United States of America.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

(b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) a salesman, partsman, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers;

(e) a salesman primarily engaged in selling trailers, boats, or aircraft if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(f) an employee employed as a driver or driver's helper making local deliveries who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the commissioner finds that such plan has the general purpose and effect of reducing hours worked by such employees to or below the maximum workweek applicable to them under 39-3-405;

(g) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop basis and which are used exclusively for supply and storing of water for agricultural purposes;

(h) an employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee is:

(i) primarily employed during his workweek in agriculture by such farmer; and

1 (ii) paid for his employment in connection with such  
2 livestock auction operations at a wage rate not less than  
3 that prescribed by 39-3-404;

4 (i) an employee of an establishment commonly  
5 recognized as a country elevator, including an establishment  
6 which sells products and services used in the operation of a  
7 farm, if no more than five employees are employed by the  
8 establishment;

9 (j) a driver employed by an employer engaged in the  
10 business of operating taxicabs;

11 (k) an employee who is employed with his spouse by a  
12 nonprofit educational institution to serve as the parents of  
13 children who are orphans or one of whose natural parents is  
14 deceased or who are enrolled in such institution and reside  
15 in residential facilities of the institution so long as the  
16 children are in residence at the institution and so long as  
17 such employee and his spouse reside in such facilities and  
18 receive, without cost, board and lodging from the  
19 institution and are together compensated, on a cash basis,  
20 at an annual rate of not less than \$10,000;

21 (l) an employee employed in planting or tending trees;  
22 cruising, surveying, or felling timber; or transporting logs  
23 or other forestry products to a mill, processing plant,  
24 railroad, or other transportation terminal if the number of  
25 employees employed by his employer in such forestry or

1 lumbering operations does not exceed eight; or

2 (m) an employee of a sheriff's department who is  
3 working under an established work period in lieu of a  
4 workweek pursuant to 7-4-2509(1)w.i.g.c.

5 ~~(n) an individual working as a crop hail insurance~~  
6 ~~adjuster."~~

7 Section 5. Section 39-51-204, MCA, is amended to read:

8 "39-51-204. Exclusions from definition of employment.

9 (1) The term "employment" does not include:

10 (a) agricultural labor, except as provided in  
11 39-51-203(8);

12 (b) domestic service in a private home, local college  
13 club, or local chapter of a college fraternity or sorority,  
14 except as provided in 39-51-203(9);

15 (c) service performed as an officer or member of the  
16 crew of a vessel on the navigable waters of the United  
17 States;

18 (d) service performed by an individual in the employ  
19 of his son, daughter, or spouse and service performed by a  
20 child under the age of 18 in the employ of his father or  
21 mother;

22 (e) service performed in the employ of any other state  
23 or its political subdivisions or of the United States  
24 government or of an instrumentality of any other state or  
25 states or their political subdivisions or of the United



1 States, except that national banks organized under the  
 2 national banking law shall not be entitled to exemption  
 3 under this subsection and shall be subject to this chapter  
 4 the same as state banks, provided that such service is  
 5 excluded from employment as defined in the Federal  
 6 Unemployment Tax Act by section 3306(c)(7) of that act;

7 (f) service with respect to which unemployment  
 8 insurance is payable under an unemployment insurance system  
 9 established by an act of congress, provided that the  
 10 department must enter into agreements with the proper  
 11 agencies under such act of congress, which agreements shall  
 12 become effective in the manner prescribed in the Montana  
 13 Administrative Procedure Act for the adoption of rules, to  
 14 provide reciprocal treatment to individuals who have, after  
 15 acquiring potential rights to benefits under this chapter,  
 16 acquired rights to unemployment insurance under such act of  
 17 congress or who have, after acquiring potential rights to  
 18 unemployment insurance under such act of congress, acquired  
 19 rights to benefits under this chapter;

20 (g) services performed in the delivery and  
 21 distribution of newspapers or shopping news from house to  
 22 house and business establishments by an individual under the  
 23 age of 18 years, but not including the delivery or  
 24 distribution to any point or points for subsequent delivery  
 25 or distribution;

1 (h) services performed by real estate, securities, and  
 2 insurance salesmen paid solely by commissions and without  
 3 guarantee of minimum earnings;

4 (i) service performed in the employ of a school,  
 5 college, or university if such service is performed by a  
 6 student who is enrolled and is regularly attending classes  
 7 at such school, college, or university or by the spouse of  
 8 such a student if such spouse is advised, at the time such  
 9 spouse commences to perform such service, that the  
 10 employment of such spouse to perform such service is  
 11 provided under a program to provide financial assistance to  
 12 such student by such school, college, or university and such  
 13 employment will not be covered by any program of  
 14 unemployment insurance;

15 (j) service performed by an individual under the age  
 16 of 22 who is enrolled at a nonprofit or public educational  
 17 institution, which normally maintains a regular faculty and  
 18 curriculum and normally has a regularly organized body of  
 19 students in attendance at the place where its educational  
 20 activities are carried on, as a student in a full-time  
 21 program taken for credit at such institution which combines  
 22 academic instruction with work experience if such service is  
 23 an integral part of such program and such institution has so  
 24 certified to the employer, except that this subsection shall  
 25 not apply to service performed in a program established for

1 or on behalf of an employer or group of employers;

2 (k) service performed in the employ of a hospital if

3 such service is performed by a patient of the hospital;

4 (l) casual labor not in the course of an employer's

5 trade or business performed in any calendar quarter, unless

6 the cash remuneration paid for such service is \$50 or more

7 and such service is performed by an individual who is

8 regularly employed by such employer to perform such

9 service;

10 ~~(m) insurance adjustment by a crop hail insurance~~

11 ~~adjuster.~~

12 (2) "Employment" does not include elected public

13 officials.

14 (3) For the purposes of 39-51-203(6), the term

15 "employment" does not apply to service performed:

16 (a) in the employ of a church or convention or

17 association of churches or an organization which is operated

18 primarily for religious purposes and which is operated,

19 supervised, controlled, or principally supported by a church

20 or convention or association of churches;

21 (b) by a duly ordained, commissioned, or licensed

22 minister of a church in the exercise of his ministry or by a

23 member of a religious order in the exercise of duties

24 required by such order;

25 (c) in the employ of a school which is not an

1 institution of higher education, prior to December 31, 1977;

2 (d) in a facility conducted for the purpose of

3 carrying out a program of rehabilitation for individuals

4 whose earning capacity is impaired by age or physical or

5 mental deficiency or injury or providing remunerative work

6 for individuals who, because of their impaired physical or

7 mental capacity, cannot be readily absorbed in the

8 competitive labor market by an individual receiving such

9 rehabilitation or remunerative work;

10 (e) as part of an unemployment work-relief or

11 work-training program assisted or financed in whole or in

12 part by a federal agency or any agency of a state or

13 political subdivision thereof by an individual receiving

14 such work relief or work training; or

15 (f) for a state prison or other state correctional or

16 custodial institution by an inmate of that institution."

17 Section 6. Section 80-2-201, MCA, is amended to read:

18 "80-2-201. Powers and duties of board of hail

19 insurance. The board of hail insurance provided for in

20 2-15-3003:

21 (1) shall hold meetings when necessary and essential

22 for the proper conduct of its business ~~at the state capitol~~

23 ~~in the office of the director of agriculture who is~~

24 ~~secretary of the board;~~

25 (2) is hereby authorized, directed, and empowered to

1 make rules as it may from time to time find practical,  
2 necessary, and beneficial for the administration of this  
3 part;

4 (3) shall prescribe blank forms for all purposes  
5 necessary, proper, and incidental to the effective operation  
6 and enforcement of this part; and

7 (4) shall prescribe ~~a special form outlining use any~~  
8 ~~appropriate means of communication to inform Montana~~  
9 ~~producers of the purposes, scope, and benefits of this part~~  
10 ~~in furnishing protection against loss by hail at the actual~~  
11 ~~cost of the risk to all taxpayers who may elect to become~~  
12 ~~subject to the provisions of this part--the--form--to--be~~  
13 ~~submitted--by--the--agent--of--the--department--of--revenue--in--each~~  
14 ~~county--at--the--time--in--which--the--regular--assessments--of~~  
15 ~~property--are--made--by--the--agents--to--each--farmer--in--each~~  
16 ~~county--in--the--state--engaged--in--growing--of--crops--subject--to~~  
17 ~~injury--or--destruction--by--hail--Each--such--farmer--taxpayer~~  
18 ~~shall signify on such forms whether he desires to become~~  
19 ~~subject to the provisions of this part or not."~~

20 Section 7. Section 80-2-204, MCA, is amended to read:  
21 "80-2-204. Duty of agent of the department of revenue  
22 -- election of benefits of law. It shall be the duty of the  
23 agent of the department of revenue in each county in the  
24 state ~~at the time in which the annual assessment of~~  
25 ~~property is made~~ upon request to explain to each taxpayer

1 engaged in the growing of crops subject to injury or  
2 destruction by hail the provisions of this part and the  
3 protection afforded thereby and to request ~~each such~~  
4 ~~taxpayer to certify issue insurance policies~~, on the forms  
5 provided for such purpose, if such taxpayer desires to  
6 become subject to this part and liable for the tax levies  
7 provided hereby and thereby eligible to the benefits and  
8 protection of this part. Each such taxpayer who elects to  
9 become subject to this part shall be liable for the taxes  
10 levied for hail insurance and shall participate in the  
11 benefits and protection afforded by this part, provided that  
12 the owners of lands worked by others under lease or contract  
13 shall elect if such lands shall be subject to the tax levies  
14 herein provided for and the crops grown thereon protected  
15 for hail insurance, or the lessee of such land may tender  
16 payment of the tax levied for hail insurance to protect his  
17 crops, in cash, to the officer authorized to receive same,  
18 whereupon such crops shall become eligible to the benefits  
19 and protection afforded by this part for hail insurance."

20 Section 8. ~~Section 80-2-208, MCA, is amended to read:~~  
21 ~~"80-2-208. Maximum insurance--When the reserve fund~~  
22 ~~is determined actuarially sound, as provided in 80-2-220,~~  
23 ~~the board may write not more than \$24 128 insurance on each~~  
24 ~~acre of grain which is on nonirrigated land and not more~~  
25 ~~than \$48 240 per acre on irrigated lands when more than one~~

1 party desires hail insurance on the same crops, each party is  
2 entitled to the share of the maximum provided per acre as  
3 represented by his interest in the crops. Either party may  
4 insure his share in the crop for any amount up to and  
5 including the maximum per acre if the others waive their  
6 right to insure."

7 Section 8. Section 80-2-221, MCA, is amended to read:

8 "80-2-221. Tax for hail insurance --- limitation on  
9 levy. (1) A tax is hereby authorized and directed to be  
10 levied on all lands in this state growing crops subject to  
11 injury or destruction by hail, the owners of which have  
12 elected to become subject to the provisions of this part.

13 (2) The board of hail insurance shall annually  
14 estimate, as accurately as possible, the amount required to  
15 pay all losses, interest on warrants, and costs of  
16 administration and shall recommend a levy to be made on each  
17 kind of land respectively, subject to the provisions of this  
18 part, to the department of revenue. The rates recommended to  
19 apply on the lands of owners shall be applied in the same  
20 proportions to the crops of those insured on a personal  
21 assessment basis.

22 (3) --- it is hereby provided, however, that such tax may  
23 not exceed in any one year \$2.48 per acre on lands sown to  
24 grain crops on nonirrigated lands, \$4.80 per acre on  
25 irrigated lands, or \$2.48 per acre on lands producing hay

1 crops

2 (4) --- if the tax required to pay the estimated losses  
3 interest on warrants and costs of administration is less  
4 than \$1.20 per acre on lands sown to grain crops on  
5 nonirrigated lands and \$2.48 per acre on irrigated lands and  
6 a proportionate amount on lands sown to hay crops, the board  
7 of hail insurance must recommend a tax levy sufficient to  
8 raise the full amount thereof."

9 Section 9. Section 80-2-222, MCA, is amended to read:

10 "80-2-222. Board to establish amount of levy --  
11 disposition of funds. (1) The board of hail insurance may,  
12 when it considers it advisable, establish as many districts  
13 as it considers advisable and may maintain maximum rates in  
14 various parts of the state, which rates shall be  
15 commensurate with the risk incurred as nearly as it can  
16 determine from past experiences or from any records  
17 available. The highest of these rates shall be the same as  
18 the maximum established herein and the lowest may not be  
19 less than \$1.20 per acre on lands sown to grain crops and an  
20 proportionate amount on lands sown to hay crops.

21 (2) Notice of the various rates established for any  
22 year shall be plainly printed on the application for hail  
23 insurance, and in any year when the requirements of the hail  
24 insurance law as herein provided do not require a levy of  
25 the maximum rates as established, then the rates for the

year shall be determined and levied by the board of hail insurance for each of the various districts as established, in such proportions as will in its judgment be fair and equitable.

(d) In making the levy provided in this section and 80-2-223, the board of hail insurance shall provide for:

(a) the payment of all expenses of administration, together with all interest owed or to be owing on registered warrants;

(b) that portion of the losses incurred during the current year which are not paid from funds drawn from the reserve;

(c) the maintenance of the reserve, a part or all of which may be used in any one year for the purpose of paying the costs of administration, interest on the warrants, and losses as the same shall be settled and adjusted by the board, including the losses sustained in any prior year or years under the hail insurance law during-or-subsequent-to the-year-1919 that have not been paid.

(4) If at the end of any hail insurance season the board determines and finds that more funds are accumulating from the current year's levies than were estimated when the levy was made and are in excess of the need for the payment of losses and expenses and maintenance of the reserve, the board may, at its discretion, refund the excess to the

farmers insured for the year, on a pro rata or percentage basis.

(5) The board of hail insurance may direct the board of investments to invest funds from the agency fund pursuant to the provisions of the unified investment program for state funds. The income from such investments shall be credited to the board of hail insurance account in the agency fund."

Section 10. Section 80-2-224, MCA, is amended to read:

"80-2-224. Assessment -- notice -- when payable. Notice of such assessment shall be mailed by the county treasurer to each person insured in the same manner and at the same time as are all other notices of property taxes due. The assessment shall be payable at the office of the county treasurer of each respective county."

Section 11. Section 80-2-228, MCA, is amended to read:

"80-2-228. Reserve fund. (1) Each year when the hail board makes its annual levy for the payment of current losses, expenses of administration, and for an addition to the reserve if conditions permit, it may not increase the levy enough in any year so that such addition to the reserve will exceed 5% of the maximum risk written for that year.

(2) --The reserve fund may not exceed \$4 million prior to January 1, 1976 -- On January 1, 1976, and thereafter, the maximum permissible reserve fund shall be established as set

1 ~~forth in subsection (3) of this section.~~

2 ~~(3)(2)~~ The board may engage the services of a  
3 qualified actuary to conduct an actuarial valuation of the  
4 reserve. This valuation shall include the actuary's  
5 determination of the amount of reserve necessary to absorb  
6 all reasonably anticipated catastrophic losses. This amount  
7 shall be the maximum permissible reserve fund for the next  
8 year.

9 ~~(4)(3)~~ The reserve hereby created shall be deposited  
10 in the agency fund, and the board is hereby granted the  
11 power to draw from its moneys in the fund such amounts as it  
12 considers necessary for the purpose of paying costs of  
13 administration, interest, and losses.

14 ~~(5)(4) Whenever there are no unpaid losses for prior~~  
15 ~~years and whenever in any one year the cost of~~  
16 ~~administration, interest, and losses for the current year is~~  
17 ~~less than the sum of 60 cents per acre on nonirrigated~~  
18 ~~grains and a proportionate amount on irrigated grains and~~  
19 ~~other crops, the~~ The board may not draw on the reserve for  
20 any purpose unless the amount required for the payment of  
21 losses for the current year, including interest on warrants  
22 and costs of administration, exceeds the amount of the  
23 estimate made by the board for the current year pursuant to  
24 80-2-221.

25 SECTION 12. SECTION 80-2-232, MCA, IS AMENDED TO READ:

1 "80-2-232. State treasurer's duty -- transfer of funds  
2 -- warrants -- transfers to county and state general fund.  
3 (1) The state treasurer shall receive all moneys paid to him  
4 under this part and shall place same to the credit of the  
5 agency fund and may from time to time transfer to the  
6 earmarked revenue fund such sums as the board of hail  
7 insurance may deem necessary and proper to pay the expenses  
8 of administration. All moneys collected by the board shall  
9 be deposited in the agency fund, and all losses shall be  
10 paid from that fund. All other costs are administrative  
11 expenses and shall be paid from the board's account in the  
12 earmarked revenue fund. If registered warrants be presented  
13 and there be no money to pay the same, such warrants shall  
14 be registered and thereafter bear interest at the rate of 4%  
15 per annum until called for payment by the state treasurer.  
16 If at any time more funds are in the earmarked revenue fund  
17 than the board estimates are needed for administrative  
18 expenses, the state treasurer may on the order of the board  
19 transfer such funds back to the agency fund as the board may  
20 direct.

