

SENATE BILL NO. 295

1/31 Introduced
2/01 Referred to State Administration
2/02 Fiscal Note Requested
2/08 Hearing
2/08 Fiscal Note Received
2/11 Adverse Committee Report
2/12 Bill Killed

Senate BILL NO. 295

INTRODUCED BY *Sen. Blaine* *Sen. Keeney*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT THE DEPOSIT AND INVESTMENT OF STATE PUBLIC FUNDS IN A FINANCIAL INSTITUTION THAT HAS A LOAN OUTSTANDING TO THE REPUBLIC OF SOUTH AFRICA OR A SOUTH AFRICAN CORPORATION; TO PROHIBIT THE INVESTMENT OF STATE PUBLIC FUNDS IN A FIRM THAT IS DOING BUSINESS IN THAT COUNTRY; TO PROVIDE A SCHEDULE FOR THE DIVESTITURE OF ANY CURRENT INVESTMENT IN SUCH FINANCIAL INSTITUTION OR FIRM; AMENDING SECTION 17-6-211, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Prohibited investments and

deposits. (1) No state public funds may remain deposited or invested after July 1, 1988, or be deposited or invested in any bank or financial institution, including its parent company, subsidiary, or affiliate, that has an outstanding loan to:

- (a) the Republic of South Africa or its instrumentalities; or
 - (b) a national corporation of or other corporation organized under the laws of the Republic of South Africa.
- (2) No state public funds may remain invested after

July 1, 1988, or be invested in the stock, securities, or other obligations of a firm, including its parent company, subsidiary, or affiliate, that is doing business in the Republic of South Africa.

(3) For the purpose of this section, a security for which a bank or financial institution is acting solely as custodian is not considered a deposit or investment in that bank or financial institution.

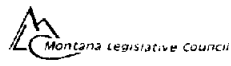
(4) The affected banks, financial institutions, and firms may be identified by reference to the most recent annual report of the United States consulate general of Johannesburg entitled "American Firms, Subsidiaries and Affiliates -- South Africa", publications of the united nations, and other reliable sources as determined by the investing authority.

(5) State public investments in such banks, financial institutions, or firms must be divested at the rate of at least one-third of the portfolio each state fiscal year.

(6) While any funds remain invested in such bank, financial institution, or firm, the investing authority in any annual fiscal report shall identify the investment and state its market value as of publication of the report.

Section 2. Section 17-6-211, MCA, is amended to read:

"17-6-211. Permissible investments. (1) The following securities are permissible investments for all investment



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1 funds referred to in 17-6-203, except as otherwise indicated
2 in subsection (2) and in [section 1]:

3 (a) any securities authorized to be pledged to secure
4 deposits of public funds under 17-6-103;

5 (b) bonds, notes, debentures, equipment obligations,
6 or any other kind of absolute obligation of any corporation
7 organized and operating in any state of the United States or
8 in Canada, if the obligations purchased are payable in
9 United States dollars, or of any corporation in which the
10 United States government is a voting shareholder by act of
11 congress; provided that all investments under this
12 subsection (1)(b) must be rated by one nationally recognized
13 rating agency among the top third of their quality
14 categories, not applicable to defaulted bonds;

15 (c) commercial paper of highest quality, as defined by
16 one nationally recognized rating agency, issued by any
17 corporation organized and operating in any state of the
18 United States, provided that:

19 (i) such securities mature in 270 days or less;

20 (ii) the issuing corporation or the parent company of a
21 finance subsidiary issuing commercial paper, at the time of
22 the last financial reporting period, had received net income
23 averaging \$1 million or more annually for the preceding 5
24 years; and

25 (iii) no investment may be made at any time under this

1 subsection (1)(c) which would cause the book value of such
2 investments in any investment fund to exceed 10% of the book
3 value of such fund or would cause the commercial paper of
4 any one corporation to exceed 2% of the book value of such
5 fund;

6 (d) bankers' acceptances guaranteed by any bank having
7 its principal office in any state of the United States and
8 having deposits in excess of \$500 million;

9 (e) interest-bearing deposits in banks, building and
10 loan associations, savings and loan associations, and credit
11 unions located in Montana; provided, however, that the board
12 of investments shall require pledged securities as specified
13 in 17-6-102 (interest on said deposits shall not be less
14 than the prevailing rate of interest being paid on deposits
15 of private funds);

