

HOUSE BILL NO. 247

INTRODUCED BY WHALEN, HAGER, REHBERG

IN THE HOUSE

JANUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
JANUARY 18, 1989	FIRST READING.
FEBRUARY 3, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
	ON MOTION, TAKEN FROM SECOND READING AND REREFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
FEBRUARY 4, 1989	PRINTING REPORT.
FEBRUARY 7, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 8, 1989	PRINTING REPORT.
FEBRUARY 9, 1989	SECOND READING, DO PASS.
FEBRUARY 10, 1989	ENGROSSING REPORT.
FEBRUARY 11, 1989	THIRD READING, PASSED. AYES, 56; NOES, 36.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

MARCH 11, 1989

SECOND READING, CONCURRED IN.

MARCH 14, 1989

THIRD READING, CONCURRED IN.  
AYES, 38; NOES, 11.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 16, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 17, 1989

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 247  
2 INTRODUCED BY Whalen Hager Reberg  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW REGIONAL  
5 RATEMAKING FOR CERTAIN LINES OF INSURANCE THAT ARE  
6 CONSIDERED VOLATILE OR NONCOMPETITIVE; TO DEFINE VOLATILE  
7 AND NONCOMPETITIVE INSURANCE; TO AUTHORIZE THE COMMISSIONER  
8 TO ASSESS THE INSURERS INVOLVED FOR THE COST OF ACTUARIAL  
9 SERVICES; AND PROVIDING AN EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Short title. [This act] may  
13 be cited as the "Regional Ratemaking Act".

14 NEW SECTION. Section 2. Purpose. [This act] is  
15 intended to ensure that rates for policies insuring  
16 exposures in Montana are based as much as possible on claims  
17 resulting from exposures in Montana and that they are not  
18 excessive, inadequate, or unfairly discriminatory. It is  
19 further intended that [this act] provide authorization and  
20 procedures for insurers to combine experience for a  
21 particular policy in this state with experience for similar  
22 policies elsewhere in Montana or in other states to obtain  
23 statistics that are sufficiently stable for loss projection  
24 purposes.

25 NEW SECTION. Section 3. Definition. As used in [this

1 act], a line of insurance is considered "noncompetitive" if  
2 only a small number of insurers are willing to transact the  
3 line in Montana and is considered "volatile" if the line has  
4 a low volume of claims in Montana.

5 NEW SECTION. Section 4. Duties of commissioner  
6 pertaining to noncompetitive or volatile lines. (1) To  
7 implement the provisions of [sections 5 and 6], the  
8 commissioner shall:

9 (a) designate by rule which lines of insurance are  
10 covered because they are noncompetitive or volatile, as  
11 defined in [section 3];

12 (b) require by rule that each insurer transacting a  
13 line of insurance designated as noncompetitive or volatile  
14 report historical exposure, loss, and expense data; and

15 (c) review rate filings for a line of insurance  
16 designated as noncompetitive or volatile to determine, after  
17 a hearing, whether the filing insurer's statistics in  
18 Montana are sufficiently stable for ratemaking purposes.

19 (2) If a filing insurer's statistics are not  
20 sufficiently stable for all or part of the ratemaking  
21 process and if the commissioner determines the combined  
22 experience from similar policies written in Montana will not  
23 produce statistics sufficiently stable for ratemaking  
24 purposes, the commissioner shall review the experience under  
25 the covered policy in other states and determine which

states' experiences are appropriate and necessary to include with experience in this state to obtain statistics that are sufficiently stable for ratemaking purposes.

(3) The commissioner shall determine the states whose experiences are appropriate and necessary based on:

(a) the number of claims filed as measured by insurance frequency statistics;

(b) the average claim size as measured by insurance severity statistics;

(c) the differences in civil justice systems or insurance regulatory systems as measured by insurance pure premium statistics; and

(d) other considerations that impact costs, such as demographic composition and economic conditions.

**NEW SECTION. Section 5. Data reporting -- rules. (1)**

An insurer that has transacted a line of insurance designated as noncompetitive or volatile shall report once a year to the commissioner, on forms prescribed by the commissioner, information including:

(a) reported and estimated ultimate exposure, by year of exposure to loss;

(b) reported and estimated ultimate premiums, by year of exposure to loss;

(c) losses paid, by year incurred;

(d) loss adjustment expense paid, by year incurred;

(e) reported and ultimately incurred losses and loss adjustment expenses, by year incurred; and

(f) any other information required by the commissioner.