21 (2) Upon warrants drawn by order of the board, the  
22 state treasurer shall pay out of the board's account in the  
23 agency fund to the county treasurer of each county where  
24 state hail insurance coverage is in force ~~1%~~ 2% of the gross  
25 annual levies made and collected in such county under this

1 part for the use of the county as the board of county  
2 commissioners may determine.

3 (3) Upon authorization from the board of hail  
4 insurance, the state treasurer shall transfer out of the  
5 board's account in the agency fund to the general fund of  
6 the state of Montana ~~2%~~ 1.5% of the gross annual levies made  
7 and collected in the state of Montana."

8 Section 13. Section 80-2-241, MCA, is amended to read:

9 "80-2-241. Report of losses. All losses by hail to  
10 crops insured under this part shall be reported within ~~3~~ 14  
11 days thereafter by the owner of such crops, his agent or  
12 attorney, to the board of hail insurance, which shall  
13 require the claimant to make a statement of the losses  
14 sustained, the cause thereof, and such other information as  
15 the board may require on the forms to be provided for such  
16 purpose. If a loss is reported more than 14 days after it  
17 occurs, the board shall charge the claimant for all costs  
18 incurred in making the adjustment."

19 Section 14. Section 80-2-242, MCA, is amended to read:

20 "80-2-242. Appraisers -- appointment -- qualifications  
21 -- duties. (1) The ~~board of hail insurance department of~~  
22 ~~agriculture~~ shall as soon as practicable each year appoint  
23 retain as independent contractors, under terms mutually  
24 agreed upon, which may include benefits accorded state  
25 employees, a sufficient number of appraisers to appraise all

1 losses by hail incurred under this part in the various  
2 counties. The ~~men persons~~ so appointed shall be actively  
3 engaged in farming or shall have had practical experience in  
4 farming ~~and shall be selected from names submitted by~~  
5 ~~regularly organized farmers societies in the various~~  
6 ~~counties. If the recommendations are not made as provided~~  
7 ~~above, then the board shall select the appraisers from men~~  
8 ~~actively engaged in farming or men who have had practical~~  
9 ~~experience in farming as heretofore provided.~~

10 (2) The board may call on one or more of the duly  
11 appointed appraisers for the adjustment of each and every  
12 loss, and the said appraisers shall promptly report their  
13 findings to the board according to the rules provided by the  
14 board.

15 (3) No appraiser who shall be a relative, attorney,  
16 agent, employee, or creditor or in any manner interested by  
17 lien, mortgage, or otherwise in the crop injured or  
18 destroyed shall assist in adjusting any such loss.

19 (4) The board may ~~in case of emergency appoint more~~  
20 ~~than three appraisers in any county. Also it may~~ send any  
21 duly appointed appraiser or appraisers into any county as  
22 the occasion may require."

23 SECTION 15. SECTION 80-2-243, MCA, IS AMENDED TO READ:

24 "80-2-243. Disputed appraisal. (1) In case the party  
25 that has sustained the loss is dissatisfied with and refuses

1 to accept the adjustment made by the official appraiser,  
2 then he shall have the right to appeal to the board of hail  
3 insurance. He shall make such appeal by registered or  
4 certified mail within 10 days after receiving the adjustment  
5 offer of the board in writing. Also the board may require  
6 the posting of a cash bond of ~~\$10~~ \$25 with the request for  
7 reappraisal of the first adjustment. In cases where the  
8 board requires the posting of the ~~\$10~~ \$25 bond, the board  
9 may retain it if no increase is allowed. If an increase is  
10 obtained, the board will return the bond to the claimant.

11 (2) In case the adjuster who makes the second  
12 appraisal fails to secure an agreement, the claimant may at  
13 his option submit the matter to arbitration as herein  
14 provided or sue the board in the district court of the  
15 county where the loss occurred, within 90 days from the date  
16 of receipt of written notice of the second appraisal. Such  
17 actions shall be trials de novo and the Montana Rules of  
18 Civil Procedure shall apply. Where any claimant demands  
19 arbitration, he shall, if required by the board, furnish a  
20 cash bond to the board in the sum of ~~\$25~~ \$50 which shall  
21 accompany his application. If there is not sufficient  
22 allowance made to any claimant after arbitration to cover  
23 the cost of arbitration without the use of the ~~\$25~~ \$50 bond,  
24 then the board may use a part or all of said cash bond. In  
25 cases where the claimant secures an increase, the bond shall

1 be promptly returned to the claimant. If the claimant  
2 elects to submit the matter to arbitration, he shall then  
3 appoint one disinterested person as appraiser and the  
4 official appraiser shall appoint another person as appraiser  
5 and the two shall select a third disinterested person and  
6 the three shall then proceed to adjust the loss in the same  
7 manner as specified in 80-2-242. The judgment of the  
8 majority shall be the judgment of said appraisers and shall  
9 be binding upon both parties as the final determination of  
10 said loss.

11 (3) (a) If the insured does not recover a greater sum  
12 than allowed by the official appraiser in the first  
13 instance, he shall pay the expenses of the three appraisers  
14 and their witnesses in making said adjustment, but if he is  
15 awarded a larger sum, then the same shall be paid by the  
16 board.

17 (b) If the insured shall be required to pay the  
18 expenses of such reappraisal as above provided, the board  
19 is hereby authorized to deduct the amount of such expenses  
20 from the amount allowed said insured before making  
21 settlement for said loss.

22 (4) The board shall examine all reports of appraisers  
23 and verify the same and adjust all losses and for such  
24 purposes may order hearings, subpoena witnesses, conduct  
25 examinations, and do all things necessary to secure a fair



1 and impartial appraisement of losses by hail."

2 Section 16. Section 80-2-244, MCA, is amended to read:

3 "80-2-244. Payment of losses. (1) The board of hail  
4 insurance shall, as soon as practicable after the loss has  
5 been sustained, arrange for the payment of the loss in the  
6 following manner. From the amount of the loss as adjusted  
7 for each claimant, the board shall deduct the amount the  
8 claimant then owes as delinquent hail insurance tax and the  
9 maximum amount assessed as hail insurance tax for the  
10 current year and shall make settlement within 40 days from  
11 the time loss is sustained by paying, either by registered  
12 warrant or otherwise if funds are immediately available, 50%  
13 of the total loss as agreed upon, less the maximum rate of  
14 assessments. The balance shall be paid at the expiration of  
15 the hail season.

16 (2) The board shall on or before November 1 order  
17 payment for the amount so deducted, which payment shall be  
18 remitted to the county treasurer of the county in which the  
19 tax was assessed. The board shall then order payment for the  
20 balance of the adjustment to be sent to the claimant,  
21 provided that in no case may the payment for loss exceed \$24  
22 ~~\$20~~ ~~\$25~~ per acre for grain crops on nonirrigated lands, \$40  
23 ~~\$20~~ ~~\$23~~ per acre on irrigated lands, and \$24 ~~\$20~~ per acre on  
24 hay crops. No claimant may receive payment for any loss  
25 incurred where the loss does not equal or exceed 5% of the

1 total value of the crop insured. If the losses in any year  
2 exceed the current levy plus the reserve, if any, then the  
3 payment of all losses shall be prorated, share and share  
4 alike, among all grain growers having loss claims adjusted  
5 and approved, and the unpaid balance of the losses shall be  
6 paid out of the reserve without interest in such order as  
7 the board directs, when in the judgment of the board there  
8 are sufficient moneys to provide for the payment of the same  
9 and other items payable out of the reserve. In any year the  
10 board may by resolution authorize its chairman and secretary  
11 to borrow as needed from any person, bank, or corporation  
12 such sum or sums of money as the board may consider  
13 necessary for the purpose of paying all warrants as issued.

14 (3) For any moneys borrowed under the provisions of  
15 this part, the board shall cause warrants to be drawn. The  
16 warrants shall bear interest at not to exceed 6% a year, and  
17 the warrants and the interest thereon shall be paid out of  
18 funds from the state hail insurance program as they are  
19 collected from the various counties in the state. The board  
20 may not at any time borrow a total sum greater than the  
21 amount of levies as made for taxes for the current year  
22 together with such delinquent taxes as remain unpaid on the  
23 books of the county treasurer."

24 ~~NEW SECTION.~~ Section 17. Effective date. This act is  
25 effective on passage and approval.

MARCH 14, 1983

HOUSE AGRICULTURE, LIVESTOCK AND IRRIGATION

AMENDMENTS

SENATE BILL 317

- 1) Page 17, line 7  
Following: (4)  
Strike: "shall"  
Insert: "may"
- 2) Page 17, line 8  
Following: "communication"  
Insert: "not to exceed \$1500 in cost per year:"
- 3) Page 17, line 7  
Following: "use"  
Strike: "any"

## SENATE BILL NO. 317

INTRODUCED BY BLAYLOCK,

HIMSL, GRAHAM, GAGE

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF HAIL INSURANCE UNDER EXISTING STATUTORY AUTHORITY AND RULES; REVISING PROVISIONS RELATING TO THE BOARD AND TO THE HAIL INSURANCE PROGRAM; EXCLUDING CROP HAIL INSURANCE ADJUSTMENT FROM CERTAIN EMPLOYMENT LAWS; REMOVING RATE LIMITS; ~~INCREASING---COVERAGE---LIMITS~~; AMENDING SECTIONS 2-8-103, 2-15-3003, 39-3-406, 39-51-204, 80-2-201, 80-2-204, ~~80-2-280~~, 80-2-221, 80-2-222, 80-2-224, 80-2-228, ~~80-2-232~~, AND 80-2-241, ~~80-2-242~~---AND THROUGH 80-2-244, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Board of Hail Insurance and requires a performance evaluation of the Board by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation the Legislative Audit Committee recommends that the Board of Hail Insurance be reestablished.

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

~~NEW SECTION.~~ Section 1. Reestablishment. The board of hail insurance, created by 2-15-3003, is reestablished under existing statutory authority and rules for 6 years pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by

1 2-15-1607;  
 2 (d) board of podiatry examiners, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1608;  
 5 (3) The following units of state government shall  
 6 terminate on July 1, 1983:  
 7 (a) board of aeronautics, department of commerce,  
 8 created by 2-15-1812;  
 9 ~~(b) state board of health insurance, department of~~  
 10 ~~agriculture, created by 2-15-3003;~~  
 11 ~~(c) board of horseracing, department of commerce,~~  
 12 ~~created by 2-15-1881;~~  
 13 ~~(d) board of livestock, department of livestock,~~  
 14 ~~created by 2-15-3102;~~  
 15 ~~(e) board of milk control, department of commerce,~~  
 16 ~~created by 2-15-1802;~~  
 17 ~~(f) board of oil and gas conservation, department~~  
 18 ~~of natural resources and conservation, created by 2-15-3303;~~  
 19 ~~(g) Montana outfitters' council, department of~~  
 20 ~~fish, wildlife, and parks, created by 2-15-3403;~~  
 21 ~~(h) public service commission, department of public~~  
 22 ~~service regulation, created by 69-1-102;~~  
 23 ~~(i) board of water and wastewater operators,~~  
 24 ~~department of health and environmental sciences, created by~~  
 25 ~~2-15-2105;~~

1 ~~(j) board of water well contractors, department of~~  
 2 ~~commerce, created by 2-15-1862.~~  
 3 (4) The following agencies terminate on July 1, 1985:  
 4 (a) the board of public accountants, department of  
 5 commerce, created by 2-15-1866;  
 6 (b) the board of architects, department of commerce,  
 7 created by 2-15-1871;  
 8 (c) state banking board, department of commerce,  
 9 created by 2-15-1803;  
 10 (d) the state electrical board, department of  
 11 commerce, created by 2-15-1874;  
 12 (e) the board of professional engineers and land  
 13 surveyors, department of commerce, created by 2-15-1873;  
 14 (f) office of commissioner of insurance and the  
 15 insurance department, state auditor's office, created by  
 16 2-15-1902 and 2-15-1903;  
 17 (g) office of the securities commissioner, state  
 18 auditor's office, created by 2-15-1901;  
 19 (h) the board of landscape architects, department of  
 20 commerce, created by 2-15-1872;  
 21 (i) the board of county printing, department of  
 22 commerce, created by 2-15-1811;  
 23 (j) the board of plumbers, department of commerce,  
 24 created by 2-15-1875;  
 25 (k) board of physical therapy examiners, department of

1 commerce, created by 2-15-1858.

2 (5) The following agencies terminate on July 1, 1987:

3 (a) commission for human rights, department of labor  
4 and industry, created by 2-15-1706;

5 (b) Montana state board of medical examiners,  
6 department of commerce, created by 2-15-1841;

7 (c) board of dentistry, department of commerce,  
8 created by 2-15-1842;

9 (d) board of pharmacists, department of commerce,  
10 created by 2-15-1843;

11 (e) board of nursing, department of commerce, created  
12 by 2-15-1844;

13 (f) board of nursing home administrators, department  
14 of commerce, created by 2-15-1845;

15 (g) board of optometrists, department of commerce,  
16 created by 2-15-1846;

17 (h) board of chiropractors, department of commerce,  
18 created by 2-15-1847;

19 (i) board of radiologic technologists, department of  
20 commerce, created by 2-15-1848;

21 (j) board of speech pathologists and audiologists,  
22 department of commerce, created by 2-15-1849;

23 (k) board of hearing aid dispensers, department of  
24 commerce, created by 2-15-1850;

25 (l) board of psychologists, department of commerce,

1 created by 2-15-1851;

2 (m) board of veterinarians, department of commerce,  
3 created by 2-15-1852;

4 (n) board of morticians, department of commerce,  
5 created by 2-15-1853;

6 (o) board of barbers, department of commerce, created  
7 by 2-15-1856;

8 (p) board of cosmetologists, department of commerce,  
9 created by 2-15-1857;

10 (q) board of sanitarians, department of commerce,  
11 created by 2-15-1861;

12 (r) board of veterans' affairs, department of social  
13 and rehabilitation services, created by 2-15-2202.

14 (6) The following agency terminates July 1, 1989:  
15 board of hall insurance, department of agriculture, created  
16 by 2-15-3003."

17 Section 3. Section 2-15-3003, MCA, is amended to read:

18 "2-15-3003. Board of hall insurance. (1) There is a  
19 board of hall insurance of five members consisting of the  
20 state auditor, the director of agriculture, who is secretary  
21 of the board, and three other members to be appointed by the  
22 governor from names submitted by former organizations having  
23 a general membership throughout the state and confirmed by  
24 the senate.

25 (2) The governor shall designate one of the appointive

1 members to act as chairman of the board.

2 (3) Whenever the term of any member expires, either by  
3 death, resignation, removal for cause, or expiration of his  
4 term of office, the governor shall appoint his successor and  
5 shall also appoint one of the board for chairman in case of  
6 a vacancy in that office.

7 (4) Each appointive member of the board shall be  
8 appointed for 3 years, except when such appointment is made  
9 to fill a vacancy on the board, in which event such  
10 appointee shall fill out the unexpired term of the member  
11 whose place he fills.

12 (5) All members of the board shall be subject to  
13 removal for cause by the governor.

14 (6) The board is allocated to the department of  
15 agriculture for administrative purposes only as prescribed  
16 in 2-15-121. ~~The department may charge the board for~~  
17 ~~services provided by the department pursuant to 2-15-121.~~  
18 ~~The costs charged by the department must be commensurate~~  
19 ~~with the cost of the services provided."~~

20 Section 4. Section 39-3-406, MCA, is amended to read:

21 "39-3-406. Exclusions. (1) The provisions of 39-3-404  
22 and 39-3-405 shall not apply with respect to:

23 (a) students participating in a distributive education  
24 program established under the auspices of an accredited  
25 educational agency;

1 (b) persons employed in private homes whose duties  
2 consist of menial chores such as babysitting, mowing lawns,  
3 cleaning sidewalks;

4 (c) persons employed directly by the head of a  
5 household to care for children dependent upon the head of  
6 the household;

7 (d) immediate members of the family of an employer or  
8 persons dependent upon an employer for half or more of their  
9 support in the customary sense of being a dependent;

10 (e) any persons not regular employees thereof who  
11 voluntarily offer their services to a nonprofit organization  
12 on a fully or partially reimbursed basis;

13 (f) handicapped workers engaged in work which is  
14 incidental to training or evaluation programs or whose  
15 earning capacity is so severely impaired that they are  
16 unable to engage in competitive employment;

17 (g) apprentices or learners, who may be exempted by  
18 the commissioner for a period not to exceed 30 days of their  
19 employment;

20 (h) learners under the age of 18 who are employed as  
21 farm workers, provided that such exclusion shall not exceed  
22 a period of 180 days from their initial date of employment  
23 and further provided that during this exclusion period wages  
24 paid such learners may not be less than 50% of the minimum  
25 wage rate established in this part;

1 (i) retired or semiretired persons performing  
2 part-time incidental work as a condition of their residence  
3 on a farm or ranch;

4 (j) any individual employed in a bona fide executive,  
5 administrative, or professional capacity as these terms are  
6 defined and delimited by regulations of the commissioner;

7 (k) any individual employed by the United States of  
8 America.

