

HOUSE BILL NO. 536

INTRODUCED BY J. BROWN, T. NELSON, THOMAS, WHALEN,
BOYLAN, LYNCH, ADDY

IN THE HOUSE

FEBRUARY 2, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

FIRST READING.

FEBRUARY 18, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.

FEBRUARY 20, 1989

SECOND READING, DO PASS AS AMENDED.

FEBRUARY 21, 1989

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 95; NOES, 4.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

FIRST READING.

MARCH 18, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 20, 1989

SECOND READING, CONCURRED IN.

MARCH 22, 1989

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

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 1, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *536* *Whaler*
 2 INTRODUCED BY *J. Brown, Jon Nelson, Thoma*
Boyle, Spick
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN APPLICANT
 5 FOR AN INSURANCE AGENT, SOLICITOR, OR ENROLLMENT
 6 REPRESENTATIVE LICENSE TO COMPLETE A COURSE OF PRELICENSING
 7 EDUCATION PRIOR TO THE LICENSING EXAMINATION; AUTHORIZING
 8 THE COMMISSIONER OF INSURANCE TO REVIEW AND APPROVE COURSES
 9 AND COLLECT FEES FOR PRELICENSING EDUCATION; CREATING AN
 10 ADVISORY COUNCIL; AMENDING SECTIONS 2-15-122, 33-2-708,
 11 33-17-202, 33-17-211, AND 33-30-312, MCA; AND PROVIDING AN
 12 EFFECTIVE DATE AND AN APPLICABILITY DATE."

14 STATEMENT OF INTENT

15 A statement of intent is necessary because this bill
 16 delegates rulemaking authority to the insurance commissioner
 17 for approval of prelicensing education, including course
 18 content, instructors, and instructional format standards and
 19 application forms documenting the completion of the courses.

20 Standards for instructional format should accommodate
 21 Montana's geography and allow instruction by
 22 teleconferencing, computer-assisted training, and other
 23 available technologies. Correspondence courses and video
 24 cassettes for self-instruction at home should not be
 25 permitted until the potential for abuse can be minimized.

1 Course content standards should address a reasonable
 2 distribution of hours between such fields as regulatory
 3 provisions, relevant income tax aspects, actuarial or claims
 4 adjusting practices, or other fields that pertain to the
 5 type of license sought. The standards should also indicate
 6 levels of knowledge that the student should attain through
 7 these courses.

8 The commissioner may authorize a certificate of
 9 completion form for the instructor to sign when a license
 10 applicant completes the 40th hour of instruction. Rules and
 11 forms should allow an applicant to receive instruction from
 12 two or more course providers and allow the applicant in this
 13 situation to obtain partial completion certificates from
 14 each course provider.

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

17 NEW SECTION. **Section 1. Purpose.** The purposes of
 18 [sections 2 and 3] are to further protect insurance
 19 consumers by producing better trained and more dedicated
 20 insurance agents, solicitors, and enrollment
 21 representatives; to educate and qualify prospective agents,
 22 solicitors, and representatives to pass the state insurance
 23 agent's license examination; and to provide standards for
 24 the qualification of instructors, courses, and materials
 25 used to train prospective agents, solicitors, and

1 representatives.

2 **NEW SECTION. Section 2. Prelicensing education --**
 3 **basic requirement.** (1) (a) A person applying for a license
 4 to act as an agent or solicitor for property, casualty, and
 5 surety insurance shall complete 40 hours of approved
 6 prelicensing education courses in those areas of insurance
 7 within 12 months prior to the examination, unless he is
 8 exempted from the requirement under subsection (3).

9 (b) A person applying for a license to act as an agent
 10 or solicitor for life and disability insurance or as an
 11 enrollment representative for a health service corporation
 12 shall complete 40 hours of approved prelicensing education
 13 courses in those areas of insurance within 12 months prior
 14 to the examination, unless he is exempted from the
 15 requirement under subsection (3).

16 (2) A person applying for licenses to act as an agent
 17 or solicitor for both the property, casualty, and surety
 18 areas and the life and disability areas must meet the
 19 education requirements in all the areas of insurance.

20 (3) The minimum prelicensing education requirement
 21 does not apply to a person who:

22 (a) has been licensed within the 12 preceding months
 23 as an agent or solicitor in another state that requires
 24 prelicensing education and has completed the education in
 25 the other state;

1 (b) seeks a nonresident license, having been licensed
 2 as an agent in his state of residence for at least 1 year;

3 (c) seeks a nonresident license and is from a state
 4 having a prelicensing education requirement;

5 (d) seeks to reinstate a license lapsed for less than
 6 2 years;

7 (e) seeks a temporary license under 33-17-216; or

8 (f) is exempt from examination requirements under
 9 33-17-212(5).