(2) An insurer transacting a line of insurance designated as noncompetitive or volatile shall provide to the commissioner information concerning at least 5 years of experience, with information evaluated as of the end of each calendar year. In addition to the latest reported information for each year, the insurer shall document any adjustment, including but not limited to development factors and trend adjustments, made to the reported data in projecting losses.

(3) The commissioner shall adopt by rule reasonable development factors and trend adjustments to be applied to the reported data.

**NEW SECTION. Section 6. Actuarial review -- fees paid**

**by insurer. (1)** For the purpose of determining regional pricing, the commissioner may employ or contract with actuarial consultants as necessary for any rate review authorized under the provisions of [section 4]. The person conducting the review shall report to the commissioner the results of his review.

(2) The reasonable fees and expenses of an actuarial consultant employed by or contracting with the commissioner

for purposes of a rate filing review must be assessed against and paid by the insurer whose rates are under review.

**NEW SECTION. Section 7. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**NEW SECTION. Section 8. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**NEW SECTION. Section 9. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 33, chapter 16, and the provisions of Title 33, chapter 16, apply to [sections 1 through 6].

**NEW SECTION. Section 11. Effective date.** [Section 7 and this section] are effective on passage and approval.

-End-

APPROVED BY COMM. ON BUSINESS  
AND ECONOMIC DEVELOPMENT

1 House BILL NO. 247  
2 INTRODUCED BY William Hager Ralberg  
3  
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7 implement the provisions of [sections 5 and 6], the  
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12 (b) require by rule that each insurer transacting a  
13 line of insurance designated as noncompetitive or volatile  
14 report historical exposure, loss, and expense data; and

15 (c) review rate filings for a line of insurance  
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17 a hearing, whether the filing insurer's statistics in  
18 Montana are sufficiently stable for ratemaking purposes.

19 (2) If a filing insurer's statistics are not  
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4 (3) The commissioner shall determine the states whose  
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 9 severity statistics;

10 (c) the differences in civil justice systems or  
 11 insurance regulatory systems as measured by insurance pure  
 12 premium statistics; and

13 (d) other considerations that impact costs, such as  
 14 demographic composition and economic conditions.

15 NEW SECTION. Section 5. Data reporting -- rules. (1)  
 16 An insurer that has transacted a line of insurance  
 17 designated as noncompetitive or volatile shall report once a  
 18 year to the commissioner, on forms prescribed by the  
 19 commissioner, information including:

20 (a) reported and estimated ultimate exposure, by year  
 21 of exposure to loss;

22 (b) reported and estimated ultimate premiums, by year  
 23 of exposure to loss;

24 (c) losses paid, by year incurred;

25 (d) loss adjustment expense paid, by year incurred;

1 (e) reported and ultimately incurred losses and loss  
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3 (f) any other information required by the  
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5 (2) An insurer transacting a line of insurance  
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14 (3) The commissioner shall adopt by rule reasonable  
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17 NEW SECTION. Section 6. Actuarial review -- fees paid  
 18 by insurer. (1) For the purpose of determining regional  
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 21 authorized under the provisions of [section 4]. The person  
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 23 results of his review.

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11 [the effective date of this act].

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16 remains in effect in all valid applications that are  
17 severable from the invalid applications.

18 NEW SECTION. **Section 10. Codification instruction.**  
19 [Sections 1 through 6] are intended to be codified as an  
20 integral part of Title 33, chapter 16, and the provisions of  
21 Title 33, chapter 16, apply to [sections 1 through 6].

22 NEW SECTION. **Section 11. Effective date.** [Section 7  
23 and this section] are effective on passage and approval.

-End-



RE-REFERRED AND  
APPROVED BY COMM. ON BUSINESS  
AND ECONOMIC DEVELOPMENT

## HOUSE BILL NO. 247

INTRODUCED BY WHALEN, HAGER, REHBERG

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW REGIONAL RATEMAKING FOR CERTAIN LINES OF INSURANCE THAT ARE CONSIDERED VOLATILE OR NONCOMPETITIVE; TO DEFINE VOLATILE AND NONCOMPETITIVE INSURANCE; TO AUTHORIZE THE COMMISSIONER TO ASSESS THE INSURERS INVOLVED FOR THE COST OF ACTUARIAL SERVICES; AMENDING SECTION 33-16-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