9 (2) The provisions of 39-3-405 do not apply to:

10 (a) an employee with respect to whom the United States  
11 Secretary of Transportation has power to establish  
12 qualifications and maximum hours of service pursuant to the  
13 provisions of 49 U.S.C. 304;

14 (b) an employee of an employer subject to the  
15 provisions of part I of the Interstate Commerce Act;

16 (c) an individual employed as an outside buyer of  
17 poultry, eggs, cream, or milk, in their raw or natural  
18 state;

19 (d) a salesman, partsman, or mechanic paid on a  
20 commission or contract basis and primarily engaged in  
21 selling or servicing automobiles, trucks, mobile homes,  
22 recreational vehicles, or farm implements if he is employed  
23 by a nonmanufacturing establishment primarily engaged in the  
24 business of selling such vehicles or implements to ultimate  
25 purchasers;

1 (e) a salesman primarily engaged in selling trailers,  
2 boats, or aircraft if he is employed by a nonmanufacturing  
3 establishment primarily engaged in the business of selling  
4 trailers, boats, or aircraft to ultimate purchasers;

5 (f) an employee employed as a driver or driver's  
6 helper making local deliveries who is compensated for such  
7 employment on the basis of trip rates, or other delivery  
8 payment plan, if the commissioner finds that such plan has  
9 the general purpose and effect of reducing hours worked by  
10 such employees to or below the maximum workweek applicable  
11 to them under 39-3-405;

12 (g) an employee employed in agriculture or in  
13 connection with the operation or maintenance of ditches,  
14 canals, reservoirs, or waterways not owned or operated for  
15 profit and not operated on a sharecrop basis and which are  
16 used exclusively for supply and storing of water for  
17 agricultural purposes;

18 (h) an employee with respect to his employment in  
19 agriculture by a farmer, notwithstanding other employment of  
20 such employee in connection with livestock auction  
21 operations in which such farmer is engaged as an adjunct to  
22 the raising of livestock, either on his own account or in  
23 conjunction with other farmers, if such employee is:

24 (i) primarily employed during his workweek in  
25 agriculture by such farmer; and

1 (ii) paid for his employment in connection with such  
2 livestock auction operations at a wage rate not less than  
3 that prescribed by 39-3-404;

4 (i) an employee of an establishment commonly  
5 recognized as a country elevator, including an establishment  
6 which sells products and services used in the operation of a  
7 farm, if no more than five employees are employed by the  
8 establishment;

9 (j) a driver employed by an employer engaged in the  
10 business of operating taxicabs;

11 (k) an employee who is employed with his spouse by a  
12 nonprofit educational institution to serve as the parents of  
13 children who are orphans or one of whose natural parents is  
14 deceased or who are enrolled in such institution and reside  
15 in residential facilities of the institution so long as the  
16 children are in residence at the institution and so long as  
17 such employee and his spouse reside in such facilities and  
18 receive, without cost, board and lodging from the  
19 institution and are together compensated, on a cash basis,  
20 at an annual rate of not less than \$10,000;

21 (l) an employee employed in planting or tending trees;  
22 cruising, surveying, or felling timber; or transporting logs  
23 or other forestry products to a mill, processing plant,  
24 railroad, or other transportation terminal if the number of  
25 employees employed by his employer in such forestry or

1 lumbering operations does not exceed eight; or

2 (m) an employee of a sheriff's department who is  
3 working under an established work period in lieu of a  
4 workweek pursuant to 7-4-2509(1)\*1 or

5 ~~(n) an individual working as a crop hail insurance~~  
6 ~~adjuster."~~

7 Section 5. Section 39-51-204, MCA, is amended to read:

8 "39-51-204. Exclusions from definition of employment.

9 (1) The term "employment" does not include:

10 (a) agricultural labor, except as provided in  
11 39-51-203(8);

12 (b) domestic service in a private home, local college  
13 club, or local chapter of a college fraternity or sorority,  
14 except as provided in 39-51-203(9);

15 (c) service performed as an officer or member of the  
16 crew of a vessel on the navigable waters of the United  
17 States;

18 (d) service performed by an individual in the employ  
19 of his son, daughter, or spouse and service performed by a  
20 child under the age of 18 in the employ of his father or  
21 mother;

22 (e) service performed in the employ of any other state  
23 or its political subdivisions or of the United States  
24 government or of an instrumentality of any other state or  
25 states or their political subdivisions or of the United



1 States, except that national banks organized under the  
 2 national banking law shall not be entitled to exemption  
 3 under this subsection and shall be subject to this chapter  
 4 the same as state banks, provided that such service is  
 5 excluded from employment as defined in the Federal  
 6 Unemployment Tax Act by section 3306(c)(7) of that act;

7 (f) service with respect to which unemployment  
 8 insurance is payable under an unemployment insurance system  
 9 established by an act of congress, provided that the  
 10 department must enter into agreements with the proper  
 11 agencies under such act of congress, which agreements shall  
 12 become effective in the manner prescribed in the Montana  
 13 Administrative Procedure Act for the adoption of rules, to  
 14 provide reciprocal treatment to individuals who have, after  
 15 acquiring potential rights to benefits under this chapter,  
 16 acquired rights to unemployment insurance under such act of  
 17 congress or who have, after acquiring potential rights to  
 18 unemployment insurance under such act of congress, acquired  
 19 rights to benefits under this chapter;

20 (g) services performed in the delivery and  
 21 distribution of newspapers or shopping news from house to  
 22 house and business establishments by an individual under the  
 23 age of 18 years, but not including the delivery or  
 24 distribution to any point or points for subsequent delivery  
 25 or distribution;

1 (h) services performed by real estate, securities, and  
 2 insurance salesmen paid solely by commissions and without  
 3 guarantee of minimum earnings;

4 (i) service performed in the employ of a school,  
 5 college, or university if such service is performed by a  
 6 student who is enrolled and is regularly attending classes  
 7 at such school, college, or university or by the spouse of  
 8 such a student if such spouse is advised, at the time such  
 9 spouse commences to perform such service, that the  
 10 employment of such spouse to perform such service is  
 11 provided under a program to provide financial assistance to  
 12 such student by such school, college, or university and such  
 13 employment will not be covered by any program of  
 14 unemployment insurance;

15 (j) service performed by an individual under the age  
 16 of 22 who is enrolled at a nonprofit or public educational  
 17 institution, which normally maintains a regular faculty and  
 18 curriculum and normally has a regularly organized body of  
 19 students in attendance at the place where its educational  
 20 activities are carried on, as a student in a full-time  
 21 program taken for credit at such institution which combines  
 22 academic instruction with work experience if such service is  
 23 an integral part of such program and such institution has so  
 24 certified to the employer, except that this subsection shall  
 25 not apply to service performed in a program established for

1 or on behalf of an employer or group of employers;

2 (k) service performed in the employ of a hospital if

3 such service is performed by a patient of the hospital;

4 (l) casual labor not in the course of an employer's

5 trade or business performed in any calendar quarter, unless

6 the cash remuneration paid for such service is \$50 or more

7 and such service is performed by an individual who is

8 regularly employed by such employer to perform such

9 service;

10 ~~(m) insurance adjustment by a crop hail insurance~~

11 ~~adjuster.~~

12 (2) "Employment" does not include elected public

13 officials.

14 (3) For the purposes of 39-51-203(6), the term

15 "employment" does not apply to service performed:

16 (a) in the employ of a church or convention or

17 association of churches or an organization which is operated

18 primarily for religious purposes and which is operated,

19 supervised, controlled, or principally supported by a church

20 or convention or association of churches;

21 (b) by a duly ordained, commissioned, or licensed

22 minister of a church in the exercise of his ministry or by a

23 member of a religious order in the exercise of duties

24 required by such order;

25 (c) in the employ of a school which is not an

1 institution of higher education, prior to December 31, 1977;

2 (d) in a facility conducted for the purpose of

3 carrying out a program of rehabilitation for individuals

4 whose earning capacity is impaired by age or physical or

5 mental deficiency or injury or providing remunerative work

6 for individuals who, because of their impaired physical or

7 mental capacity, cannot be readily absorbed in the

8 competitive labor market by an individual receiving such

9 rehabilitation or remunerative work;

10 (e) as part of an unemployment work-relief or

11 work-training program assisted or financed in whole or in

12 part by a federal agency or any agency of a state or

13 political subdivision thereof by an individual receiving

14 such work relief or work training; or

15 (f) for a state prison or other state correctional or

16 custodial institution by an inmate of that institution."

17 Section 6. Section 80-2-201, MCA, is amended to read:

18 "80-2-201. Powers and duties of board of hail

19 insurance. The board of hail insurance provided for in

20 2-15-3003:

21 (1) shall hold meetings when necessary and essential

22 for the proper conduct of its business ~~at the state capital~~

23 ~~in the office of the director of agriculture, who is~~

24 ~~secretary of the board;~~

25 (2) is hereby authorized, directed, and empowered to

1 make rules as it may from time to time find practical,  
2 necessary, and beneficial for the administration of this  
3 part;

4 (3) shall prescribe blank forms for all purposes  
5 necessary, proper, and incidental to the effective operation  
6 and enforcement of this part; and

7 (4) ~~shall~~ MAY prescribe ~~a special form outlining use~~  
8 ~~any appropriate means of communication NOT TO EXCEED \$1,500~~  
9 ~~IN COST PER YEAR to inform Montana producers of~~ the  
10 purposes, scope, and benefits of this part in furnishing  
11 protection against loss by hail at the actual cost of the  
12 risk to all taxpayers who may elect to become subject to the  
13 provisions of this part; ~~the form to be submitted by the~~  
14 ~~agent of the department of revenue in each county at the~~  
15 ~~time in which the regular assessments of property are made~~  
16 ~~by the agents to each farmer in each county in the state~~  
17 ~~engaged in growing of crops subject to injury or destruction~~  
18 ~~by hail; Each such farmer taxpayer shall signify on such~~  
19 ~~forms whether he desires to become subject to the provisions~~  
20 ~~of this part or not."~~

21 Section 7. Section 80-2-204, MCA, is amended to read:  
22 "80-2-204. Duty of agent of the department of revenue  
23 -- election of benefits of law. It shall be the duty of the  
24 agent of the department of revenue in each county in the  
25 state ~~at the time in which the annual assessment of~~

1 ~~property is made~~ upon request to explain to each taxpayer  
2 engaged in the growing of crops subject to injury or  
3 destruction by hail the provisions of this part and the  
4 protection afforded thereby and to request ~~each such~~  
5 ~~taxpayer to certify issue insurance policies~~, on the forms  
6 provided for such purpose, if such taxpayer desires to  
7 become subject to this part and liable for the tax levies  
8 provided hereby and thereby eligible to the benefits and  
9 protection of this part. Each such taxpayer who elects to  
10 become subject to this part shall be liable for the taxes  
11 levied for hail insurance and shall participate in the  
12 benefits and protection afforded by this part, provided that  
13 the owners of lands worked by others under lease or contract  
14 shall elect if such lands shall be subject to the tax levies  
15 herein provided for and the crops grown thereon protected  
16 for hail insurance, or the lessee of such land may tender  
17 payment of the tax levied for hail insurance to protect his  
18 crops, in cash, to the officer authorized to receive same,  
19 whereupon such crops shall become eligible to the benefits  
20 and protection afforded by this part for hail insurance."

21 Section 8. ~~Section 80-2-208, MCA, is amended to read:~~  
22 ~~"80-2-208. Maximum insurance. When the reserve fund~~  
23 ~~is determined actuarially sound as provided in 80-2-208,~~  
24 ~~the board may write not more than \$24 138 insurance on each~~  
25 ~~acre of grain which is on nonirrigated land and not more~~

1 than--\$40 ~~\$60~~ per-acre-on-irrigated-lands-when-more-than-one  
 2 party-desires-hail-insurance-on-the-same-crop-each-party-is  
 3 entitled-to-the-share-of-the-maximum-provided-per-acre-as  
 4 represented-by-his-interest-in-the-crop-Either-party-may  
 5 insure-his-share-in-the-crop-for-any-amount-up-to-and  
 6 including-the-maximum-per-acre-if-the-others-waive-their  
 7 right-to-insure."

8 Section 8. Section 80-2-221, MCA, is amended to read:  
 9 "80-2-221. Tax for hail insurance ---limitation-on  
 10 levy. (1) A tax is hereby authorized and directed to be  
 11 levied on all lands in this state growing crops subject to  
 12 injury or destruction by hail, the owners of which have  
 13 elected to become subject to the provisions of this part.

14 (2) The board of hail insurance shall annually  
 15 estimate, as accurately as possible, the amount required to  
 16 pay all losses, interest on warrants, and costs of  
 17 administration and shall recommend a levy to be made on each  
 18 kind of land respectively, subject to the provisions of this  
 19 part, to the department of revenue. The rates recommended to  
 20 apply on the lands of owners shall be applied in the same  
 21 proportions to the crops of those insured on a personal  
 22 assessment basis.

23 (3)--it-is-hereby-provided,however,that-such-tax-may  
 24 not-exceed-in-any-one-year-\$2+40-per-acre-on-lands-sown-to  
 25 grain-crops-on-nonirrigated-lands--\$4+80-per-acre-on

1 irrigated-lands,--or--\$2+40-per-acre-on-lands-producing-hay  
 2 crops

3 (4)--if-the-tax-required-to-pay-the-estimated-losses,  
 4 interest-on-warrants,--and-costs-of-administration-is-less  
 5 than-\$1+20-per-acre-on-lands-sown-to-grain-crops-on  
 6 nonirrigated-lands-and-\$2+40-per-acre-on-irrigated-lands-and  
 7 a-proportionate-amount-on-lands-sown-to-hay-crops,--the-board  
 8 of-hail-insurance-must-recommend-a-tax-levy-sufficient-to  
 9 raise-the-full-amount-thereof."

10 Section 9. Section 80-2-222, MCA, is amended to read:

11 "80-2-222. Board to establish amount of levy --  
 12 disposition of funds. (1) The board of hail insurance may,  
 13 when it considers it advisable, establish as many districts  
 14 as it considers advisable and may maintain maximum rates in  
 15 various parts of the state, which rates shall be  
 16 commensurate with the risk incurred as nearly as it can  
 17 determine from past experiences or from any records  
 18 available. The-highest-of-these-rates-shall-be-the-same-as  
 19 the-maximum-established-herein--and-the-lowest-may-not-be  
 20 less-than-\$1+20-per-acre-on-lands-sown-to-grain-crops-and-a  
 21 proportionate-amount-on-lands-sown-to-hay-crops

22 (2) Notice of the various rates established for any  
 23 year shall be plainly printed on the application for hail  
 24 insurance, and in-any-year-when-the-requirements-of-the-hail  
 25 insurance-law-as-herein-provided-do-not-require-a-levy-of

1 ~~the maximum rates as established;~~ then the rates for the  
 2 year shall be determined and levied by the board of hail  
 3 insurance for each of the various districts as established,  
 4 in such proportions as will in its judgment be fair and  
 5 equitable.

6 (3) In making the levy provided in this section and  
 7 80-2-243, the board of hail insurance shall provide for:

8 (a) the payment of all expenses of administration,  
 9 together with all interest owed or to be owing on registered  
 10 warrants;

11 (b) that portion of the losses incurred during the  
 12 current year which are not paid from funds drawn from the  
 13 reserve;

14 (c) the maintenance of the reserve, a part or all of  
 15 which may be used in any one year for the purpose of paying  
 16 the costs of administration, interest on the warrants, and  
 17 losses as the same shall be settled and adjusted by the  
 18 board, including the losses sustained in any prior year or  
 19 years under the hail insurance law ~~during or subsequent to~~  
 20 ~~the year 1919~~ that have not been paid.

21 (4) If at the end of any hail insurance season the  
 22 board determines and finds that more funds are accumulating  
 23 from the current year's levies than were estimated when the  
 24 levy was made and are in excess of the need for the payment  
 25 of losses and expenses and maintenance of the reserve, the

1 board may, at its discretion, refund the excess to the  
 2 farmers insured for the year, on a pro rata or percentage  
 3 basis.

4 (5) The board of hail insurance may direct the board  
 5 of investments to invest funds from the agency fund pursuant  
 6 to the provisions of the unified investment program for  
 7 state funds. The income from such investments shall be  
 8 credited to the board of hail insurance account in the  
 9 agency fund."

10 Section 10. Section 80-2-224, MCA, is amended to read:

11 "80-2-224. Assessment -- notice -- when payable.  
 12 Notice of such assessment shall be mailed by the county  
 13 treasurer to each person insured in the same manner and at  
 14 the same time as ~~are all other~~ notices of property taxes  
 15 due. The assessment shall be payable at the office of the  
 16 county treasurer of each respective county."

17 Section 11. Section 80-2-228, MCA, is amended to read:

18 "80-2-228. Reserve fund. (1) Each year when the hail  
 19 board makes its annual levy for the payment of current  
 20 losses, expenses of administration, and for an addition to  
 21 the reserve if conditions permit, it may not increase the  
 22 levy enough in any year so that such addition to the reserve  
 23 will exceed 5% of the maximum risk written for that year.