16 (f) unencumbered real property, first mortgages, and
17 participations in first mortgages on unencumbered real
18 property as provided in this subsection (1)(f) and
19 subsection (5), provided that:

20 (i) no such mortgage or mortgage participation may be
21 purchased unless:

22 (A) the principal amount of the loan secured by the
23 mortgage or mortgage participation is 80% or less of the
24 appraised value of the property;

25 (B) the principal amount of the loan secured by the

1 mortgage or mortgage participation exceeds 80% of the
 2 appraised value of the property but the amount of the loan
 3 in excess of 80%, determined at the time the loan was made,
 4 is guaranteed or insured by a mortgage insurance company
 5 which the board of investments has determined to be a
 6 qualified private insurer;

7 (C) 25% or more of the loan or participation therein
 8 secured is guaranteed or insured in the event of default by
 9 the United States of America or an agency thereof; or

10 (D) the mortgagor has leased the mortgaged property to
 11 a person, firm, or corporation whose rental payments under
 12 the lease are guaranteed for the full term of the loan or
 13 participation therein by an agency of the United States; and

14 (ii) no investment shall be made at any time under
 15 subsection (1)(f) which would cause the book value of such
 16 investments in any investment fund to exceed 50% of the book
 17 value of such fund; and

18 (g) any other investment in any business activity in
 19 the state, including activities that continue existing jobs
 20 or create new jobs in Montana, provided that investments
 21 which do not meet the requirements of subsections (1)(a)
 22 through (1)(f) may not, in the aggregate, exceed 10% of the
 23 fund from which each such investment is made.

24 (2) Investments from the pooled investment fund shall
 25 be restricted to fixed income securities described in

1 subsections (1)(a) to (1)(e) above.

2 (3) Retirement funds and the fund provided for in
 3 17-6-203, subsection (4) may be invested in preferred and
 4 common stocks of any corporation organized and operating in
 5 any state of the United States, provided that:

6 (a) the corporation has assets of a value not less
 7 than \$10 million;

8 (b) if the investment is preferred stock, the
 9 corporation's aggregate earnings available for payment of
 10 interest and preferred dividends, for a period of 5
 11 consecutive years immediately before the date of investment,
 12 have been at least 1 1/2 times the aggregate of interest and
 13 preferred dividends required to be paid during this period;

14 (c) no investment may be made at any time under
 15 subsection (3) which would cause the book value of such
 16 investments in any retirement fund to exceed 50% of the book
 17 value of such fund or would cause the stock of one
 18 corporation to exceed 2% of the book value of such
 19 retirement fund;

20 (d) subsection (3)(c) does not apply to funds provided
 21 for in 17-6-203(4).

22 (4) The board of investments shall endeavor to direct
 23 its portion of the state's investment business to those
 24 investment firms and/or banks which maintain offices in the
 25 state and thereby make contributions to the state economy.

1 Further, due consideration shall be given to investments
 2 which will benefit the smaller communities in the state. The
 3 state's investment business will be directed to out-of-state
 4 firms only when there is a distinct economic advantage to
 5 the state of Montana.

6 (5) The board may invest in mortgage loans financed by
 7 the board of housing if the mortgages are not in default and
 8 meet the requirements of subsection (1)(f). The board may
 9 enter into a commitment agreement with the board of housing
 10 at the time of an issue of bonds or notes by the board of
 11 housing providing for the purchase at a specified future
 12 date, not to exceed 15 years from the date of the issue, of
 13 all or any portion of the amount of mortgage loans purchased
 14 with the proceeds of the issue. The board of investments
 15 may charge reasonable fees for any commitment and may agree
 16 to purchase the mortgage loans on terms that in the judgment
 17 of the board of investments provide a fair market rate of
 18 return to the purchasers.

19 (6) The Montana economic development board created in
 20 2-15-1805 may invest the Montana in-state investment fund in
 21 any in-state investment authorized by its rules in addition
 22 to those investments authorized by this section."

23 NEW SECTION. Section 3. Extension of authority. Any
 24 existing authority of the board of investments or board of
 25 economic development to make rules on the subject of the

1 provisions of this act is extended to the provisions of this
 2 act.