## STATEMENT OF INTENT

A statement of intent is required for this bill because it authorizes the commissioner of insurance to make and amend reasonable rules relating to regional ratemaking. The problem that gave rise to this bill is the obstetrics crisis. Both obstetricians and family practitioners with an obstetrics practice have seen liability insurance premiums skyrocket. This has resulted in many rural physicians ceasing to handle this type of practice. It is simply not cost effective to continue to practice obstetrics when the premium almost doubles for obstetrics coverage. Several rural western states have felt that it is not their experience driving up the cost of coverage, but rather that of high-tech, urban medical centers. In response, this bill

was drafted to allow the commissioner of insurance to determine, in areas that are noncompetitive or volatile, which states' experience will be used to supplement Montana's experience. The commissioner is authorized to adopt reasonable regulations designating certain lines of insurance as covered lines because they are noncompetitive or volatile for ratemaking purposes, requiring insurers transacting business in the covered lines to file rating data with the commissioner, and allowing the commissioner to develop reasonable trend adjustments and development factors to be used in assessing the reported data.

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

**SECTION 1. SECTION 33-16-103, MCA, IS AMENDED TO READ:**

"33-16-103. Application. This chapter applies to all insurers and all kinds of insurance, except that nothing contained in this chapter ~~shall apply~~ applies to:

- (1) life insurance;
- (2) disability insurance;
- (3) reinsurance, except joint reinsurance as provided in 33-16-307;
- (4) insurance against loss of or damage to aircraft, their hulls, accessories, and equipment, or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use



1 of aircraft;

2 (5) insurance of vessels or craft, their cargoes,  
3 marine builders' risks, marine protection and indemnity, or  
4 other risks commonly insured under marine, as distinguished  
5 from inland marine, insurance policies; or

6 (6) surplus lines insurance as defined in 33-2-301."

7 **NEW SECTION. Section 2. Short title.** ~~[This---act]~~  
8 [SECTIONS 2 THROUGH 12] may be cited as the "Regional  
9 Ratemaking Act".

10 **NEW SECTION. Section 3. Purpose.** ~~[This---act]---is~~  
11 [SECTIONS 2 THROUGH 12] ARE intended to ensure that rates  
12 for policies insuring exposures in Montana are based as much  
13 as possible on claims resulting from exposures in Montana  
14 and that they are not excessive, inadequate, or unfairly  
15 discriminatory. It is further intended that ~~[this-act]~~  
16 [SECTIONS 2 THROUGH 12] provide authorization and procedures  
17 for insurers to combine experience for a particular policy  
18 in this state with experience for similar policies elsewhere  
19 in Montana or in other states to obtain statistics that are  
20 sufficiently stable for loss projection purposes.

21 **NEW SECTION. Section 4. Definition.** As used in ~~[this~~  
22 ~~act]~~ [SECTIONS 2 THROUGH 12], a line of insurance is  
23 considered "noncompetitive" if only a small number of  
24 insurers are willing to transact the line in Montana and is  
25 considered "volatile" if the line has a low volume of claims

1 in Montana.

2 **NEW SECTION. Section 5. Duties of commissioner**  
3 **pertaining to noncompetitive or volatile lines.** (1) To  
4 implement the provisions of [sections 5 6 and 6 7], the  
5 commissioner shall:

6 (a) designate by rule which lines of insurance are  
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8 defined in [section 3 4];

9 (b) require by rule that each insurer transacting a  
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16 (2) If a filing insurer's statistics are not  
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1        NEW SECTION.    **Section 8.** Extension of authority. Any  
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3 provisions of [this act] is extended to the provisions of  
4 [this act].

5        NEW SECTION.    **Section 9.** Saving clause. [This act]  
6 does not affect rights and duties that matured, penalties  
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16 [Sections 1 2 through 6 7] are intended to be codified as an  
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18 Title 33, chapter 16, apply to [sections 1 2 through 6 7].

19        NEW SECTION.    **Section 12.** Effective date. [Section 7 8  
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22 (4) insurance against loss of or damage to aircraft,  
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24 liability, other than workers' compensation and employers'  
25 liability, arising out of the ownership, maintenance, or use

1 of aircraft;

2 (5) insurance of vessels or craft, their cargoes,  
3 marine builders' risks, marine protection and indemnity, or  
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5 from inland marine, insurance policies; or

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

15        NEW SECTION.   **Section 11.**   Codification instruction.  
16 [Sections ± 2 through 6 7] are intended to be codified as an  
17 integral part of Title 33, chapter 16, and the provisions of  
18 Title 33, chapter 16, apply to [sections ± 2 through 6 7].