24 (2) ~~The reserve fund may not exceed \$4 million prior~~  
 25 ~~to January 1, 1976, or January 1, 1976, and thereafter, the~~

1 ~~maximum-permissible-reserve-fund-shall-be-established-as-set~~  
 2 ~~forth-in-subsection-(3)-of-this-section.~~

3 (3)(2) The board may engage the services of a  
 4 qualified actuary to conduct an actuarial valuation of the  
 5 reserve. This valuation shall include the actuary's  
 6 determination of the amount of reserve necessary to absorb  
 7 all reasonably anticipated catastrophic losses. This amount  
 8 shall be the maximum permissible reserve fund for the next  
 9 year.

10 (4)(3) The reserve hereby created shall be deposited  
 11 in the agency fund, and the board is hereby granted the  
 12 power to draw from its moneys in the fund such amounts as it  
 13 considers necessary for the purpose of paying costs of  
 14 administration, interest, and losses.

15 (5)(4) ~~Whenever there are no unpaid losses for prior~~  
 16 ~~years and whenever in any one year the cost of~~  
 17 ~~administration, interest, and losses for the current year is~~  
 18 ~~less than the sum of 60 cents per acre on nonirrigated~~  
 19 ~~grains and a proportionate amount on irrigated grains and~~  
 20 ~~other crops, the~~ The board may not draw on the reserve for  
 21 any purpose unless the amount required for the payment of  
 22 losses for the current year, including interest on warrants  
 23 and costs of administration, exceeds the amount of the  
 24 estimate made by the board for the current year pursuant to  
 25 80-2-241.

1 SECTION 12. SECTION 80-2-232, MCA, IS AMENDED TO READ:

2 "80-2-232. State treasurer's duty -- transfer of funds  
 3 -- warrants -- transfers to county and state general fund.

4 (1) The state treasurer shall receive all moneys paid to him  
 5 under this part and shall place same to the credit of the  
 6 agency fund and may from time to time transfer to the  
 7 earmarked revenue fund such sums as the board of hail  
 8 insurance may deem necessary and proper to pay the expenses  
 9 of administration. All moneys collected by the board shall  
 10 be deposited in the agency fund, and all losses shall be  
 11 paid from that fund. All other costs are administrative  
 12 expenses and shall be paid from the board's account in the  
 13 earmarked revenue fund. If registered warrants be presented  
 14 and there be no money to pay the same, such warrants shall  
 15 be registered and thereafter bear interest at the rate of 4%  
 16 per annum until called for payment by the state treasurer.  
 17 If at any time more funds are in the earmarked revenue fund  
 18 than the board estimates are needed for administrative  
 19 expenses, the state treasurer may on the order of the board  
 20 transfer such funds back to the agency fund as the board may  
 21 direct.

22 (2) Upon warrants drawn by order of the board, the  
 23 state treasurer shall pay out of the board's account in the  
 24 agency fund to the county treasurer of each county where  
 25 state hail insurance coverage is in force ~~1%~~ 2% of the gross

1 annual levies made and collected in such county under this  
2 part for the use of the county as the board of county  
3 commissioners may determine.

4 (3) Upon authorization from the board of hail  
5 insurance, the state treasurer shall transfer out of the  
6 board's account in the agency fund to the general fund of  
7 the state of Montana ~~2%~~ 1.5% of the gross annual levies made  
8 and collected in the state of Montana."

9 Section 13. Section 80-2-241, MCA, is amended to read:

10 "80-2-241. Report of losses. All losses by hail to  
11 crops insured under this part shall be reported within 3 ~~14~~  
12 days thereafter by the owner of such crops, his agent or  
13 attorney, to the board of hail insurance, which shall  
14 require the claimant to make a statement of the losses  
15 sustained, the cause thereof, and such other information as  
16 the board may require on the forms to be provided for such  
17 purpose. If a loss is reported more than 14 days after it  
18 occurs, the board shall charge the claimant for all costs  
19 incurred in making the adjustment."

20 Section 14. Section 80-2-242, MCA, is amended to read:

21 "80-2-242. Appraisers -- appointment -- qualifications  
22 -- duties. (1) The ~~board of hail insurance department of~~  
23 ~~agriculture~~ shall as soon as practicable each year appoint  
24 retain as independent contractors, under terms mutually  
25 agreed upon, which may include benefits accorded state

1 ~~employees~~ a sufficient number of appraisers to appraise all  
2 losses by hail incurred under this part in the various  
3 counties. The ~~men persons~~ so appointed shall be actively  
4 engaged in farming or shall have had practical experience in  
5 farming ~~and shall be selected from names submitted by~~  
6 ~~regularly organized farmers societies in the various~~  
7 ~~counties if the recommendations are not made as provided~~  
8 ~~above then the board shall select the appraisers from men~~  
9 ~~actively engaged in farming or men who have had practical~~  
10 ~~experience in farming as heretofore provided.~~

11 (2) The board may call on one or more of the duly  
12 appointed appraisers for the adjustment of each and every  
13 loss, and the said appraisers shall promptly report their  
14 findings to the board according to the rules provided by the  
15 board.

16 (3) No appraiser who shall be a relative, attorney,  
17 agent, employee, or creditor or in any manner interested by  
18 lien, mortgage, or otherwise in the crop injured or  
19 destroyed shall assist in adjusting any such loss.

20 (4) The board may ~~in case of emergency appoint more~~  
21 ~~than three appraisers in any county. Also it may~~ send any  
22 duly appointed appraiser or appraisers into any county as  
23 the occasion may require."

24 SECTION 15. SECTION 80-2-243, MCA, IS AMENDED TO READ:

25 "80-2-243. Disputed appraisal. (1) In case the party

1 that has sustained the loss is dissatisfied with and refuses  
 2 to accept the adjustment made by the official appraiser,  
 3 then he shall have the right to appeal to the board of hail  
 4 insurance. He shall make such appeal by registered or  
 5 certified mail within 10 days after receiving the adjustment  
 6 offer of the board in writing. Also the board may require  
 7 the posting of a cash bond of ~~\$10~~ \$25 with the request for  
 8 reappraisal of the first adjustment. In cases where the  
 9 board requires the posting of the ~~\$10~~ \$25 bond, the board  
 10 may retain it if no increase is allowed. If an increase is  
 11 obtained, the board will return the bond to the claimant.

12 (2) In case the adjuster who makes the second  
 13 appraisal fails to secure an agreement, the claimant may at  
 14 his option submit the matter to arbitration as herein  
 15 provided or sue the board in the district court of the  
 16 county where the loss occurred, within 90 days from the date  
 17 of receipt of written notice of the second appraisal. Such  
 18 actions shall be trials de novo and the Montana Rules of  
 19 Civil Procedure shall apply. Where any claimant demands  
 20 arbitration, he shall, if required by the board, furnish a  
 21 cash bond to the board in the sum of ~~\$25~~ \$50 which shall  
 22 accompany his application. If there is not sufficient  
 23 allowance made to any claimant after arbitration to cover  
 24 the cost of arbitration without the use of the ~~\$25~~ \$50 bond,  
 25 then the board may use a part or all of said cash bond. In

1 cases where the claimant secures an increase, the bond shall  
 2 be promptly returned to the claimant. If the claimant  
 3 elects to submit the matter to arbitration, he shall then  
 4 appoint one disinterested person as appraiser and the  
 5 official appraiser shall appoint another person as appraiser  
 6 and the two shall select a third disinterested person and  
 7 the three shall then proceed to adjust the loss in the same  
 8 manner as specified in 80-2-242. The judgment of the  
 9 majority shall be the judgment of said appraisers and shall  
 10 be binding upon both parties as the final determination of  
 11 said loss.

12 (3) (a) If the insured does not recover a greater sum  
 13 than allowed by the official appraiser in the first  
 14 instance, he shall pay the expenses of the three appraisers  
 15 and their witnesses in making said adjustment, but if he is  
 16 awarded a larger sum, then the same shall be paid by the  
 17 board.

18 (b) If the insured shall be required to pay the  
 19 expenses of such reappraisal as above provided, the board  
 20 is hereby authorized to deduct the amount of such expenses  
 21 from the amount allowed said insured before making  
 22 settlement for said loss.

23 (4) The board shall examine all reports of appraisers  
 24 and verify the same and adjust all losses and for such  
 25 purposes may order hearings, subpoena witnesses, conduct



1 examinations, and do all things necessary to secure a fair  
2 and impartial appraisal of losses by hail."

3 Section 15. Section 80-2-244, MCA, is amended to read:

4 "80-2-244. Payment of losses. (1) The board of hail  
5 insurance shall, as soon as practicable after the loss has  
6 been sustained, arrange for the payment of the loss in the  
7 following manner. From the amount of the loss as adjusted  
8 for each claimant, the board shall deduct the amount the  
9 claimant then owes as delinquent hail insurance tax and the  
10 maximum amount assessed as hail insurance tax for the  
11 current year ~~and shall make settlement within 48 days from~~  
12 ~~the time loss is sustained by paying either by registered~~  
13 ~~warrant or otherwise if funds are immediately available 50%~~  
14 ~~of the total loss as agreed upon less the maximum rate of~~  
15 ~~assessment the balance shall be paid at the expiration of~~  
16 ~~the hail season.~~

17 (2) The board shall on or before November 1 order  
18 payment for the amount so deducted, which payment shall be  
19 remitted to the county treasurer of the county in which the  
20 tax was assessed. The board shall then order payment for the  
21 balance of the adjustment to be sent to the claimant,  
22 provided that in no case may the payment for loss exceed \$24  
23 ~~\$20~~ \$24 per acre for grain crops on nonirrigated lands, \$40  
24 ~~\$20~~ \$28 per acre on irrigated lands ~~and \$24 \$20 per acre on~~  
25 ~~hay crops.~~ No claimant may receive payment for any loss

1 incurred where the loss does not equal or exceed 5% of the  
2 total value of the crop insured. If the losses in any year  
3 exceed the current levy plus the reserve, if any, then the  
4 payment of all losses shall be prorated, share and share  
5 alike, among all grain growers having loss claims adjusted  
6 and approved, and the unpaid balance of the losses shall be  
7 paid out of the reserve without interest in such order as  
8 the board directs, when in the judgment of the board there  
9 are sufficient moneys to provide for the payment of the same  
10 and other items payable out of the reserve. In any year the  
11 board may by resolution authorize its chairman and secretary  
12 to borrow as needed from any person, bank, or corporation  
13 such sum or sums of money as the board may consider  
14 necessary for the purpose of paying all warrants as issued.

15 (3) For any moneys borrowed under the provisions of  
16 this part, the board shall cause warrants to be drawn. The  
17 warrants shall bear interest at not to exceed 6% a year, and  
18 the warrants and the interest thereon shall be paid out of  
19 funds from the state hail insurance program as they are  
20 collected from the various counties in the state. The board  
21 may not at any time borrow a total sum greater than the  
22 amount of levies as made for taxes for the current year  
23 together with such delinquent taxes as remain unpaid on the  
24 books of the county treasurer."

25 NEW SECTION. Section 17. Effective date. This act is

1 effective on passage and approval.

-End-

## SENATE BILL NO. 317

INTRODUCED BY BLAYLOCK,

HIMSL, GRAHAM, GAGE

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF HAIL INSURANCE UNDER EXISTING STATUTORY AUTHORITY AND RULES; REVISING PROVISIONS RELATING TO THE BOARD AND TO THE HAIL INSURANCE PROGRAM; EXCLUDING CROP HAIL INSURANCE ADJUSTMENT FROM CERTAIN EMPLOYMENT LAWS; REMOVING RATE LIMITS; ~~INCREASING---COVERAGE---LIMITS;~~ AMENDING SECTIONS 2-8-103, 2-15-3003, 39-3-406, 39-51-204, 80-2-201, 80-2-204, ~~80-2-208,~~ 80-2-221, 80-2-222, 80-2-224, 80-2-228, ~~80-2-232,~~ ~~AND~~ 80-2-241, ~~80-2-242,--AND THROUGH~~ 80-2-244, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Board of Hail Insurance and requires a performance evaluation of the Board by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation the Legislative Audit Committee recommends that the Board of Hail Insurance be reestablished.

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

~~NEW SECTION.~~ Section 1. Reestablishment. The board of hail insurance, created by 2-15-3003, is reestablished under existing statutory authority and rules for 6 years pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by

REFERENCE BILL

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HOUSE RECEDED FROM AMENDMENTS  
DATED 3/14/83

1 2-15-1607;  
 2 (d) board of podiatry examiners, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1608;  
 5 (3) The following units of state government shall  
 6 terminate on July 1, 1983:  
 7 (a) board of aeronautics, department of commerce,  
 8 created by 2-15-1812;  
 9 ~~(b) state board of health insurance, department of~~  
 10 ~~agriculture, created by 2-15-3003;~~  
 11 ~~(c) board of horseracing, department of commerce,~~  
 12 ~~created by 2-15-1881;~~  
 13 ~~(d) board of livestock, department of livestock,~~  
 14 ~~created by 2-15-3102;~~  
 15 ~~(e) board of milk control, department of commerce,~~  
 16 ~~created by 2-15-1802;~~  
 17 ~~(f) board of oil and gas conservation, department~~  
 18 ~~of natural resources and conservation, created by 2-15-3303;~~  
 19 ~~(g) Montana outfitters' council, department of~~  
 20 ~~fish, wildlife, and parks, created by 2-15-3403;~~  
 21 ~~(h) public service commission, department of public~~  
 22 ~~service regulation, created by 69-1-102;~~  
 23 ~~(i) board of water and wastewater operators,~~  
 24 ~~department of health and environmental sciences, created by~~  
 25 ~~2-15-2105;~~

1 ~~(j) board of water well contractors, department of~~  
 2 ~~commerce, created by 2-15-1862.~~  
 3 (4) The following agencies terminate on July 1, 1985:  
 4 (a) the board of public accountants, department of  
 5 commerce, created by 2-15-1866;  
 6 (b) the board of architects, department of commerce,  
 7 created by 2-15-1871;  
 8 (c) state banking board, department of commerce,  
 9 created by 2-15-1803;  
 10 (d) the state electrical board, department of  
 11 commerce, created by 2-15-1874;  
 12 (e) the board of professional engineers and land  
 13 surveyors, department of commerce, created by 2-15-1873;  
 14 (f) office of commissioner of insurance and the  
 15 insurance department, state auditor's office, created by  
 16 2-15-1902 and 2-15-1903;  
 17 (g) office of the securities commissioner, state  
 18 auditor's office, created by 2-15-1901;  
 19 (h) the board of landscape architects, department of  
 20 commerce, created by 2-15-1872;  
 21 (i) the board of county printing, department of  
 22 commerce, created by 2-15-1811;  
 23 (j) the board of plumbers, department of commerce,  
 24 created by 2-15-1875;  
 25 (k) board of physical therapy examiners, department of

1 commerce, created by 2-15-1858.

2 (5) The following agencies terminate on July 1, 1987:

3 (a) commission for human rights, department of labor

4 and industry, created by 2-15-1706;

5 (b) Montana state board of medical examiners,

6 department of commerce, created by 2-15-1841;

7 (c) board of dentistry, department of commerce,

8 created by 2-15-1842;

9 (d) board of pharmacists, department of commerce,

10 created by 2-15-1843;

11 (e) board of nursing, department of commerce, created

12 by 2-15-1844;

13 (f) board of nursing home administrators, department

14 of commerce, created by 2-15-1845;

15 (g) board of optometrists, department of commerce,

16 created by 2-15-1846;

17 (h) board of chiropractors, department of commerce,

18 created by 2-15-1847;

19 (i) board of radiologic technologists, department of

20 commerce, created by 2-15-1848;

21 (j) board of speech pathologists and audiologists,

22 department of commerce, created by 2-15-1849;

23 (k) board of hearing aid dispensers, department of

24 commerce, created by 2-15-1850;

25 (l) board of psychologists, department of commerce,

1 created by 2-15-1851;

2 (m) board of veterinarians, department of commerce,

3 created by 2-15-1852;

4 (n) board of morticians, department of commerce,

5 created by 2-15-1853;

6 (o) board of barbers, department of commerce, created

7 by 2-15-1856;

8 (p) board of cosmetologists, department of commerce,

9 created by 2-15-1857;

10 (q) board of sanitarians, department of commerce,

11 created by 2-15-1861;

12 (r) board of veterans' affairs, department of social

13 and rehabilitation services, created by 2-15-2202.

14 ~~(6) The following agency terminates July 1, 1987:~~

15 ~~board of hail insurance, department of agriculture, created~~

16 ~~by 2-15-3003.~~

17 Section 3. Section 2-15-3003, MCA, is amended to read:

18 "2-15-3003. Board of hail insurance. (1) There is a

19 board of hail insurance of five members consisting of the

20 state auditor, the director of agriculture, who is secretary

21 of the board, and three other members to be appointed by the

22 governor from names submitted by former organizations having

23 a general membership throughout the state and confirmed by

24 the senate.

25 (2) The governor shall designate one of the appointive

1 members to act as chairman of the board.

2 (3) Whenever the term of any member expires, either by  
3 death, resignation, removal for cause, or expiration of his  
4 term of office, the governor shall appoint his successor and  
5 shall also appoint one of the board for chairman in case of  
6 a vacancy in that office.