3 NEW SECTION. Section 4. Codification instruction.
 4 Section 1 is intended to be codified as an integral part of
 5 Title 17, chapter 6.

6 NEW SECTION. Section 5. Effective date. This act is
 7 effective July 1, 1985.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 295

3 House Business and Labor Committee

4

5 A statement of intent is required for this act because
6 it delegates rulemaking authority to the department of
7 commerce. The department may adopt rules governing
8 certification and auditing of manufacturers' informal
9 dispute settlement procedures and procedures for consumers
10 to implement the arbitration procedures of the department.
11 It is the intent of the legislature that in developing these
12 rules, the department look to procedures utilized by the
13 state of Connecticut in implementing its "Lemon Law II".

1 HOUSE BILL NO. 295

2 INTRODUCED BY HARRINGTON, PAVLOVICH, MENAHAN, CHRISTIAENS,
3 MCCORMICK, KRUEGER, PECK, REAM, PISTORIA, GARCIA, HARP,
4 J. HAMMOND, HAND, BACHINI, VINCENT, HANSEN, LYNCH,
5 JACOBSON, STIMATZ, DRISCOLL

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
8 NEW MOTOR VEHICLE WARRANTY REMEDY LAW; INCREASING MINIMUM
9 WARRANTY PERIODS; PROVIDING FOR REMEDIES, DISCLOSURES, AND
10 PENALTIES; CREATING AN ARBITRATION PROCEDURE; AMENDING
11 SECTIONS 61-4-501 THROUGH 61-4-503 AND 61-4-505 THROUGH
12 61-4-507, MCA; AND PROVIDING AN APPLICABILITY PROVISION AND
13 AN IMMEDIATE EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 61-4-501, MCA, is amended to read:

17 "61-4-501. Definitions. For purposes of this part, the
18 following definitions apply:

19 {1} "Collateral charge" means all governmental
20 charges, including but not limited to sales tax, property
21 tax, license and registration fees, and fees in lieu of tax.

22 {1}{2} "Consumer" means the purchaser, other than for
23 purposes of resale, of a motor vehicle that has not been
24 brought into nonconformity as the result of abuse, neglect,
25 or unauthorized modifications or alterations by the

1 purchaser, any person to whom the motor vehicle is
2 transferred during the duration of an express warranty
3 applicable to the motor vehicle, or any other person
4 entitled by the terms of the warranty to the benefits of its
5 provisions.

6 {3} "Department" means the department of commerce
7 created in 2-15-1801.

8 {4} "Division" means the division of motor vehicles
9 defined in 61-1-301.

10 ~~{5} "Finance charge" means a finance charge as defined~~
11 ~~in 31-1-202, incurred by a consumer after he first reports a~~
12 ~~nonconformity to the manufacturer or agent and during any~~
13 ~~subsequent period when the vehicle is out of service by~~
14 ~~reason of repair related to the nonconformity.~~

15 {6}{5} "Incidental damage" means incidental and
16 consequential damage as defined in 30-2-715.

17 ~~{2}{7}{6} "Motor vehicle" means a vehicle propelled by~~
18 ~~its own power, designed primarily to transport persons or~~
19 ~~property upon the public highways, and sold in this state.~~
20 ~~The term does not include a motor home as defined in~~
21 ~~61-1-130 OR, A TRUCK WITH 10,000 POUNDS OR MORE GROSS~~
22 ~~VEHICLE WEIGHT RATING, OR A MOTORCYCLE AS DEFINED IN~~
23 ~~61-1-105.~~

24 ~~{8}{7} "Reasonable allowance for use" is an amount~~
25 ~~directly attributable to use of the motor vehicle by the~~

1 consumer and any previous consumers prior to the first
 2 written notice of the nonconformity to the manufacturer or
 3 its agent and during any subsequent period when the vehicle
 4 is not out of service because of nonconformity. The
 5 reasonable allowance for use shall be computed by
 6 multiplying the total contract price of the vehicle by a
 7 fraction having as its denominator 100,000 and having as its
 8 numerator the number of miles that the vehicle traveled
 9 prior to the manufacturer's acceptance of its return.