19        NEW SECTION.   **Section 12.**   Effective date. [Section 7 8  
20 and this section] are effective on passage and approval.

-End-



SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 247 (third reading copy -- blue), respectfully report that HB 247 be amended and as so amended be concurred in:

Sponsor: Whalen (Hager)

1. Title, line 4.  
Strike: "REGIONAL"

2. Title, line 10.  
Following: "DATE"  
Insert: "AND A TERMINATION DATE"

3. Page 1, line 15.  
Strike: "regional"

4. Page 3, line 8.  
Strike: "Regional"

5. Page 6, line 15.  
Strike: "regional"

6. Page 7.  
Following: line 20  
Insert: "NEW SECTION. Section 13. Termination. [This act] terminates October 1, 1991."

AND AS AMENDED BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

SENATE

HB 247

## HOUSE BILL NO. 247

INTRODUCED BY WHALEN, HAGER, REHBERG

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW REGIONAL RATEMAKING FOR CERTAIN LINES OF INSURANCE THAT ARE CONSIDERED VOLATILE OR NONCOMPETITIVE; TO DEFINE VOLATILE AND NONCOMPETITIVE INSURANCE; TO AUTHORIZE THE COMMISSIONER TO ASSESS THE INSURERS INVOLVED FOR THE COST OF ACTUARIAL SERVICES; AMENDING SECTION 33-16-103, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

## STATEMENT OF INTENT

A statement of intent is required for this bill because it authorizes the commissioner of insurance to make and amend reasonable rules relating to regional ratemaking. The problem that gave rise to this bill is the obstetrics crisis. Both obstetricians and family practitioners with an obstetrics practice have seen liability insurance premiums skyrocket. This has resulted in many rural physicians ceasing to handle this type of practice. It is simply not cost effective to continue to practice obstetrics when the premium almost doubles for obstetrics coverage. Several rural western states have felt that it is not their experience driving up the cost of coverage, but rather that of high-tech, urban medical centers. In response, this bill

was drafted to allow the commissioner of insurance to determine, in areas that are noncompetitive or volatile, which states' experience will be used to supplement Montana's experience. The commissioner is authorized to adopt reasonable regulations designating certain lines of insurance as covered lines because they are noncompetitive or volatile for ratemaking purposes, requiring insurers transacting business in the covered lines to file rating data with the commissioner, and allowing the commissioner to develop reasonable trend adjustments and development factors to be used in assessing the reported data.

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

**SECTION 1. SECTION 33-16-103, MCA, IS AMENDED TO READ:**

"33-16-103. Application. This chapter applies to all insurers and all kinds of insurance, except that nothing contained in this chapter ~~shall apply~~ applies to:

(1) life insurance;

(2) disability insurance;

(3) reinsurance, except joint reinsurance as provided in 33-16-307;

(4) insurance against loss of or damage to aircraft, their hulls, accessories, and equipment, or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use

1 of aircraft;

2 (5) insurance of vessels or craft, their cargoes,  
3 marine builders' risks, marine protection and indemnity, or  
4 other risks commonly insured under marine, as distinguished  
5 from inland marine, insurance policies; or

6 (6) surplus lines insurance as defined in 33-2-301."

7 NEW SECTION. Section 2. Short title. ~~[This---act]~~  
8 [SECTIONS 2 THROUGH 12] may be cited as the "Regional  
9 Ratemaking Act".

10 NEW SECTION. Section 3. Purpose. ~~[This---act]---is~~  
11 [SECTIONS 2 THROUGH 12] ARE intended to ensure that rates  
12 for policies insuring exposures in Montana are based as much  
13 as possible on claims resulting from exposures in Montana  
14 and that they are not excessive, inadequate, or unfairly  
15 discriminatory. It is further intended that ~~[this-act]~~  
16 [SECTIONS 2 THROUGH 12] provide authorization and procedures  
17 for insurers to combine experience for a particular policy  
18 in this state with experience for similar policies elsewhere  
19 in Montana or in other states to obtain statistics that are  
20 sufficiently stable for loss projection purposes.