7 (4) Each appointive member of the board shall be  
8 appointed for 3 years, except when such appointment is made  
9 to fill a vacancy on the board, in which event such  
10 appointee shall fill out the unexpired term of the member  
11 whose place he fills.

12 (5) All members of the board shall be subject to  
13 removal for cause by the governor.

14 (6) The board is allocated to the department of  
15 agriculture for administrative purposes only as prescribed  
16 in 2-15-121. The department may charge the board for  
17 services provided by the department pursuant to 2-15-121.  
18 The costs charged by the department must be commensurate  
19 with the cost of the services provided."

20 Section 4. Section 39-3-406, MCA, is amended to read:

21 \*39-3-406. Exclusions. (1) The provisions of 39-3-404  
22 and 39-3-405 shall not apply with respect to:

23 (a) students participating in a distributive education  
24 program established under the auspices of an accredited  
25 educational agency;

1 (b) persons employed in private homes whose duties  
2 consist of menial chores such as babysitting, mowing lawns,  
3 cleaning sidewalks;

4 (c) persons employed directly by the head of a  
5 household to care for children dependent upon the head of  
6 the household;

7 (d) immediate members of the family of an employer or  
8 persons dependent upon an employer for half or more of their  
9 support in the customary sense of being a dependent;

10 (e) any persons not regular employees thereof who  
11 voluntarily offer their services to a nonprofit organization  
12 on a fully or partially reimbursed basis;

13 (f) handicapped workers engaged in work which is  
14 incidental to training or evaluation programs or whose  
15 earning capacity is so severely impaired that they are  
16 unable to engage in competitive employment;

17 (g) apprentices or learners, who may be exempted by  
18 the commissioner for a period not to exceed 30 days of their  
19 employment;

20 (h) learners under the age of 18 who are employed as  
21 farm workers, provided that such exclusion shall not exceed  
22 a period of 180 days from their initial date of employment  
23 and further provided that during this exclusion period wages  
24 paid such learners may not be less than 50% of the minimum  
25 wage rate established in this part;

1 (i) retired or semiretired persons performing  
2 part-time incidental work as a condition of their residence  
3 on a farm or ranch;

4 (j) any individual employed in a bona fide executive,  
5 administrative, or professional capacity as these terms are  
6 defined and delimited by regulations of the commissioner;

7 (k) any individual employed by the United States of  
8 America.

9 (2) The provisions of 39-3-405 do not apply to:

10 (a) an employee with respect to whom the United States  
11 Secretary of Transportation has power to establish  
12 qualifications and maximum hours of service pursuant to the  
13 provisions of 49 U.S.C. 304;

14 (b) an employee of an employer subject to the  
15 provisions of part I of the Interstate Commerce Act;

16 (c) an individual employed as an outside buyer of  
17 poultry, eggs, cream, or milk, in their raw or natural  
18 state;

19 (d) a salesman, partsman, or mechanic paid on a  
20 commission or contract basis and primarily engaged in  
21 selling or servicing automobiles, trucks, mobile homes,  
22 recreational vehicles, or farm implements if he is employed  
23 by a nonmanufacturing establishment primarily engaged in the  
24 business of selling such vehicles or implements to ultimate  
25 purchasers;

1 (e) a salesman primarily engaged in selling trailers,  
2 boats, or aircraft if he is employed by a nonmanufacturing  
3 establishment primarily engaged in the business of selling  
4 trailers, boats, or aircraft to ultimate purchasers;

5 (f) an employee employed as a driver or driver's  
6 helper making local deliveries who is compensated for such  
7 employment on the basis of trip rates, or other delivery  
8 payment plan, if the commissioner finds that such plan has  
9 the general purpose and effect of reducing hours worked by  
10 such employees to or below the maximum workweek applicable  
11 to them under 39-3-405;

12 (g) an employee employed in agriculture or in  
13 connection with the operation or maintenance of ditches,  
14 canals, reservoirs, or waterways not owned or operated for  
15 profit and not operated on a sharecrop basis and which are  
16 used exclusively for supply and storing of water for  
17 agricultural purposes;

18 (h) an employee with respect to his employment in  
19 agriculture by a farmer, notwithstanding other employment of  
20 such employee in connection with livestock auction  
21 operations in which such farmer is engaged as an adjunct to  
22 the raising of livestock, either on his own account or in  
23 conjunction with other farmers, if such employee is:

24 (i) primarily employed during his workweek in  
25 agriculture by such farmer; and

(ii) paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by 39-3-404;

(i) an employee of an establishment commonly recognized as a country elevator, including an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed by the establishment;

(j) a driver employed by an employer engaged in the business of operating taxicabs;

(k) an employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in such institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as such employee and his spouse reside in such facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than \$10,000;

(l) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by his employer in such forestry or

lumbering operations does not exceed eight; or

(n) an employee of a sheriff's department who is working under an established work period in lieu of a workweek pursuant to 7-4-2509(1)=i<sub>or</sub>

~~(1) an individual working as a crop hail insurance adjuster."~~

Section 5. Section 39-51-204, MCA, is amended to read:

"39-51-204. Exclusions from definition of employment.

(1) The term "employment" does not include:

(a) agricultural labor, except as provided in 39-51-203(8);

(b) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in 39-51-203(9);

(c) service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(d) service performed by an individual in the employ of his son, daughter, or spouse and service performed by a child under the age of 18 in the employ of his father or mother;

(e) service performed in the employ of any other state or its political subdivisions or of the United States government or of an instrumentality of any other state or states or their political subdivisions or of the United



1 States, except that national banks organized under the  
 2 national banking law shall not be entitled to exemption  
 3 under this subsection and shall be subject to this chapter  
 4 the same as state banks, provided that such service is  
 5 excluded from employment as defined in the Federal  
 6 Unemployment Tax Act by section 3306(c)(7) of that act;

7 (f) service with respect to which unemployment  
 8 insurance is payable under an unemployment insurance system  
 9 established by an act of congress, provided that the  
 10 department must enter into agreements with the proper  
 11 agencies under such act of congress, which agreements shall  
 12 become effective in the manner prescribed in the Montana  
 13 Administrative Procedure Act for the adoption of rules, to  
 14 provide reciprocal treatment to individuals who have, after  
 15 acquiring potential rights to benefits under this chapter,  
 16 acquired rights to unemployment insurance under such act of  
 17 congress or who have, after acquiring potential rights to  
 18 unemployment insurance under such act of congress, acquired  
 19 rights to benefits under this chapter;

20 (g) services performed in the delivery and  
 21 distribution of newspapers or shopping news from house to  
 22 house and business establishments by an individual under the  
 23 age of 18 years, but not including the delivery or  
 24 distribution to any point or points for subsequent delivery  
 25 or distribution;

1 (h) services performed by real estate, securities, and  
 2 insurance salesmen paid solely by commissions and without  
 3 guarantee of minimum earnings;

4 (i) service performed in the employ of a school,  
 5 college, or university if such service is performed by a  
 6 student who is enrolled and is regularly attending classes  
 7 at such school, college, or university or by the spouse of  
 8 such a student if such spouse is advised, at the time such  
 9 spouse commences to perform such service, that the  
 10 employment of such spouse to perform such service is  
 11 provided under a program to provide financial assistance to  
 12 such student by such school, college, or university and such  
 13 employment will not be covered by any program of  
 14 unemployment insurance;

15 (j) service performed by an individual under the age  
 16 of 22 who is enrolled at a nonprofit or public educational  
 17 institution, which normally maintains a regular faculty and  
 18 curriculum and normally has a regularly organized body of  
 19 students in attendance at the place where its educational  
 20 activities are carried on, as a student in a full-time  
 21 program taken for credit at such institution which combines  
 22 academic instruction with work experience if such service is  
 23 an integral part of such program and such institution has so  
 24 certified to the employer, except that this subsection shall  
 25 not apply to service performed in a program established for

1 or on behalf of an employer or group of employers;  
 2 (k) service performed in the employ of a hospital if  
 3 such service is performed by a patient of the hospital;  
 4 (l) casual labor not in the course of an employer's  
 5 trade or business performed in any calendar quarter, unless  
 6 the cash remuneration paid for such service is \$50 or more  
 7 and such service is performed by an individual who is  
 8 regularly employed by such employer to perform such  
 9 service;  
 10 ~~(m) insurance adjustment by a crop hail insurance~~  
 11 ~~adjuster.~~  
 12 (2) "Employment" does not include elected public  
 13 officials.  
 14 (3) For the purposes of 39-51-203(6), the term  
 15 "employment" does not apply to service performed:  
 16 (a) in the employ of a church or convention or  
 17 association of churches or an organization which is operated  
 18 primarily for religious purposes and which is operated,  
 19 supervised, controlled, or principally supported by a church  
 20 or convention or association of churches;  
 21 (b) by a duly ordained, commissioned, or licensed  
 22 minister of a church in the exercise of his ministry or by a  
 23 member of a religious order in the exercise of duties  
 24 required by such order;  
 25 (c) in the employ of a school which is not an

1 institution of higher education, prior to December 31, 1977;  
 2 (d) in a facility conducted for the purpose of  
 3 carrying out a program of rehabilitation for individuals  
 4 whose earning capacity is impaired by age or physical or  
 5 mental deficiency or injury or providing remunerative work  
 6 for individuals who, because of their impaired physical or  
 7 mental capacity, cannot be readily absorbed in the  
 8 competitive labor market by an individual receiving such  
 9 rehabilitation or remunerative work;  
 10 (e) as part of an unemployment work-relief or  
 11 work-training program assisted or financed in whole or in  
 12 part by a federal agency or any agency of a state or  
 13 political subdivision thereof by an individual receiving  
 14 such work relief or work training; or  
 15 (f) for a state prison or other state correctional or  
 16 custodial institution by an inmate of that institution."  
 17 Section 6. Section 80-2-201, MCA, is amended to read:  
 18 "80-2-201. Powers and duties of board of hail  
 19 insurance. The board of hail insurance provided for in  
 20 2-15-3003:  
 21 (1) shall hold meetings when necessary and essential  
 22 for the proper conduct of its business ~~at the state capitol~~  
 23 ~~in the office of the director of agriculture, who is~~  
 24 ~~secretary of the board;~~  
 25 (2) is hereby authorized, directed, and empowered to

1 make rules as it may from time to time find practical,  
2 necessary, and beneficial for the administration of this  
3 part;

4 (3) shall prescribe blank forms for all purposes  
5 necessary, proper, and incidental to the effective operation  
6 and enforcement of this part; and

7 (4) shall ~~may~~ **SHALL** ~~prescribe a special form outlining~~  
8 ~~use any ANY appropriate means of communication NOT TO EXCEED~~  
9 ~~\$1,500 IN COST PER YEAR to inform Montana producers of~~ the  
10 purposes, scope, and benefits of this part in furnishing  
11 protection against loss by hail at the actual cost of the  
12 risk to all taxpayers who may elect to become subject to the  
13 provisions of this part ~~the form to be submitted by the~~  
14 ~~agent of the department of revenue in each county at the~~  
15 ~~time in which the regular assessments of property are made~~  
16 ~~by the agents to each farmer in each county in the state~~  
17 ~~engaged in growing of crops subject to injury or destruction~~  
18 ~~by hail. Each such farmer taxpayer shall signify on such~~  
19 ~~forms whether he desires to become subject to the provisions~~  
20 ~~of this part or not."~~

21 Section 7. Section 80-2-204, MCA, is amended to read:

22 "80-2-204. Duty of agent of the department of revenue  
23 -- election of benefits of law. It shall be the duty of the  
24 agent of the department of revenue in each county in the  
25 state ~~at the time in which the annual assessment of~~

1 property ~~is made~~ upon request to explain to each taxpayer  
2 engaged in the growing of crops subject to injury or  
3 destruction by hail the provisions of this part and the  
4 protection afforded thereby and to ~~request each such~~  
5 ~~taxpayer to certify issue insurance policies~~, on the forms  
6 provided for such purpose, if such taxpayer desires to  
7 become subject to this part and liable for the tax levies  
8 provided hereby and thereby eligible to the benefits and  
9 protection of this part. Each such taxpayer who elects to  
10 become subject to this part shall be liable for the taxes  
11 levied for hail insurance and shall participate in the  
12 benefits and protection afforded by this part, provided that  
13 the owners of lands worked by others under lease or contract  
14 shall elect if such lands shall be subject to the tax levies  
15 herein provided for and the crops grown thereon protected  
16 for hail insurance, or the lessee of such land may tender  
17 payment of the tax levied for hail insurance to protect his  
18 crops, in cash, to the officer authorized to receive same,  
19 whereupon such crops shall become eligible to the benefits  
20 and protection afforded by this part for hail insurance."

21 Section ~~80-2-204~~ ~~Section 80-2-204~~ ~~MCA~~ ~~is amended to read:~~

22 "~~80-2-204~~ ~~Maximum insurance when the reserve fund~~  
23 ~~is determined actuarially sound as provided in 80-2-204~~  
24 ~~the board may write not more than \$24 138 insurance on each~~  
25 ~~acre of grain which is on nonirrigated land and not more~~

1 than \$48 per acre on irrigated lands when more than one  
2 party desires hail insurance on the same crop; each party is  
3 entitled to the share of the maximum provided per acre as  
4 represented by his interest in the crop. Either party may  
5 insure his share in the crop for any amount up to and  
6 including the maximum per acre if the others waive their  
7 right to insure."

8 Section 8. Section 80-2-221, MCA, is amended to read:

9 "80-2-221. Tax for hail insurance --- limitation on  
10 levy. (1) A tax is hereby authorized and directed to be  
11 levied on all lands in this state growing crops subject to  
12 injury or destruction by hail; the owners of which have  
13 elected to become subject to the provisions of this part.

14 (2) The board of hail insurance shall annually  
15 estimate, as accurately as possible, the amount required to  
16 pay all losses, interest on warrants, and costs of  
17 administration and shall recommend a levy to be made on each  
18 kind of land respectively, subject to the provisions of this  
19 part, to the department of revenue. The rates recommended to  
20 apply on the lands of owners shall be applied in the same  
21 proportions to the crops of those insured on a personal  
22 assessment basis.

23 (3) --- it is hereby provided, however, that such tax may  
24 not exceed in any one year \$240 per acre on lands sown to  
25 grain crops on nonirrigated lands, \$480 per acre on

1 irrigated lands, or \$240 per acre on lands producing hay  
2 crops.

3 (4) --- if the tax required to pay the estimated losses,  
4 interest on warrants, and costs of administration is less  
5 than \$120 per acre on lands sown to grain crops on  
6 nonirrigated lands and \$240 per acre on irrigated lands and  
7 a proportionate amount on lands sown to hay crops, the board  
8 of hail insurance must recommend a tax levy sufficient to  
9 raise the full amount thereof."

10 Section 9. Section 80-2-222, MCA, is amended to read:

11 "80-2-222. Board to establish amount of levy --  
12 disposition of funds. (1) The board of hail insurance may,  
13 when it considers it advisable, establish as many districts  
14 as it considers advisable and may maintain maximum rates in  
15 various parts of the state, which rates shall be  
16 commensurate with the risk incurred as nearly as it can  
17 determine from past experiences or from any records  
18 available. The highest of these rates shall be the same as  
19 the maximum established herein and the lowest may not be  
20 less than \$120 per acre on lands sown to grain crops and a  
21 proportionate amount on lands sown to hay crops.

22 (2) Notice of the various rates established for any  
23 year shall be plainly printed on the application for hail  
24 insurance, and in any year when the requirements of the hail  
25 insurance law as herein provided do not require a levy of

1 ~~the--maximum--rates--as--established~~ then the rates for the  
 2 year shall be determined and levied by the board of hail  
 3 insurance for each of the various districts as established,  
 4 in such proportions as will in its judgment be fair and  
 5 equitable.

6 (3) In making the levy provided in this section and  
 7 80-2-223, the board of hail insurance shall provide for:

8 (a) the payment of all expenses of administration,  
 9 together with all interest owed or to be owing on registered  
 10 warrants;

11 (b) that portion of the losses incurred during the  
 12 current year which are not paid from funds drawn from the  
 13 reserve;

14 (c) the maintenance of the reserve, a part or all of  
 15 which may be used in any one year for the purpose of paying  
 16 the costs of administration, interest on the warrants, and  
 17 losses as the same shall be settled and adjusted by the  
 18 board, including the losses sustained in any prior year or  
 19 years under the hail insurance law ~~during-or--subsequent--to~~  
 20 ~~the-year-1919~~ that have not been paid.

21 (4) If at the end of any hail insurance season the  
 22 board determines and finds that more funds are accumulating  
 23 from the current year's levies than were estimated when the  
 24 levy was made and are in excess of the need for the payment  
 25 of losses and expenses and maintenance of the reserve, the

1 board may, at its discretion, refund the excess to the  
 2 farmers insured for the year, on a pro rata or percentage  
 3 basis.

4 (5) The board of hail insurance may direct the board  
 5 of investments to invest funds from the agency fund pursuant  
 6 to the provisions of the unified investment program for  
 7 state funds. The income from such investments shall be  
 8 credited to the board of hail insurance account in the  
 9 agency fund."