10 ~~{3}{9}(8)~~ "Warranty period" means ~~the--term--of--an~~
 11 ~~express--agreement--or~~ the period ending ~~1-year~~ 2 years after
 12 the date of the original delivery to the consumer of a new
 13 motor vehicle, or during the first 18,000 miles of
 14 operation, whichever is earlier."

15 Section 2. Section 61-4-502, MCA, is amended to read:

16 "61-4-502. Warranty Notice -- warranty enforceable
 17 after warranty period -- when. (1) If a consumer notifies in
 18 writing the manufacturer or its agent during the warranty
 19 period that a new motor vehicle does not conform to all
 20 applicable express warranties, the repairs necessary to
 21 conform the new motor vehicle to the express warranties
 22 shall be made by or at the expense of the warrantor,
 23 regardless of the expiration of the warranty period after
 24 notification of nonconformity is given by the consumer.

25 (2) The warranty period of an express warranty is

1 extended to equal the time that repair services are not
 2 available because of war or invasion or because of strike or
 3 fire, flood, or other natural disaster. The presumption
 4 provided herein may not apply against a manufacturer who has
 5 not received prior written notification from or on behalf of
 6 the consumer and has not had an opportunity to cure the
 7 alleged defect.

8 (3) The manufacturer must clearly and conspicuously
 9 disclose to the consumer in the warranty or owner's manual
 10 that written notification of a nonconformity is required
 11 before a consumer may be eligible for a refund or
 12 replacement of the vehicle. The manufacturer must include
 13 with the warranty or owner's manual the name and address
 14 where the written notification must be sent."

15 Section 3. Section 61-4-503, MCA, is amended to read:

16 "61-4-503. Replacement for nonconformity to warranty.
 17 (1) If after a reasonable number of attempts the
 18 manufacturer or its agent or authorized dealer is unable,
 19 during the warranty period, to conform the new motor vehicle
 20 to any applicable express warranty by repairing or
 21 correcting any defect or condition that substantially
 22 impairs the use and market value or safety of the motor
 23 vehicle to the consumer, the manufacturer shall replace it
 24 with a new motor vehicle of the same model and style and of
 25 equal value, unless for reasons of lack of availability such

1 replacement is impossible, in which case the manufacturer
2 shall replace it with a vehicle of comparable market value.

3 (2) As an alternative to replacement, the manufacturer
4 may accept return of the new motor vehicle from the consumer
5 upon refund to him of the full purchase price, ~~excluding all~~
6 ~~sales--taxes,--license--fees,--registration--fees,--and--any~~
7 ~~similar--governmental--charges~~ plus REASONABLE collateral
8 ~~charges,--finance--charges,~~ and incidental damages, less a
9 reasonable allowance for the consumer's use of the motor
10 vehicle. The refund shall be paid to the consumer and to a
11 lienholder, if any, in proportion to their interests. A
12 ~~reasonable---allowance---for---use---is---an---amount---directly~~
13 ~~attributable--to--use--by--the--consumer--and--any--previous~~
14 ~~consumers---prior---to--his--first--written--report--of--the~~
15 ~~nonconformity-to-the-manufacturer-or-its--agent--and--during~~
16 ~~any-subsequent-period-when-the-vehicle-is-not-out-of-service~~
17 ~~because-of-nonconformity."~~

18 Section 4. Section 61-4-505, MCA, is amended to read:

19 "61-4-505. Dealer exemption -- liability to
20 manufacturer. (1) Nothing in this part imposes any liability
21 on a dealer or creates a cause of action by a consumer
22 against a dealer under 61-4-503.

23 (2) A dealer is not liable to a manufacturer for any
24 refunds or vehicle replacements in the absence of evidence
25 indicating that repairs made by the dealer were carried out

1 in a manner inconsistent with the manufacturer's
2 instructions."

3 Section 5. Section 61-4-506, MCA, is amended to read:

4 "61-4-506. Provisions nonexclusive -- applicability of
5 UCC -- defenses. (1) The provisions of this part do not
6 limit the rights or remedies available to a consumer under
7 any other law.

8 (2) All express and--implied warranties arising from
9 the sale of a new motor vehicle are subject to the
10 provisions of Title 30, chapter 2, part 3.