10 **NEW SECTION. Section 3. Review and approval of**
 11 **prelicensing education courses by commissioner -- advisory**
 12 **council.** (1) The commissioner shall approve prelicensing
 13 education instruction offered to persons intending to apply
 14 for a license under 33-17-202 or 33-30-312. Course content,
 15 instructors, and instructional format must be approved and
 16 reviewed periodically at the discretion of the insurance
 17 commissioner.

18 (2) In formulating rules and standards for the
 19 approval of prelicensing education courses, the commissioner
 20 shall consult with an advisory council consisting of two
 21 persons who are life and disability agents or health service
 22 corporation enrollment representatives, two property and
 23 casualty agents, one person employed by an insurer, and one
 24 health enrollment representative. The commissioner shall
 25 appoint the members of this advisory council pursuant to

2-15-122 and shall consult with them prior to approving courses. The provisions of 2-15-122(5), (9), and (10) do not apply to this advisory council.

(3) In conducting periodic reviews of course content, instructors, or instructional format, the commissioner may exercise any investigative power of his office created under 33-1-311 or 33-1-315.

(4) If, pursuant to review or investigation, the commissioner determines that a prelicensing education program is not being operated in compliance with standards established under this section, he may revoke the program's approval, place the program under probationary approval, or issue a cease and desist order under 33-1-318.

Section 4. Section 2-15-122, MCA, is amended to read:

"2-15-122. Creation of advisory councils. (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that such official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. They must file a record of each council created by them in the office of the governor and the office of the secretary of state in accordance with subsection (9) of this section.

(2) Each advisory council created under this section shall be known as the ".... advisory council".

(3) The creating authority shall prescribe the composition and advisory functions of each advisory council created; appoint its members, who shall serve at the pleasure of the governor; and specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity as defined in 2-15-102(7).

(5) Unless he is a full-time salaried officer or employee of this state or of any political subdivision of this state, each member is entitled to be paid in an amount to be determined by the department head, not to exceed \$25 for each day in which he is actually and necessarily engaged in the performance of council duties, and he is also

1 entitled to be reimbursed for travel expenses, as provided
 2 for in 2-18-501 through 2-18-503, incurred while in the
 3 performance of council duties. Members who are full-time
 4 salaried officers or employees of this state or of any
 5 political subdivision of this state are not entitled to be
 6 compensated for their service as members but are entitled to
 7 be reimbursed for travel expenses as provided for in
 8 2-18-501 through 2-18-503.

9 (6) Unless otherwise specified by the creating
 10 authority, at its first meeting in each year each advisory
 11 council shall elect a chairman and such other officers as it
 12 considers necessary.

13 (7) Unless otherwise specified by the creating
 14 authority, each advisory council shall meet at least
 15 annually and shall also meet on the call of the creating
 16 authority or the governor and may meet at other times on the
 17 call of the chairman or a majority of its members. An
 18 advisory council may not meet outside the city of Helena
 19 without the express prior authorization of the creating
 20 authority.

21 (8) A majority of the membership of an advisory
 22 council constitutes a quorum to do business.

23 (9) Except as provided in subsection (1)(c) of this
 24 section, an advisory council may not be created or appointed
 25 by a department head or any other official without the

1 approval of the governor. In order for the creation or
 2 approval of the creation of an advisory council to be
 3 effective, the governor must file in his office and in the
 4 office of the secretary of state a record of the council
 5 created showing the council's:

6 (a) name, in accordance with subsection (2) of this
 7 section;

8 (b) composition;

9 (c) names and addresses of the appointed members;

10 (d) purpose;

11 (e) term of existence, in accordance with subsection
 12 (10) of this section.

13 (10) An advisory council may not be created to remain
 14 in existence longer than 2 years after the date of its
 15 creation or beyond the period required to receive federal or
 16 private funds, whichever occurs later, unless extended by
 17 the governor or by the board of public education, the board
 18 of regents of higher education, the state board of
 19 education, the attorney general, the state auditor, or the
 20 superintendent of public instruction for those advisory
 21 councils created in the manner set forth in subsection
 22 (1)(c) of this section. If the existence of an advisory
 23 council is extended, they shall specify a new date, not more
 24 than 2 years later, when the existence of the advisory
 25 council ends and file a record of the order in the office of

1 the governor and the office of the secretary of state. The
 2 existence of any advisory council may be extended as many
 3 times as necessary."