10 Section 10. Section 80-2-224, MCA, is amended to read:

11 "80-2-224. Assessment -- notice -- when payable.  
 12 Notice of such assessment shall be mailed by the county  
 13 treasurer to each person insured in the same manner ~~and~~ at  
 14 ~~the same time~~ as ~~are~~ other notices of property taxes  
 15 due. The assessment shall be payable at the office of the  
 16 county treasurer of each respective county."

17 Section 11. Section 80-2-228, MCA, is amended to read:

18 "80-2-228. Reserve fund. (1) Each year when the hail  
 19 board makes its annual levy for the payment of current  
 20 losses, expenses of administration, and for an addition to  
 21 the reserve if conditions permit, it may not increase the  
 22 levy enough in any year so that such addition to the reserve  
 23 will exceed 5% of the maximum risk written for that year.

24 (2) ~~The reserve fund may not exceed \$4 million prior~~  
 25 ~~to January 1, 1976, or \$8 million prior to January 1, 1976, and thereafter the~~

1 ~~maximum-permissible-reserve-fund-shall-be-established-as-set~~  
 2 ~~forth-in-subsection-(3)-of-this-section~~

3 ~~(3)(2)~~ The board may engage the services of a  
 4 qualified actuary to conduct an actuarial valuation of the  
 5 reserve. This valuation shall include the actuary's  
 6 determination of the amount of reserve necessary to absorb  
 7 all reasonably anticipated catastrophic losses. This amount  
 8 shall be the maximum permissible reserve fund for the next  
 9 year.

10 ~~(4)(3)~~ The reserve hereby created shall be deposited  
 11 in the agency fund, and the board is hereby granted the  
 12 power to draw from its moneys in the fund such amounts as it  
 13 considers necessary for the purpose of paying costs of  
 14 administration, interest, and losses.

15 ~~(5)(4) Whenever--there--are--no--unpaid--losses--for--prior~~  
 16 ~~years--and--whenever--in--any--one--year--the--cost--of~~  
 17 ~~administration--interest--and--losses--for--the--current--year--is~~  
 18 ~~less--than--the--sum--of--69--cents--per--acre--on--nonirrigated~~  
 19 ~~grains--and--a--proportionate--amount--on--irrigated--grains--and~~  
 20 ~~other--crops--the~~ The board may not draw on the reserve for  
 21 any purpose unless the amount required for the payment of  
 22 losses for the current year, including interest on warrants  
 23 and costs of administration, exceeds the amount of the  
 24 estimate made by the board for the current year pursuant to  
 25 80-2-221."

1 SECTION 12. SECTION 80-2-232, MCA, IS AMENDED TO READ:

2 "80-2-232. State treasurer's duty -- transfer of funds  
 3 -- warrants -- transfers to county and state general fund.

4 (1) The state treasurer shall receive all moneys paid to him  
 5 under this part and shall place same to the credit of the  
 6 agency fund and may from time to time transfer to the  
 7 earmarked revenue fund such sums as the board of hail  
 8 insurance may deem necessary and proper to pay the expenses  
 9 of administration. All moneys collected by the board shall  
 10 be deposited in the agency fund, and all losses shall be  
 11 paid from that fund. All other costs are administrative  
 12 expenses and shall be paid from the board's account in the  
 13 earmarked revenue fund. If registered warrants be presented  
 14 and there be no money to pay the same, such warrants shall  
 15 be registered and thereafter bear interest at the rate of 4%  
 16 per annum until called for payment by the state treasurer.  
 17 If at any time more funds are in the earmarked revenue fund  
 18 than the board estimates are needed for administrative  
 19 expenses, the state treasurer may on the order of the board  
 20 transfer such funds back to the agency fund as the board may  
 21 direct.

22 (2) Upon warrants drawn by order of the board, the  
 23 state treasurer shall pay out of the board's account in the  
 24 agency fund to the county treasurer of each county where  
 25 state hail insurance coverage is in force 1% 23 of the gross

1 annual levies made and collected in such county under this  
2 part for the use of the county as the board of county  
3 commissioners may determine.

4 (3) Upon authorization from the board of hail  
5 insurance, the state treasurer shall transfer out of the  
6 board's account in the agency fund to the general fund of  
7 the state of Montana ~~2%~~ 1.5% of the gross annual levies made  
8 and collected in the state of Montana."

9 Section 13. Section 80-2-241, MCA, is amended to read:

10 "80-2-241. Report of losses. All losses by hail to  
11 crops insured under this part shall be reported within ~~9~~ 14  
12 days thereafter by the owner of such crops, his agent or  
13 attorney, to the board of hail insurance, which shall  
14 require the claimant to make a statement of the losses  
15 sustained, the cause thereof, and such other information as  
16 the board may require on the forms to be provided for such  
17 purpose. If a loss is reported more than 14 days after it  
18 occurs, the board shall charge the claimant for all costs  
19 incurred in making the adjustment."

20 Section 14. Section 80-2-242, MCA, is amended to read:

21 "80-2-242. Appraisers -- appointment -- qualifications  
22 -- duties. (1) ~~The board of hail insurance department of~~  
23 ~~agriculture shall as soon as practicable each year appoint~~  
24 ~~retain as independent contractors, under terms mutually~~  
25 ~~agreed upon, which may include benefits accorded state~~

1 ~~employees;~~ a sufficient number of appraisers to appraise all  
2 losses by hail incurred under this part in the various  
3 counties. The ~~men persons~~ so appointed shall be actively  
4 engaged in farming or shall have had practical experience in  
5 farming ~~and shall be selected from names submitted by~~  
6 ~~regularly organized farmers societies in the various~~  
7 ~~counties. If the recommendations are not made as provided~~  
8 ~~above, then the board shall select the appraisers from men~~  
9 ~~actively engaged in farming or men who have had practical~~  
10 ~~experience in farming as heretofore provided.~~

11 (2) The board may call on one or more of the duly  
12 appointed appraisers for the adjustment of each and every  
13 loss, and the said appraisers shall promptly report their  
14 findings to the board according to the rules provided by the  
15 board.

16 (3) No appraiser who shall be a relative, attorney,  
17 agent, employee, or creditor or in any manner interested by  
18 lien, mortgage, or otherwise in the crop injured or  
19 destroyed shall assist in adjusting any such loss.

20 (4) The board may ~~in case of emergency appoint more~~  
21 ~~than three appraisers in any county. Also it may~~ send any  
22 duly appointed appraiser or appraisers into any county as  
23 the occasion may require."

24 SECTION 15. SECTION 80-2-243, MCA, IS AMENDED TO READ:

25 "80-2-243. Disputed appraisal. (1) In case the party

1 that has sustained the loss is dissatisfied with and refuses  
 2 to accept the adjustment made by the official appraiser,  
 3 then he shall have the right to appeal to the board of hail  
 4 insurance. He shall make such appeal by registered or  
 5 certified mail within 10 days after receiving the adjustment  
 6 offer of the board in writing. Also the board may require  
 7 the posting of a cash bond of ~~\$10~~ \$25 with the request for  
 8 reappraisal of the first adjustment. In cases where the  
 9 board requires the posting of the ~~\$10~~ \$25 bond, the board  
 10 may retain it if no increase is allowed. If an increase is  
 11 obtained, the board will return the bond to the claimant.

12 (2) In case the adjuster who makes the second  
 13 appraisal fails to secure an agreement, the claimant may at  
 14 his option submit the matter to arbitration as herein  
 15 provided or sue the board in the district court of the  
 16 county where the loss occurred, within 90 days from the date  
 17 of receipt of written notice of the second appraisal. Such  
 18 actions shall be trials de novo and the Montana Rules of  
 19 Civil Procedure shall apply. Where any claimant demands  
 20 arbitration, he shall, if required by the board, furnish a  
 21 cash bond to the board in the sum of ~~\$25~~ \$50 which shall  
 22 accompany his application. If there is not sufficient  
 23 allowance made to any claimant after arbitration to cover  
 24 the cost of arbitration without the use of the ~~\$25~~ \$50 bond,  
 25 then the board may use a part or all of said cash bond. In

1 cases where the claimant secures an increase, the bond shall  
 2 be promptly returned to the claimant. If the claimant  
 3 elects to submit the matter to arbitration, he shall then  
 4 appoint one disinterested person as appraiser and the  
 5 official appraiser shall appoint another person as appraiser  
 6 and the two shall select a third disinterested person and  
 7 the three shall then proceed to adjust the loss in the same  
 8 manner as specified in 80-2-242. The judgment of the  
 9 majority shall be the judgment of said appraisers and shall  
 10 be binding upon both parties as the final determination of  
 11 said loss.

12 (3) (a) If the insured does not recover a greater sum  
 13 than allowed by the official appraiser in the first  
 14 instance, he shall pay the expenses of the three appraisers  
 15 and their witnesses in making said adjustment, but if he is  
 16 awarded a larger sum, then the same shall be paid by the  
 17 board.

18 (b) If the insured shall be required to pay the  
 19 expenses of such reappraisal as above provided, the board  
 20 is hereby authorized to deduct the amount of such expenses  
 21 from the amount allowed said insured before making  
 22 settlement for said loss.

23 (4) The board shall examine all reports of appraisers  
 24 and verify the same and adjust all losses and for such  
 25 purposes may order hearings, subpoena witnesses, conduct



1 examinations, and do all things necessary to secure a fair  
2 and impartial appraisal of losses by hail."

3 Section 16. Section 80-2-244, MCA, is amended to read:

4 "80-2-244. Payment of losses. (1) The board of hail  
5 insurance shall, as soon as practicable after the loss has  
6 been sustained, arrange for the payment of the loss in the  
7 following manner. From the amount of the loss as adjusted  
8 for each claimant, the board shall deduct the amount the  
9 claimant then owes as delinquent hail insurance tax and the  
10 maximum amount assessed as hail insurance tax for the  
11 current year and shall make settlement within 40 days from  
12 the time loss is sustained by paying either by registered  
13 warrant or otherwise if funds are immediately available 50%  
14 of the total loss as agreed upon, less the maximum rate of  
15 assessments. The balance shall be paid at the expiration of  
16 the hail season.

17 (2) The board shall on or before November 1 order  
18 payment for the amount so deducted, which payment shall be  
19 remitted to the county treasurer of the county in which the  
20 tax was assessed. The board shall then order payment for the  
21 balance of the adjustment to be sent to the claimant,  
22 provided that in no case may the payment for loss exceed \$24  
23 ~~\$22~~ \$24 per acre for grain crops on nonirrigated lands, \$40  
24 ~~\$38~~ \$38 per acre on irrigated lands, and \$24 ~~\$22~~ per acre on  
25 hay crops. No claimant may receive payment for any loss

1 incurred where the loss does not equal or exceed 5% of the  
2 total value of the crop insured. If the losses in any year  
3 exceed the current levy plus the reserve, if any, then the  
4 payment of all losses shall be prorated, share and share  
5 alike, among all grain growers having loss claims adjusted  
6 and approved, and the unpaid balance of the losses shall be  
7 paid out of the reserve without interest in such order as  
8 the board directs, when in the judgment of the board there  
9 are sufficient moneys to provide for the payment of the same  
10 and other items payable out of the reserve. In any year the  
11 board may by resolution authorize its chairman and secretary  
12 to borrow as needed from any person, bank, or corporation  
13 such sum or sums of money as the board may consider  
14 necessary for the purpose of paying all warrants as issued.

15 (3) For any moneys borrowed under the provisions of  
16 this part, the board shall cause warrants to be drawn. The  
17 warrants shall bear interest at not to exceed 6% a year, and  
18 the warrants and the interest thereon shall be paid out of  
19 funds from the state hail insurance program as they are  
20 collected from the various counties in the state. The board  
21 may not at any time borrow a total sum greater than the  
22 amount of levies as made for taxes for the current year  
23 together with such delinquent taxes as remain unpaid on the  
24 books of the county treasurer."

25 NEW SECTION. Section 17. Effective date. This act is

1 . effective on passage and approval.

-End-

1 SENATE BILL NO. 317  
2 INTRODUCED BY BLAYLOCK,  
3 HIMSL, GRAHAM, GAGE  
4 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE  
5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE  
7 BOARD OF HAIL INSURANCE UNDER EXISTING STATUTORY AUTHORITY  
8 AND RULES; REVISING PROVISIONS RELATING TO THE BOARD AND TO  
9 THE HAIL INSURANCE PROGRAM; ~~EXCLUDING GROUP HAIL INSURANCE~~  
10 ~~ADJUSTMENT--FROM--CERTAIN--EMPLOYMENT--LAWS;~~ REMOVING RATE  
11 LIMITS; ~~INCREASING---COVERAGE---LIMITS;~~ AMENDING SECTIONS  
12 2-8-103, 2-15-3003, ~~39-3-486, 39-51-284,~~ 80-2-201, 80-2-204,  
13 ~~80-2-288,~~ 80-2-221, 80-2-222, 80-2-224, 80-2-228, ~~80-2-232,~~  
14 ~~AND~~ 80-2-241, ~~80-2-242,--AND~~ THROUGH 80-2-244, MCA; AND  
15 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

17 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,  
18 MCA, terminates the Board of Mail Insurance and requires a  
19 performance evaluation of the Board by the Legislative Audit  
20 Committee; and

21 WHEREAS, as a result of the performance evaluation the  
22 Legislative Audit Committee recommends that the Board of  
23 Mail Insurance be reestablished.

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

1        NEW SECTION. Section 1. Reestablishment. The board of  
2        hail insurance, created by 2-15-3003, is reestablished under  
3        existing statutory authority and rules for 6 years pursuant  
4        to 2-8-122.

5       Section 2. Section 2-8-103, MCA, is amended to read:  
6       "2-8-103. Agencies to terminate. (1) The following  
7       agencies shall terminate on July 1, 1979:

8 (a) board of abstracters, department of professional  
9 and occupational licensing, created by 2-15-1643;

10 (b) board of real estate, department of professional  
11 and occupational licensing, created by 2-15-1642;

12 (c) state board of warm air heating, ventilation, and  
13 air conditioning, department of professional and  
14 occupational licensing, created by Z-15-1656;

15 (d) board of institutions, department of institutions,  
16 created by 2-15-2303.

17 (2) The following agencies shall terminate on July 1,  
18 1981:

19 (a) board of athletics, department of professional and  
20 occupational licensing, created by 2-15-1961;

21 (b) board of massage therapists, department of  
22 professional and occupational licensing, created by  
23 2-15-1627;

24 (c) board of osteopathic physicians, department of  
25 professional and occupational licensing, created by

1 2-15-1607;  
 2 {d} board of podiatry examiners, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1608;

5 {3} The following units of state government shall  
 6 terminate on July 1, 1983:

7 {a} board of aeronautics, department of commerce,  
 8 created by 2-15-1812;

9 ~~{b}--state--board--of--hair--insurance--department--of~~  
 10 ~~agriculture--created-by-2-15-3883;~~

11 {c}{b1} board of horseracing, department of commerce,  
 12 created by 2-15-1881;

13 {d}{c1} board of livestock, department of livestock,  
 14 created by 2-15-3102;

15 {e}{d1} board of milk control, department of commerce,  
 16 created by 2-15-1802;

17 {f}{e1} board of oil and gas conservation, department  
 18 of natural resources and conservation, created by 2-15-3303;

19 {g}{f1} Montana outfitters' council, department of  
 20 fish, wildlife, and parks, created by 2-15-3403;

21 {h}{g1} public service commission, department of public  
 22 service regulation, created by 69-1-102;

23 {i}{h1} board of water and wastewater operators,  
 24 department of health and environmental sciences, created by  
 25 2-15-2105;

1 {j}{i1} board of water well contractors, department of  
 2 commerce, created by 2-15-1862.

3 {4} The following agencies terminate on July 1, 1985:

4 {a} the board of public accountants, department of  
 5 commerce, created by 2-15-1866;

6 {a} the board of architects, department of commerce,  
 7 created by 2-15-1871;

8 {c} state banking board, department of commerce,  
 9 created by 2-15-1803;

10 {d} the state electrical board, department of  
 11 commerce, created by 2-15-1874;

12 {e} the board of professional engineers and land  
 13 surveyors, department of commerce, created by 2-15-1873;

14 {f} office of commissioner of insurance and the  
 15 insurance department, state auditor's office, created by  
 16 2-15-1902 and 2-15-1903;

17 {g} office of the securities commissioner, state  
 18 auditor's office, created by 2-15-1901;

19 {h} the board of landscape architects, department of  
 20 commerce, created by 2-15-1872;

21 {i} the board of county printing, department of  
 22 commerce, created by 2-15-1811;

23 {j} the board of plumbers, department of commerce,  
 24 created by 2-15-1875;

25 {k} board of physical therapy examiners, department of

1 commerce, created by 2-15-1858.