11 (3) It is an affirmative defense to a claim brought
12 under this part that an alleged nonconformity does not
13 substantially impair the use, market value, or safety of the
14 vehicle or that the nonconformity is the result of abuse,
15 neglect, or unauthorized modification or alteration of a
16 motor vehicle by the consumer."

17 Section 6. Section 61-4-507, MCA, is amended to read:

18 "61-4-507. Exhaustion of remedies under federal law.
19 The provisions of 61-4-503 are not applicable against a
20 manufacturer who has established an informal dispute
21 settlement procedure certified by the department to be in
22 substantial compliance with the provisions of Title 16, Code
23 of Federal Regulations, part 703, as those provisions read
24 on October 1, 1983, unless the consumer has first resorted
25 to that procedure without satisfaction."

1 NEW SECTION. Section 7. Manufacturer's dispute
 2 settlement procedure -- certification -- prohibited
 3 contents. (1) A manufacturer who has established an informal
 4 dispute settlement procedure under the provisions of Title
 5 16, Code of Federal Regulations, part 703 (16 CFR, part
 6 703), as those provisions read on October 1, 1983, shall
 7 submit a copy of the procedure to the department. The
 8 department shall issue a certificate of approval to a
 9 manufacturer whose procedure complies in all respects with
 10 such federal regulations and subsection (2). The department
 11 shall report to the division all manufacturer's procedures
 12 certified. The department may issue subpoenas requiring the
 13 attendance of witnesses and the production of records,
 14 documents, or other evidence necessary to it in an
 15 investigation related to the certification of a
 16 manufacturer's informal dispute settlement procedure.

17 (2) A manufacturer's informal dispute settlement
 18 procedure may not include any practices that:

19 (a) delay a decision in any dispute beyond 60 days
 20 after the date on which the consumer initially resorts to
 21 the dispute settlement procedure;

22 (b) delay performance of remedies awarded in a
 23 settlement beyond 10 days after a decision, except that a
 24 manufacturer may have 30 days following the date of decision
 25 to replace a motor vehicle or make refund to the consumer as

1 provided in 61-4-503;

2 (c) require the consumer to make the vehicle available
 3 for inspection by a manufacturer's representative more than
 4 once;

5 (d) require the consumer to make the vehicle available
 6 for repair of the same defect more than once unless upon the
 7 consumer's furnishing proof of financial responsibility as
 8 provided in 61-6-301, he is provided with the loan of a
 9 reliable vehicle not more than 2 years old during the
 10 periods required for repair;

11 (e) fail to consider in decisions any remedies
 12 provided by this part; or

13 (f) require the consumer to take any action or assume
 14 any obligation not specifically authorized under the federal
 15 regulations referred to in subsection (1).

16 NEW SECTION. Section 8. Annual audit -- revocation or
 17 suspension of certification. (1) A manufacturer establishing
 18 an informal dispute resolution procedure shall file with the
 19 department a copy of the annual audit required under Title
 20 16, Code of Federal Regulations, part 703 (16 CFR, part
 21 703), as those provisions read on October 1, 1983, along
 22 with any additional information the department may require,
 23 including the number of refunds and replacements made by the
 24 manufacturer during the period audited.

25 (2) The department may, after notice and hearing as

1 provided in Title 2, chapter 4, suspend or revoke the
 2 certification of a manufacturer's informal dispute
 3 resolution procedure upon a finding that the procedure is
 4 being used to injure CREATE HARDSHIP TO consumers. The
 5 department shall notify the division of any revocation or
 6 suspension of a certification. The division may consider the
 7 revocation or suspension in licensing manufacturers under
 8 Title 61, chapter 4, part 2.

9 NEW SECTION. Section 9. Notice on resale of replaced
 10 vehicle. A motor vehicle which is returned to the
 11 manufacturer and which requires replacement or refund may
 12 not be sold in the state without a clear and conspicuous
 13 written disclosure of the fact that the vehicle was
 14 returned. The division may prescribe by rule the form and
 15 content of the disclosure statement and a procedure by which
 16 the disclosure may be removed upon a determination that the
 17 vehicle is no longer defective.