21 NEW SECTION. Section 4. Definition. As used in ~~[this-~~  
22 ~~act]~~ [SECTIONS 2 THROUGH 12], a line of insurance is  
23 considered "noncompetitive" if only a small number of  
24 insurers are willing to transact the line in Montana and is  
25 considered "volatile" if the line has a low volume of claims

1 in Montana.

2 NEW SECTION. Section 5. Duties of commissioner  
3 pertaining to noncompetitive or volatile lines. (1) To  
4 implement the provisions of [sections 5 6 and 6 7], the  
5 commissioner shall:

6 (a) designate by rule which lines of insurance are  
7 covered because they are noncompetitive or volatile, as  
8 defined in [section 3 4];

9 (b) require by rule that each insurer transacting a  
10 line of insurance designated as noncompetitive or volatile  
11 report historical exposure, loss, and expense data; and

12 (c) review rate filings for a line of insurance  
13 designated as noncompetitive or volatile to determine, after  
14 a hearing, whether the filing insurer's statistics in  
15 Montana are sufficiently stable for ratemaking purposes.

16 (2) If a filing insurer's statistics are not  
17 sufficiently stable for all or part of the ratemaking  
18 process and if the commissioner determines the combined  
19 experience from similar policies written in Montana will not  
20 produce statistics sufficiently stable for ratemaking  
21 purposes, the commissioner shall review the experience under  
22 the covered policy in other states and determine which  
23 states' experiences are appropriate and necessary to include  
24 with experience in this state to obtain statistics that are  
25 sufficiently stable for ratemaking purposes.

(3) The commissioner shall determine the states whose experiences are appropriate and necessary based on:

(a) the number of claims filed as measured by insurance frequency statistics;

(b) the average claim size as measured by insurance severity statistics;

(c) the differences in civil justice systems or insurance regulatory systems as measured by insurance pure premium statistics; and

(d) other considerations that impact costs, such as demographic composition and economic conditions.

**NEW SECTION. Section 6. Data reporting -- rules. (1)**

An insurer that has transacted a line of insurance designated as noncompetitive or volatile shall report once a year to the commissioner, on forms prescribed by the commissioner, information including:

(a) reported and estimated ultimate exposure, by year of exposure to loss;

(b) reported and estimated ultimate premiums, by year of exposure to loss;

(c) losses paid, by year incurred;

(d) loss adjustment expense paid, by year incurred;

(e) reported and ultimately incurred losses and loss adjustment expenses, by year incurred; and

(f) any other information required by the

commissioner.

(2) An insurer transacting a line of insurance designated as noncompetitive or volatile shall provide to the commissioner information concerning at least 5 years of experience, with information evaluated as of the end of each calendar year. In addition to the latest reported information for each year, the insurer shall document any adjustment, including but not limited to development factors and trend adjustments, made to the reported data in projecting losses.

(3) The commissioner shall adopt by rule reasonable development factors and trend adjustments to be applied to the reported data.

**NEW SECTION. Section 7. Actuarial review -- fees paid by insurer. (1)** For the purpose of determining regional pricing, the commissioner may employ or contract with actuarial consultants as necessary for any rate review authorized under the provisions of [section 4 5]. The person conducting the review shall report to the commissioner the results of his review.

(2) The reasonable fees and expenses of an actuarial consultant employed by or contracting with the commissioner for purposes of a rate filing review must be assessed against and paid by the insurer whose rates are under review.

1        NEW SECTION. Section 8. Extension of authority. Any  
2 existing authority to make rules on the subject of the  
3 provisions of [this act] is extended to the provisions of  
4 [this act].

5        NEW SECTION. Section 9. Saving clause. [This act]  
6 does not affect rights and duties that matured, penalties  
7 that were incurred, or proceedings that were begun before  
8 [the effective date of this act].

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

15        NEW SECTION. Section 11. Codification instruction.  
16 [Sections 1 2 through 6 7] are intended to be codified as an  
17 integral part of Title 33, chapter 16, and the provisions of  
18 Title 33, chapter 16, apply to [sections 1 2 through 6 7].

19        NEW SECTION. Section 12. Effective date. [Section 7 8  
20 and this section] are effective on passage and approval.

21        NEW SECTION. SECTION 13. TERMINATION. [THIS ACT]  
22 TERMINATES OCTOBER 1, 1991.

-End-