2 (5) The following agencies terminate on July 1, 1987:

3 (a) commission for human rights, department of labor

4 and industry, created by 2-15-1706;

5 (b) Montana state board of medical examiners,

6 department of commerce, created by 2-15-1841;

7 (c) board of dentistry, department of commerce,

8 created by 2-15-1842;

9 (d) board of pharmacists, department of commerce,

10 created by 2-15-1843;

11 (e) board of nursing, department of commerce, created

12 by 2-15-1844;

13 (f) board of nursing home administrators, department

14 of commerce, created by 2-15-1845;

15 (g) board of optometrists, department of commerce,

16 created by 2-15-1846;

17 (h) board of chiropractors, department of commerce,

18 created by 2-15-1847;

19 (i) board of radiologic technologists, department of

20 commerce, created by 2-15-1848;

21 (j) board of speech pathologists and audiologists,

22 department of commerce, created by 2-15-1849;

23 (k) board of hearing aid dispensers, department of

24 commerce, created by 2-15-1850;

25 (l) board of psychologists, department of commerce,

1 created by 2-15-1851;

2 (m) board of veterinarians, department of commerce,

3 created by 2-15-1852;

4 (n) board of morticians, department of commerce,

5 created by 2-15-1853;

6 (o) board of barbers, department of commerce, created

7 by 2-15-1856;

8 (p) board of cosmetologists, department of commerce,

9 created by 2-15-1957;

10 (q) board of sanitarians, department of commerce,

11 created by 2-15-1861;

12 (r) board of veterans' affairs, department of social

13 and rehabilitation services, created by 2-15-2202.

14 ~~(6) The following agency terminates July 1, 1989:~~

15 ~~board of hail insurance, department of agriculture, created~~

16 ~~by 2-15-3003."~~

17 Section 3. Section 2-15-3003, MCA, is amended to read:

18 "2-15-3003. Board of hail insurance. (1) There is a

19 board of hail insurance of five members consisting of the

20 state auditor, the director of agriculture, who is secretary

21 of the board, and three other members to be appointed by the

22 governor from names submitted by farmer organizations having

23 a general membership throughout the state and confirmed by

24 the senate.

25 (2) The governor shall designate one of the appointive

1 members to act as chairman of the board.

2 (3) Whenever the term of any member expires, either by  
3 death, resignation, removal for cause, or expiration of his  
4 term of office, the governor shall appoint his successor and  
5 shall also appoint one of the board for chairman in case of  
6 a vacancy in that office.

7 (4) Each appointive member of the board shall be  
8 appointed for 3 years, except when such appointment is made  
9 to fill a vacancy on the board, in which event such  
10 appointee shall fill out the unexpired term of the member  
11 whose place he fills.

12 (5) All members of the board shall be subject to  
13 removal for cause by the governor.

14 (6) The board is allocated to the department of  
15 agriculture for administrative purposes only as prescribed  
16 in 2-15-121. The department may charge the board for  
17 services provided by the department pursuant to 2-15-121.  
18 The costs charged by the department must be commensurate  
19 with the cost of the services provided."

20 Section 4v--Section--39-3-486v--MCAv--is amended to read:

21 "39-3-486v--Exclusions--(1) The provisions of 39-3-484  
22 and 39-3-485 shall not apply with respect to:

23 (a)--students participating in a distributive education  
24 program established under the auspices of an accredited  
25 educational agency;

1 (b)--persons employed in private homes whose duties  
2 consist of menial chores such as babysitting, mowing, lawn  
3 cleaning, sidewalk;

4 (c)--persons employed directly by the head of a  
5 household to care for children dependent upon the head of  
6 the household;

7 (d)--immediate members of the family of an employer or  
8 persons dependent upon an employer for half or more of their  
9 support in the customary sense of being a dependent;

10 (e)--any persons not regular employees thereof who  
11 voluntarily offer their services to a nonprofit organization  
12 on a fully or partially reimbursed basis;

13 (f)--handicapped workers engaged in work which is  
14 incidental to training or evaluation programs or whose  
15 earning capacity is so severely impaired that they are  
16 unable to engage in competitive employment;

17 (g)--apprentices or learners who may be exempted by  
18 the commissioner for a period not to exceed 30 days of their  
19 employment;

20 (h)--learners under the age of 18 who are employed as  
21 farm workers provided that such exclusion shall not exceed  
22 a period of 180 days from their initial date of employment  
23 and further provided that during this exclusion period wages  
24 paid such learners may not be less than 50% of the minimum  
25 wage rate established in this part;

1 {i}--retired---or---semitired---persons---performing  
 2 part-time-incidental-work-as-a-condition-of-their--residence  
 3 on-a-farm-or-ranch;  
 4 {j}--any--individual-employed-in-a-bona-fide-executive  
 5 administrative-or-professional-capacity-as-these-terms--are  
 6 defined-and-delimited-by-regulations-of-the-commissioner;  
 7 {k}--any--individual--employed--by-the-United-States-of  
 8 America;  
 9 {2}--The-provisions-of-39-3-405-do-not-apply-to:  
 10 {a}--an-employee-with-respect-to-whom-the-United-States  
 11 Secretary-of-Transportation--has--power--to--establish  
 12 qualifications--and-maximum-hours-of-service-pursuant-to-the  
 13 provisions-of-49-U.S.C.-304;  
 14 {b}--an-employee-of--an-employer--subject--to--the  
 15 provisions-of-part-I-of-the-Interstate-Commerce-Act;  
 16 {c}--an--individual--employed--as--an--outside-buyer-of  
 17 poultry-eggs-cream-or-milk--in--their--raw-or-natural  
 18 states;  
 19 {d}--a--salesman--partsman--or--mechanic--paid--on--a  
 20 commission--or--contract--basis--and--primarily-engaged--in  
 21 selling--or--servicing--automobiles--trucks--mobile-homes  
 22 recreational-vehicles-or-farm-implements-if-he-is--employed  
 23 by-a-nonmanufacturing-establishment-primarily-engaged-in-the  
 24 business-of-selling-such-vehicles-or-implements-to-ultimate  
 25 purchasers;

1 {e}--a-salesman-primarily-engaged-in-selling--trailers  
 2 boats--or--aircraft-if-he-is-employed-by-a-nonmanufacturing  
 3 establishment-primarily-engaged-in-the-business--of--selling  
 4 trailers-boats-or-aircraft-to-ultimate-purchasers;  
 5 {f}--an-employee-employed-as-a-driver-or-driver's  
 6 helper-making-local-deliveries-who-is-compensated--for--such  
 7 employment--on--the-basis--of--trip-rates--or-other-delivery  
 8 payment-plan-if-the-commissioner-finds-that-such-plan--has  
 9 the-general--purpose-and-effect-of-reducing-hours-worked-by  
 10 such-employees-to-or-below-the-maximum--workweek--applicable  
 11 to-them-under-39-3-405;  
 12 {g}--an--employee--employed--in--agriculture--or--in  
 13 connection-with-the-operation--or--maintenance--of--ditches  
 14 canals--reservoirs--or-waterways-not-owned-or-operated-for  
 15 profit-and-not-operated-on-a-sharecrop-basis-and--which--are  
 16 used--exclusively--for--supply--and--storing--of--water--for  
 17 agricultural-purposes;  
 18 {h}--an-employee-with-respect--to--his--employment--in  
 19 agriculture-by-a-former-notwithstanding-other-employment-of  
 20 such--employee--in--connection--with--livestock-auction  
 21 operations-in-which-such-former-is-engaged-as-an-adjunct--to  
 22 the-raising--of--livestock-either-on-his-own-account-or-in  
 23 conjunction-with-other-farmers-if-such-employee-is;  
 24 {i}--primarily-employed--during--his--workweek--in  
 25 agriculture-by-such-farmer;and

1       (iii) paid for his employment in connection with such  
2       livestock auction operations at a wage rate not less than  
3       that prescribed by 39-3-484;

4       (ii) an employee of an establishment commonly  
5       recognized as a country elevator, including an establishment  
6       which sells products and services used in the operation of a  
7       farm, if no more than five employees are employed by the  
8       establishment;

9       (ij) a driver employed by an employer engaged in the  
10      business of operating taxicabs;

11      (k) an employee who is employed with his spouse by a  
12      nonprofit educational institution to serve as the parents of  
13      children who are orphans or one of whose natural parents is  
14      deceased or who are enrolled in such institution and reside  
15      in residential facilities of the institution so long as the  
16      children are in residence at the institution and so long as  
17      such employee and his spouse reside in such facilities and  
18      receive without cost board and lodging from the  
19      institution and are together compensated on a cash basis  
20      at an annual rate of not less than \$10,000;

21      (l) an employee employed in planting or tending trees;  
22      cruising, surveying, or felling timber, or transporting logs  
23      or other forestry products to a mill, processing plant,  
24      railroad, or other transportation terminal if the number of  
25      employees employed by his employer in such forestry or

1       timbering operations does not exceed eight; or BR

2       (m) an employee of a sheriff's department who is  
3       working under an established work period in lieu of a  
4       workweek pursuant to 7-4-2509(i)(1) OR

5       (n) an individual working as a crop hail insurance  
6       adjuster;

7       Section 5. Section 39-51-204, MEA, is amended to read:  
8       "39-51-204. Exclusions from definition of employment  
9       (i) The term "employment" does not include:

10      (a) agricultural labor, except as provided in  
11      39-51-203(8);

12      (b) domestic service in a private home, local college  
13      club, or local chapter of a college fraternity or sorority,  
14      except as provided in 39-51-203(9); 440-

15      (c) service performed as an officer or member of the  
16      crew of a vessel on the navigable waters of the United  
17      States;

18      (d) service performed by an individual in the employ  
19      of his son, daughter, or spouse and service performed by a  
20      child under the age of 16 in the employ of his father or  
21      mother;

22      (e) service performed in the employ of any other state  
23      or its political subdivisions or of the United States  
24      government or of an instrumentality of any other state or  
25      states or their political subdivisions or of the United



1 States, except that national banks organized under the  
 2 national banking law shall not be entitled to exemption  
 3 under this subsection and shall be subject to this chapter  
 4 the same as state banks, provided that such service is  
 5 excluded from employment as defined in the Federal  
 6 Unemployment Tax Act by section 3306(c)(7) of that act;

7 (f) service with respect to which unemployment  
 8 insurance is payable under an unemployment insurance system  
 9 established by an act of congress, provided that the  
 10 department must enter into agreements with the proper  
 11 agencies under such act of congress, which agreements shall  
 12 become effective in the manner prescribed in the Montana  
 13 Administrative Procedure Act for the adoption of rules to  
 14 provide reciprocal treatment to individuals who have, after  
 15 acquiring potential rights to benefits under this chapter,  
 16 acquired rights to unemployment insurance under such act of  
 17 congress or who have, after acquiring potential rights to  
 18 unemployment insurance under such act of congress, acquired  
 19 rights to benefits under this chapter;

20 (g) services performed in the delivery and  
 21 distribution of newspapers or shopping news from house to  
 22 house and business establishments by an individual under the  
 23 age of 18 years, but not including the delivery or  
 24 distribution to any point or points for subsequent delivery  
 25 or distribution;

1 (h) services performed by real estate securities and  
 2 insurance salesmen paid solely by commissions and without  
 3 guarantee of minimum earnings;

4 (i) service performed in the employ of a school,  
 5 college or university if such service is performed by a  
 6 student who is enrolled and is regularly attending classes  
 7 at such school, college or university or by the spouse of  
 8 such a student if such spouse is advised at the time such  
 9 spouse commences to perform such service that the  
 10 employment of such spouse to perform such service is  
 11 provided under a program to provide financial assistance to  
 12 such student by such school, college or university and such  
 13 employment will not be covered by any program of  
 14 unemployment insurance;

15 (j) service performed by an individual under the age  
 16 of 22 who is enrolled at a nonprofit or public educational  
 17 institution which normally maintains a regular faculty and  
 18 curriculum and normally has a regularly organized body of  
 19 students in attendance at the place where its educational  
 20 activities are carried on as a student in a full-time  
 21 program taken for credit at such institution which combines  
 22 academic instruction with work experience if such service is  
 23 an integral part of such program and such institution has so  
 24 certified to the employer, except that this subsection shall  
 25 not apply to service performed in a program established for

1 or-on-behalf-of-an-employer-or-group-of-employers;  
 2 {k}--service--performed--in-the-employ-of-a-hospital-if  
 3 such-service-is-performed-by-a-patient-of-the-hospital;  
 4 {l}--casual-labor-not-in-the-course-of--an-employer's  
 5 trade--or-business-performed-in-any-calendar-quarter-unless  
 6 the-cash-remuneration-paid-for-such-service-is-\$50--or--more  
 7 and--such--service--is--performed--by--an--individual-who-is  
 8 regularly--employed--by--such--employer--to--perform--such  
 9 service;

10 {m}--insurance--adjustment--by--a--crop--hail--insurance  
 11 adjuster;

12 {n}--"Employment"--does--not--include--elected--public  
 13 officials;

14 {o}--for--the--purposes--of--39-51-203(f),--the--term  
 15 "employment"--does--not--apply--to--service-performed;

16 {p}--in--the--employ--of--a--church--or--convention--or  
 17 association-of-churches--or--an-organization-which-is-operated  
 18 primarily--for--religious--purposes--and--which-is-operated,  
 19 supervised,--controlled,--or--principally-supported-by-a-church  
 20 or-convention-or-association-of-churches;

21 {q}--by--a--duty--ordained,--commissioned,--or--licensed  
 22 minister-of-a-church-in-the-exercise-of-his-ministry--or-by-a  
 23 member--of--a--religious--order--in--the--exercise-of-duties  
 24 required-by-such-order;

25 {r}--in--the--employ--of--a--school--which--is--not--an

1 institution-of-higher-education, prior-to-December-31, 1977;  
 2 {s}--in--a--facility--conducted--for--the--purpose--of  
 3 carrying-out-a-program--of--rehabilitation--for--individuals  
 4 whose--earning--capacity--is--impaired-by-age-or-physical-or  
 5 mental-deficiency-or-injury--or--providing--remunerative--work  
 6 for--individuals--who--because-of-their-impaired-physical-or  
 7 mental--capacity--cannot--be--readily--absorbed--in--the  
 8 competitive--labor--market--by--an--individual-receiving-such  
 9 rehabilitation-or-remunerative-work;

10 {t}--as--part--of--an--unemployment--work-relief--or  
 11 work-training--program--assisted--or--financed-in-whole-or-in  
 12 part-by-a-federal--agency--or--any--agency--of--a--state--or  
 13 political--subdivision--thereof--by--an--individual-receiving  
 14 such-work-relief-or-work-training;

15 {u}--for-a-state-prison-or-other-state-corrections--or  
 16 custodial-institution-by-an-inmate-of-that-institution;

17 Section 4. Section 80-2-201, MCA, is amended to read:  
 18 "80-2-201. Powers and duties of board of hail  
 19 insurance. The board of hail insurance provided for in  
 20 2-15-3003:

21 (1) shall hold meetings when necessary and essential  
 22 for the proper conduct of its business at the state capital  
 23 in the office of the director of agriculture who is  
 24 secretary of the board;

25 (2) is hereby authorized, directed, and empowered to

1 make rules as it may from time to time find practical,  
2 necessary, and beneficial for the administration of this  
3 part;

4 (3) shall prescribe blank forms for all purposes  
5 necessary, proper, and incidental to the effective operation  
6 and enforcement of this part; and

7 (4) ~~shall MAY SHALL prescribe a special form outlining~~  
8 ~~use any ANY appropriate means of communication MAY-IT-EXCEED~~  
9 ~~\$1,500--IN--EIGHT--PER--YEAR to inform Montana producers of the~~  
10 ~~purposes, scope, and benefits of this part in furnishing~~  
11 ~~protection against loss by hail at the actual cost of the~~  
12 ~~risk to all taxpayers who may elect to become subject to the~~  
13 ~~provisions of this part--the form to be submitted by the~~  
14 ~~agent--of--the--department--of revenue in each county at the~~  
15 ~~time in which the regular assessments of property are made~~  
16 ~~by the agents to each farmer in each county in the state~~  
17 ~~engaged in growing of crops subject to injury or destruction~~  
18 ~~by hail. Each such farmer taxpayer shall signify on such~~  
19 ~~forms whether he desires to become subject to the provisions~~  
20 ~~of this part or not."~~

21 Section 5. Section 80-2-204, MCA, is amended to read:  
22 "80-2-204. Duty of agent of the department of revenue  
23 -- election of benefits of law. It shall be the duty of the  
24 agent of the department of revenue in each county in the  
25 state--at--the--time--in--which--the--annual--assessment--of

1 ~~property is made upon request~~ to explain to each taxpayer  
2 engaged in the growing of crops subject to injury or  
3 destruction by hail the provisions of this part and the  
4 protection afforded thereby and to ~~request--each--such~~  
5 ~~taxpayer to certify issue insurance policies~~, on the forms  
6 provided for such purpose, if such taxpayer desires to  
7 become subject to this part and liable for the tax levies  
8 provided hereby and thereby eligible to the benefits and  
9 protection of this part. Each such taxpayer who elects to  
10 become subject to this part shall be liable for the taxes  
11 levied for hail insurance and shall participate in the  
12 benefits and protection afforded by this part, provided that  
13 the owners of lands worked by others under lease or contract  
14 shall elect if such lands shall be subject to the tax levies  
15 herein provided for and the crops grown thereon protected  
16 for hail insurance, or the lessee of such land may tender  
17 payment of the tax levied for hail insurance to protect his  
18 crops, in cash, to the officer authorized to receive same,  
19 whereupon such crops shall become eligible to the benefits  
20 and protection afforded by this part for hail insurance."