18 NEW SECTION. Section 10. Arbitration procedure. (1)
 19 The department shall provide an independent forum and
 20 arbitration procedure for the settlement of disputes between
 21 consumers and manufacturers of motor vehicles that do not
 22 conform to all applicable warranties under the provisions of
 23 this part. The procedure must conform to Title 27, chapter
 24 5.

25 (2) Except as provided in [section 16], a consumer

1 owning a motor vehicle that fails to conform to all
 2 applicable warranties may bring a grievance before an
 3 arbitration panel only if the manufacturer of the motor
 4 vehicle has not established an informal dispute settlement
 5 procedure which has been certified by the department under
 6 [section 7].

7 NEW SECTION. Section 11. Composition of arbitration
 8 panel. An arbitration panel hearing a grievance under this
 9 part must consist of three members. One member must be
 10 chosen by the consumer, one member must be chosen by the
 11 manufacturer, and one member must be chosen by mutual
 12 agreement of the parties. The department may maintain a list
 13 of persons willing to serve on panels from which the third
 14 member may be chosen.

15 NEW SECTION. Section 12. Implementation of
 16 arbitration. (1) A consumer may initiate a request for
 17 arbitration by filing a notice with the department. The
 18 consumer shall file, on a form prescribed by the department,
 19 any information considered relevant to the resolution of the
 20 dispute and shall return the form, along with a \$50 filing
 21 fee, within 5 days after receiving it. The complaint form
 22 must offer the consumer the choice of presenting any
 23 subsequent testimony orally or in writing, but not both.

24 (2) The department shall determine whether the
 25 complaint alleges the violation of any applicable warranty

1 under this part. If the department determines that a
2 complaint does not allege a warranty violation, it must
3 refund the filing fee.

4 (3) Upon acceptance of a complaint, the department
5 shall notify the manufacturer of the filing of a request for
6 arbitration and shall obtain from the manufacturer, on a
7 form prescribed by the department, any information
8 considered relevant to the resolution of the dispute. The
9 manufacturer must return the form within 15 days of receipt,
10 with a filing fee of \$250.

11 (4) Fees collected under this section shall be
12 deposited in a special revenue fund for the use of the
13 department in administering [this act].

14 (5) THE MANUFACTURER'S FEE PROVIDED IN SUBSECTION (3)
15 IS DUE ONLY IF THE DEPARTMENT ARBITRATION PROCEDURES ARE
16 UTILIZED.

17 NEW SECTION. Section 13. Role of department --
18 expert. (1) The department shall investigate, gather, and
19 organize all information necessary for a fair and timely
20 decision in each dispute. The department may, on behalf of
21 the arbitration panel, issue subpoenas to compel the
22 attendance of witnesses and the production of documents,
23 papers, and records relevant to the dispute.

24 (2) If requested by the panel, the department shall
25 MAY forward a copy of all written testimony and documentary

1 evidence to an independent technical expert certified by the
2 national institute of automotive excellence. The expert
3 shall MAY review the material and be available to advise and
4 consult with the panel. The expert shall MAY sit as a
5 nonvoting member of the panel whenever oral testimony is
6 presented. The division may suggest an expert at the request
7 of the department.

8 NEW SECTION. Section 14. Action by arbitration panel
9 -- decision. (1) The arbitration panel shall, as
10 expeditiously as possible, but not later than 60 days after
11 the department has accepted a complaint, render a fair
12 decision based on the information gathered and disclose its
13 findings and its reasoning to the parties.

14 (2) The decision shall provide appropriate remedies,
15 including but not limited to:

- 16 (a) repair of the vehicle;
- 17 (b) replacement of the vehicle with an identical
18 vehicle or a comparable vehicle acceptable to the consumer;
- 19 (c) refund as provided in 61-4-503(2);
- 20 (d) any other remedies available under the applicable
21 warranties or 15 U.S.C. 2301 through 2312, as in effect on
22 October 1, 1983; or
- 23 (e) reimbursement of expenses and costs to the
24 prevailing party.
- 25 (3) The decision shall specify a date for performance

1 and completion of all awarded remedies. The department shall
 2 contact the prevailing party within 10 working days after
 3 the date for performance to determine whether performance
 4 has occurred. The parties shall act in good faith in abiding
 5 by any decision. In addition, if the decision is not
 6 accepted, the parties shall follow the provisions of Title
 7 27, chapter 5, part 3. If it is determined by the court that
 8 the appellant has acted without good cause in bringing an
 9 appeal of an award, the court, in its discretion, may grant
 10 to the respondent his costs and reasonable attorney fees.