4 **Section 5.** Section 33-2-708, MCA, is amended to read:

5 "33-2-708. Fees and licenses. (1) The commissioner
 6 shall collect in advance and the persons so served shall so
 7 pay to the commissioner the following fees and licenses:

8 (a) certificates of authority:

9 (i) for filing applications for original certificates
 10 of authority, articles of incorporation (except original
 11 articles of incorporation of domestic insurers as provided
 12 in subsection (b) below) and other charter documents,
 13 bylaws, financial statement, examination report, power of
 14 attorney to the commissioner, and all other documents and
 15 filings required in connection with such application and for
 16 issuance of an original certificate of authority, if issued:

17 (A) domestic insurers \$ 300.00

18 (B) foreign insurers 300.00

19 (ii) annual continuation of certificate of authority ..
 20 300.00

21 (iii) reinstatement of certificate of authority
 22 25.00

23 (iv) amendment of certificate of authority 50.00

24 (b) articles of incorporation:

25 (i) filing original articles of incorporation of

1 domestic insurer, exclusive of fees required to be paid by
 2 the corporation to the secretary of state 20.00

3 (ii) filing amendment of articles of incorporation,
 4 domestic and foreign insurers, exclusive of fees required to
 5 be paid to the secretary of state by a domestic corporation
 6 25.00

7 (c) filing bylaws or amendment thereto where required
 8 10.00

9 (d) filing annual statement of insurer, other than as
 10 part of application for original certificate of authority ..
 11 25.00

12 (e) resident agent's license:

13 (i) application for original license, including
 14 issuance of license, if issued (life and/or disability)
 15 15.00

16 (ii) application for original license, including
 17 issuance of license, if issued (other than life and/or
 18 disability) 15.00

19 (iii) appointment of agent, each insurer 10.00

20 (iv) annual renewal, each insurer 10.00

21 (v) temporary license 10.00

22 (vi) amendment of license (excluding additions thereto)
 23 or reissuance of master license 10.00

24 (f) nonresident agent's license:

25 (i) application for original license, including

1	issuance of license, if issued (life and/or disability)	
2	100.00
3	(ii) application for original license, including	
4	issuance of license, if issued (other than life and/or	
5	disability)	100.00
6	(iii) appointment of agent, each insurer	10.00
7	(iv) annual renewal, each insurer	10.00
8	(v) amendment of license (excluding additions thereto)	
9	or reissuance of master license	10.00
10	(g) solicitor's license:	
11	(i) application for original license, including	
12	issuance of license, if issued	15.00
13	(ii) annual renewal of license	15.00
14	(iii) appointment of solicitor	10.00
15	(h) examination for license as agent or solicitor,	
16	each examination	15.00
17	(i) surplus lines agent license:	
18	(i) application for original license and for issuance	
19	of license, if issued	50.00
20	(ii) annual renewal of license	50.00
21	(j) adjuster's license:	
22	(i) application for original license and for issuance	
23	of license, if issued	15.00
24	(ii) annual renewal of license	15.00
25	(k) insurance vending machine license, each machine,	

1	each year	10.00
2	(1) commissioner's certificate under seal (except when	
3	on certificates of authority or licenses)	10.00
4	(m) copies of documents on file in the commissioner's	
5	office, per page50
6	(n) policy forms:	
7	(i) filing each policy form	25.00
8	(ii) filing each application, rider, endorsement,	
9	amendment, insert page, schedule of rates, and clarification	
10	of risks	10.00
11	(iii) maximum charge if policy and all forms submitted	
12	at one time or resubmitted for approval within 180 days	
13	100.00
14	<u>(o) applications for approval of prelicensing</u>	
15	<u>education courses:</u>	
16	<u>(i) reviewing initial application</u>	<u>150.00</u>
17	<u>(ii) periodic review</u>	<u>50.00</u>
18	(2) The commissioner shall promptly deposit with the	
19	state treasurer to the credit of the general fund of this	
20	state all fines and penalties, those amounts received	
21	pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees	
22	and examination and miscellaneous charges received pursuant	
23	to Title 33, chapter 11, part 1, that are collected by him	
24	pursuant to Title 33 and the rules adopted thereunder.	
25	(3) All fees are considered fully earned when	

1 received. In the event of overpayment, only those amounts in
2 excess of \$10 will be refunded.

3 (4) All fees and examination and miscellaneous
4 charges, except fines or penalties or those amounts received
5 pursuant to 33-2-311, 33-2-705, or 33-2-706, collected by
6 the commissioner pursuant to Title 33 and the rules adopted
7 thereunder must be deposited in the insurance regulatory
8 trust account pursuant to 17-2-121 through 17-2-123."