21 ~~Section 80-2-204, MCA, is amended to read:~~  
22 ~~"80-2-204. Maximum insurance--When the reserve fund~~  
23 ~~is determined actuarially sound, as provided in 80-2-228,~~  
24 ~~the board may write not more than \$24 128 insurance on each~~  
25 ~~acre of grain which is on nonirrigated land and not more~~

1 than--\$48 ~~\$68~~ per-acre-on-irrigated-lands-when-more-than-one  
 2 party-desires-hail-insurance-on-the-same-crops-each-party-is  
 3 entitled-to-the-share-of-the-maximum-provided-per-acre-as  
 4 represented-by-his-interest-in-the-crops-Either-party-may  
 5 insure-his-share-in-the-crop-for-any-amount-up-to-and  
 6 including-the-maximum-per-acre-if-the-others-waive-their  
 7 right-to-insure."

8 Section 6. Section 80-2-221, MCA, is amended to read:  
 9 "80-2-221. Tax for hail insurance --~~limitation on~~  
 10 levy. (1) A tax is hereby authorized and directed to be  
 11 levied on all lands in this state growing crops subject to  
 12 injury or destruction by hail, the owners of which have  
 13 elected to become subject to the provisions of this part.

14 (2) The board of hail insurance shall annually  
 15 estimate, as accurately as possible, the amount required to  
 16 pay all losses, interest on warrants, and costs of  
 17 administration and shall recommend a levy to be made on each  
 18 kind of land respectively, subject to the provisions of this  
 19 part, to the department of revenue. The rates recommended to  
 20 apply on the lands of owners shall be applied in the same  
 21 proportions to the crops of those insured on a personal  
 22 assessment basis.

23 {3}--It-is-hereby-provided, however, that such tax may  
 24 not-exceed-in-any-one-year-\$2.48-per-acre-on-lands-sown-to  
 25 grain-crops-on-nonirrigated-lands-\$4.88-per-acre-on

1 irrigated-lands, or--\$2.48-per-acre-on-lands-producing-hay  
 2 crops.

3 {4}--If-the-tax-required-to-pay-the-estimated-losses  
 4 interest-on-warrants-and-costs-of-administration-is-less  
 5 than-\$1.20-per-acre-on-lands-sown-to-grain-crops-on  
 6 nonirrigated-lands-and-\$2.48-per-acre-on-irrigated-lands-and  
 7 a-proportionate-amount-on-lands-sown-to-hay-crops-the-board  
 8 of-hail-insurance-must-recommend-a-tax-levy-sufficient-to  
 9 raise-the-full-amount-thereof."

10 Section 7. Section 80-2-222, MCA, is amended to read:

11 "80-2-222. Board to establish amount of levy --  
 12 disposition of funds. (1) The board of hail insurance may,  
 13 when it considers it advisable, establish as many districts  
 14 as it considers advisable and may maintain maximum rates in  
 15 various parts of the state, which rates shall be  
 16 commensurate with the risk incurred as nearly as it can  
 17 determine from past experiences or from any records  
 18 available. The-highest-of-these-rates-shall-be-the-same-as  
 19 the-maximum-established-herein-and-the-lowest-may-not-be  
 20 less-than-\$1.20-per-acre-on-lands-sown-to-grain-crops-and-a  
 21 proportionate-amount-on-lands-sown-to-hay-crops.

22 (2) Notice of the various rates established for any  
 23 year shall be plainly printed on the application for hail  
 24 insurance, and in any year when the requirements of the hail  
 25 insurance law-as-herein-provided-do-not-require-a-levy-of

1 ~~the maximum rates as established;~~ then the rates for the  
2 year shall be determined and levied by the board of hail  
3 insurance for each of the various districts as established,  
4 in such proportions as will in its judgment be fair and  
5 equitable.

6 (3) In making the levy provided in this section and  
7 80-2-223, the board of hail insurance shall provide for:

8 (a) the payment of all expenses of administration,  
9 together with all interest owed or to be owing on registered  
10 warrants;

11 (b) that portion of the losses incurred during the  
12 current year which are not paid from funds drawn from the  
13 reserve;

14 (c) the maintenance of the reserve, a part or all of  
15 which may be used in any one year for the purpose of paying  
16 the costs of administration, interest on the warrants, and  
17 losses as the same shall be settled and adjusted by the  
18 board, including the losses sustained in any prior year or  
19 years under the hail insurance law ~~during or subsequent to~~  
20 ~~the year 1919~~ that have not been paid.

21 (4) If at the end of any hail insurance season the  
22 board determines and finds that more funds are accumulating  
23 from the current year's levies than were estimated when the  
24 levy was made and are in excess of the need for the payment  
25 of losses and expenses and maintenance of the reserve, the

1 board may, at its discretion, refund the excess to the  
2 farmers insured for the year, on a pro rata or percentage  
3 basis.

4 (5) The board of hail insurance may direct the board  
5 of investments to invest funds from the agency fund pursuant  
6 to the provisions of the unified investment program for  
7 state funds. The income from such investments shall be  
8 credited to the board of hail insurance account in the  
9 agency fund."

10 Section 8. Section 80-2-224, MCA, is amended to read:  
11 "80-2-224. Assessment -- notice -- when payable.  
12 Notice of such assessment shall be mailed by the county  
13 treasurer to each person insured in the same manner ~~and at~~  
14 ~~the same time~~ as ~~are all other~~ notices of ~~property~~ taxes  
15 due. The assessment shall be payable at the office of the  
16 county treasurer of each respective county."

17 Section 9. Section 80-2-228, MCA, is amended to read:  
18 "80-2-228. Reserve fund. (1) Each year when the hail  
19 board makes its annual levy for the payment of current  
20 losses, expenses of administration, and for an addition to  
21 the reserve if conditions permit, it may not increase the  
22 levy enough in any year so that such addition to the reserve  
23 will exceed 5% of the maximum risk written for that year.

24 (2) ~~The reserve fund may not exceed \$4 million prior~~  
25 ~~to January 1, 1976, or \$8 million prior to January 1, 1976, and thereafter, the~~

1 ~~maximum-permissible-reserve-fund-shall-be-established-as-set~~  
2 ~~forth-in-subsection-(3)-of-this-section.~~

3 (3)(2) The board may engage the services of a  
4 qualified actuary to conduct an actuarial valuation of the  
5 reserve. This valuation shall include the actuary's  
6 determination of the amount of reserve necessary to absorb  
7 all reasonably anticipated catastrophic losses. This amount  
8 shall be the maximum permissible reserve fund for the next  
9 year.

10 (4)(3) The reserve hereby created shall be deposited  
11 in the agency fund, and the board is hereby granted the  
12 power to draw from its moneys in the fund such amounts as it  
13 considers necessary for the purpose of paying costs of  
14 administration, interest, and losses.

15 (5)(4) ~~Whenever there are no unpaid losses for prior~~  
16 ~~years and whenever in any one year the cost of~~  
17 ~~administration, interest, and losses for the current year is~~  
18 ~~less than the sum of 60 cents per acre on nonirrigated~~  
19 ~~grains and a proportionate amount on irrigated grains and~~  
20 ~~other crops, the board may not draw on the reserve for~~  
21 ~~any purpose unless the amount required for the payment of~~  
22 ~~losses for the current year, including interest on warrants~~  
23 ~~and costs of administration, exceeds the amount of the~~  
24 ~~estimate made by the board for the current year pursuant to~~  
25 ~~80-2-221."~~

1 ~~SECTION 10. SECTION 80-2-232, MCA, IS AMENDED TO READ:~~

2 "80-2-232. State treasurer's duty -- transfer of funds  
3 -- warrants -- transfers to county and state general fund.  
4 (1) The state treasurer shall receive all moneys paid to him  
5 under this part and shall place same to the credit of the  
6 agency fund and may from time to time transfer to the  
7 earmarked revenue fund such sums as the board of hail  
8 insurance may deem necessary and proper to pay the expenses  
9 of administration. All moneys collected by the board shall  
10 be deposited in the agency fund, and all losses shall be  
11 paid from that fund. All other costs are administrative  
12 expenses and shall be paid from the board's account in the  
13 earmarked revenue fund. If registered warrants be presented  
14 and there be no money to pay the same, such warrants shall  
15 be registered and thereafter bear interest at the rate of 4%  
16 per annum until called for payment by the state treasurer.  
17 If at any time more funds are in the earmarked revenue fund  
18 than the board estimates are needed for administrative  
19 expenses, the state treasurer may on the order of the board  
20 transfer such funds back to the agency fund as the board may  
21 direct.

22 (2) Upon warrants drawn by order of the board, the  
23 state treasurer shall pay out of the board's account in the  
24 agency fund to the county treasurer of each county where  
25 state hail insurance coverage is in force ~~1%~~ 2% of the gross

1 annual levies made and collected in such county under this  
2 part for the use of the county as the board of county  
3 commissioners may determine.

4 (3) Upon authorization from the board of hail  
5 insurance, the state treasurer shall transfer out of the  
6 board's account in the agency fund to the general fund of  
7 the state of Montana 2% ~~1.5%~~ of the gross annual levies made  
8 and collected in the state of Montana."

9 Section 11. Section 80-2-241, MCA, is amended to read:

10 "80-2-241. Report of losses. All losses by hail to  
11 crops insured under this part shall be reported within 3 ~~14~~  
12 days thereafter by the owner of such crops, his agent or  
13 attorney, to the board of hail insurance, which shall  
14 require the claimant to make a statement of the losses  
15 sustained, the cause thereof, and such other information as  
16 the board may require on the forms to be provided for such  
17 purpose. ~~If a loss is reported more than 14 days after it~~  
18 ~~occurs, the board shall charge the claimant for all costs~~  
19 ~~incurred in making the adjustment."~~

20 Section 12. Section 80-2-242, MCA, is amended to read:

21 "80-2-242. Appraisers -- appointment -- qualifications  
22 -- duties. (1) The board of hail insurance department of  
23 agriculture shall as soon as practicable each year appoint  
24 ~~retain an independent contractor under terms mutually~~  
25 ~~agreed upon which may include benefits accorded state~~

1 ~~employ~~ a sufficient number of appraisers to appraise all  
2 losses by hail incurred under this part in the various  
3 counties. The ~~men~~ persons so appointed shall be actively  
4 engaged in farming or shall have had practical experience in  
5 farming and ~~shall be selected from names submitted by~~  
6 ~~regularly organized farmers societies in the various~~  
7 ~~counties if the recommendations are not made as provided~~  
8 ~~above then the board shall select the appraisers from men~~  
9 ~~actively engaged in farming or men who have had practical~~  
10 ~~experience in farming as heretofore provided.~~

11 (2) The board may call on one or more of the duly  
12 appointed appraisers for the adjustment of each and every  
13 loss, and the said appraisers shall promptly report their  
14 findings to the board according to the rules provided by the  
15 board.

16 (3) No appraiser who shall be a relative, attorney,  
17 agent, employee, or creditor or in any manner interested by  
18 lien, mortgage, or otherwise in the crop injured or  
19 destroyed shall assist in adjusting any such loss.

20 (4) The board may ~~in case of emergency appoint more~~  
21 ~~than three appraisers in any county. Also it may~~ send any  
22 duly appointed appraiser or appraisers into any county as  
23 the occasion may require."

24 SECTION 13. SECTION 80-2-243, MCA, IS AMENDED TO READ:

25 "80-2-243. Disputed appraisal. (1) In case the party

1 that has sustained the loss is dissatisfied with and refuses  
2 to accept the adjustment made by the official appraiser,  
3 then he shall have the right to appeal to the board of hail  
4 insurance. He shall make such appeal by registered or  
5 certified mail within 10 days after receiving the adjustment  
6 offer of the board in writing. Also the board may require  
7 the posting of a cash bond of ~~\$10~~ \$25 with the request for  
8 reappraisal of the first adjustment. In cases where the  
9 board requires the posting of the ~~\$10~~ \$25 bond, the board  
10 may retain it if no increase is allowed. If an increase is  
11 obtained, the board will return the bond to the claimant.

12 (2) In case the adjuster who makes the second  
13 appraisal fails to secure an agreement, the claimant may at  
14 his option submit the matter to arbitration as herein  
15 provided or sue the board in the district court of the  
16 county where the loss occurred, within 90 days from the date  
17 of receipt of written notice of the second appraisal. Such  
18 actions shall be trials de novo and the Montana Rules of  
19 Civil Procedure shall apply. Where any claimant demands  
20 arbitration, he shall, if required by the board, furnish a  
21 cash bond to the board in the sum of ~~\$25~~ \$50 which shall  
22 accompany his application. If there is not sufficient  
23 allowance made to any claimant after arbitration to cover  
24 the cost of arbitration without the use of the ~~\$25~~ \$50 bond,  
25 then the board may use a part or all of said cash bond. In

1 cases where the claimant secures an increase, the bond shall  
2 be promptly returned to the claimant. If the claimant  
3 elects to submit the matter to arbitration, he shall then  
4 appoint one disinterested person as appraiser and the  
5 official appraiser shall appoint another person as appraiser  
6 and the two shall select a third disinterested person and  
7 the three shall then proceed to adjust the loss in the same  
8 manner as specified in 80-2-242. The judgment of the  
9 majority shall be the judgment of said appraisers and shall  
10 be binding upon both parties as the final determination of  
11 said loss.

12 (3) (a) If the insured does not recover a greater sum  
13 than allowed by the official appraiser in the first  
14 instance, he shall pay the expenses of the three appraisers  
15 and their witnesses in making said adjustment, but if he is  
16 awarded a larger sum, then the same shall be paid by the  
17 board.

18 (b) If the insured shall be required to pay the  
19 expenses of such reappraisal as above provided, the board  
20 is hereby authorized to deduct the amount of such expenses  
21 from the amount allowed said insured before making  
22 settlement for said loss.

23 (4) The board shall examine all reports of appraisers  
24 and verify the same and adjust all losses and for such  
25 purposes may order hearings, subpoena witnesses, conduct



1 examinations, and do all things necessary to secure a fair  
2 and impartial appraisal of losses by hail."

3 Section 14. Section 80-2-244, MCA, is amended to read:

4 "80-2-244. Payment of losses. (1) The board of hail  
5 insurance shall, as soon as practicable after the loss has  
6 been sustained, arrange for the payment of the loss in the  
7 following manner. From the amount of the loss as adjusted  
8 for each claimant, the board shall deduct the amount the  
9 claimant then owes as delinquent hail insurance tax and the  
10 maximum amount assessed as hail insurance tax for the  
11 current year ~~and shall make settlement within 48 days from~~  
12 ~~the time loss is sustained by paying, either by registered~~  
13 ~~warrant or otherwise if funds are immediately available, 50%~~  
14 ~~of the total loss as agreed upon, less the maximum rate of~~  
15 ~~assessment. The balance shall be paid at the expiration of~~  
16 ~~the hail season.~~

17 (2) The board shall on or before November 1 order  
18 payment for the amount so deducted, which payment shall be  
19 remitted to the county treasurer of the county in which the  
20 tax was assessed. The board shall then order payment for the  
21 balance of the adjustment to be sent to the claimant,  
22 provided that in no case may the payment for loss exceed \$24  
23 ~~\$22~~ \$24 per acre for grain crops on nonirrigated lands, \$49  
24 ~~\$48~~ \$48 per acre on irrigated lands ~~and \$24 \$22 per acre on~~  
25 ~~hay crops.~~ No claimant may receive payment for any loss

1 incurred where the loss does not equal or exceed 5% of the  
2 total value of the crop insured. If the losses in any year  
3 exceed the current levy plus the reserve, if any, then the  
4 payment of all losses shall be prorated, share and share  
5 alike, among all grain growers having loss claims adjusted  
6 and approved, and the unpaid balance of the losses shall be  
7 paid out of the reserve without interest in such order as  
8 the board directs, when in the judgment of the board there  
9 are sufficient moneys to provide for the payment of the same  
10 and other items payable out of the reserve. In any year the  
11 board may by resolution authorize its chairman and secretary  
12 to borrow as needed from any person, bank, or corporation  
13 such sum or sums of money as the board may consider  
14 necessary for the purpose of paying all warrants as issued.

15 (3) For any moneys borrowed under the provisions of  
16 this part, the board shall cause warrants to be drawn. The  
17 warrants shall bear interest at not to exceed 6% a year, and  
18 the warrants and the interest thereon shall be paid out of  
19 funds from the state hail insurance program as they are  
20 collected from the various counties in the state. The board  
21 may not at any time borrow a total sum greater than the  
22 amount of levies as made for taxes for the current year  
23 together with such delinquent taxes as remain unpaid on the  
24 books of the county treasurer."

25 ~~NEW SECTION.~~ Section 15. Effective date. This act is

1 effective on passage and approval.

-End-