11 NEW SECTION. Section 15. Records of disputes. The
 12 department shall maintain records of each dispute as it
 13 determines, including an index of disputes by brand name and
 14 model. The department shall, at intervals of no more than 6
 15 months, compile and maintain statistics indicating the
 16 record of compliance with arbitration decisions and the
 17 number of refunds or replacements awarded. A copy of the
 18 statistical summary must be filed with the division and must
 19 be considered by it in determining the issuance of any
 20 manufacturer license required under Title 61, chapter 4,
 21 part 2.

22 NEW SECTION. Section 16. Nonconforming procedure --
 23 arbitration de novo. A consumer injured by the operation of
 24 any procedure that does not conform with procedures
 25 established by a manufacturer pursuant to [section 7] and

1 the provisions of Title 16, Code of Federal Regulations,
 2 part 703, as in effect on October 1, 1983, may appeal any
 3 decision rendered as the result of such a procedure by
 4 requesting arbitration de novo of the dispute by a
 5 department panel. Filing procedures and fees for appeals
 6 must be the same as those required in [sections 10 through
 7 12]. The findings of the manufacturer's informal dispute
 8 settlement procedure are admissible in evidence at the
 9 department arbitration panel hearing and in any civil action
 10 arising out of any warranty obligation or matter related to
 11 the dispute.

12 NEW SECTION. Section 17. ~~Display of notice. If a~~
 13 ~~manufacturer has not established an informal dispute~~
 14 ~~settlement procedure certified by the department as~~
 15 ~~complying with the requirements of [section 7], public~~
 16 ~~notice of the availability of the department's motor vehicle~~
 17 ~~arbitration procedure shall be prominently posted in the~~
 18 ~~place of business of each new car dealer licensed by the~~
 19 ~~division to engage in the sale of such manufacturer's new~~
 20 ~~motor vehicles. Display of the public notice must be a~~
 21 ~~condition of licensure under Title 61, chapter 4, part 2.~~
 22 ~~The department shall by rule prescribe the size, typeface,~~
 23 ~~form, and wording of the notice, which must include the~~
 24 ~~telephone number and address for requesting arbitration~~
 25 ~~services.~~ NONDELEGABLE. THE LIABILITIES AND OBLIGATIONS

1 CONTAINED IN THIS ACT MAY NOT BE DELEGATED OR ASSIGNED TO OR
 2 ASSUMED BY ANY OTHER PERSON OR ENTITY.

3 NEW SECTION. Section 18. Rulemaking. The department
 4 may adopt rules to implement the provisions of this part.

5 NEW SECTION. Section 19. Penalty. A violation of any
 6 provision of this part is an unfair or deceptive trade
 7 practice under Title 30, chapter 14, part 2, and the
 8 penalties provided in 30-14-224(1) apply.

9 NEW SECTION. Section 20. Applicability. This act
 10 applies to automobiles sold on or after October 1, 1985.

11 NEW SECTION. Section 21. Severability. If a part of
 12 this act is invalid, all valid parts that are severable from
 13 the invalid part remain in effect. If a part of this act is
 14 invalid in one or more of its applications, the part remains
 15 in effect in all valid applications that are severable from
 16 the invalid applications.

17 NEW SECTION. Section 22. Codification instruction.
 18 Sections 7 through 19 are intended to be codified as an
 19 integral part of Title 61, chapter 4, part 5, and the
 20 provisions of Title 61, chapter 4, part 5, apply to sections
 21 7 through 19.

22 NEW SECTION. Section 23. Coordination. If this act
 23 and Senate Bill No. 252 are both passed and approved,
 24 including section 12 of this act providing for a special
 25 revenue fund and the section of Senate Bill No. 252 creating

1 an investigative account, the reference to "a special
 2 revenue fund" in section 12 of this act must be changed to
 3 "the investigative account" created in Senate Bill No. 252.

4 NEW SECTION. SECTION 24. EFFECTIVE DATE. THIS ACT IS
 5 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-