9 **Section 6.** Section 33-17-202, MCA, is amended to read:

10 "33-17-202. General qualifications of agents and
11 solicitors. (1) For the protection of the people of this
12 state the commissioner ~~shall~~ may not issue, continue, or
13 permit to exist any agent or solicitor license as to
14 insurance, except in compliance with this chapter, ~~or as to~~
15 ~~any individual not qualified therefor as follows~~ In order to
16 be licensed as an agent or solicitor, a person:

17 (a) must be 18 years of age or more;

18 (b) must be a resident in and of this state or of
19 another state if by reciprocal arrangements made by the
20 commissioner with the other state similar licensure
21 privileges therein are granted to residents of this state;

22 (c) must have been appointed as agent by an authorized
23 insurer, subject to issuance of the license;

24 (d) ~~if~~ for a solicitor's license, must have been
25 appointed as solicitor by a licensed resident agent, subject

1 to issuance of the license, and intend to make and make the
2 soliciting of insurance a principal vocation;

3 (e) must be competent, trustworthy, and of good
4 reputation;

5 (f) must ~~have--had--experience--or--training--or--be~~
6 ~~otherwise-qualified-in-the-kind-or-kinds-of-insurance-as--to~~
7 ~~which--he--is--to--be--licensed--and~~ be reasonably familiar with
8 the provisions of this code which govern his operations as
9 an insurance agent or solicitor; and, when required by
10 [section 2], must have completed 40 hours of approved
11 prelicensing education in the areas of:

12 (i) property, casualty, and surety insurance within 12
13 months before taking the examination in those areas of
14 insurance; or

15 (ii) life and disability insurance within 12 months
16 before taking the examination in those areas of insurance;

17 (g) must pass an examination for the license required
18 under this chapter;

19 (h) ~~if~~ for an agent's license as to life or disability
20 insurance, must not be a funeral director, undertaker, or
21 mortician operating in this or any other state or an
22 officer, employee, or representative thereof or hold an
23 interest in or benefit from such a business in this or any
24 other state.

25 (2) ~~in--determining~~ The commissioner shall determine

1 the qualifications as to competence, training, experience,
 2 and knowledge of the provisions of this code governing his
 3 operations as an agent or solicitor, as provided for in
 4 subsection (1) above, of applicant agents or solicitors
 5 proposing to represent ~~as-such~~ only insurers who confine
 6 their business in this state substantially to the insuring
 7 of the property, interests, and risks of farmers, ~~the~~ The
 8 commissioner shall ~~relate-such~~ require qualifications only
 9 to for the kinds of insurance policies which the applicant
 10 will handle as ~~such~~ a licensee."

11 **Section 7.** Section 33-17-211, MCA, is amended to read:

12 "33-17-211. Application for license. (1) Application
 13 for an agent or solicitor license must be made to the
 14 commissioner by the applicant and be signed and sworn to by
 15 the applicant before a notary public.

16 (2) The commissioner may designate the forms for
 17 application for license, which must require full answers to
 18 such questions as that may reasonably be necessary to
 19 determine the applicant's identity, residence, personal
 20 history, business record, experience and training in
 21 insurance, completion of the required prelicensing education
 22 courses, and other facts as required by the commissioner to
 23 determine whether the applicant meets the applicable
 24 qualifications for the license applied for.

25 (3) ~~if-for-an-agent's-license,-the~~ The application for

1 an agent's license must state the kinds of insurance
 2 proposed to be transacted and be accompanied by written
 3 appointment of the applicant as agent by an authorized
 4 insurer, subject to issuance of the license.

5 (4) ~~if-for-a-solicitor's-license,-the~~ The application
 6 for a solicitor's license must be accompanied by written
 7 appointment of the applicant as solicitor by a licensed
 8 agent, subject to issuance of the license.

9 (5) If the applicant for an agent license is a
 10 partnership or corporation, the application shall show, in
 11 addition, the names of all members, officers, and directors
 12 and shall designate each individual who is to exercise the
 13 powers to be conferred by the license upon the partnership
 14 or corporation. Each ~~such~~ individual so designated shall
 15 furnish information as to himself, as part of the
 16 application, as though for an individual license.

17 (6) If the applicant for an agent license is an
 18 agents' association pursuant to 33-17-205, the application
 19 must show the names and residence addresses of the
 20 association's officers and trustees.

21 (7) ~~if--for--license-as-either-agent-or-solicitor,-the~~
 22 The application for licensure as either an agent or
 23 solicitor must ~~also~~ show whether the applicant was ever
 24 previously licensed to transact any kind of insurance in
 25 this state or elsewhere; whether any ~~such~~ license was ever

1 refused, suspended, or revoked; whether any insurer, general
2 agent, or agent, in the case of a solicitor application,
3 claims the applicant to-be is indebted to it and, if so, the
4 details thereof of the claim and the defenses, if any, of
5 the applicant thereto; and whether the applicant ever had an
6 agency contract canceled and the facts thereof concerning
7 the cancellation.

8 (8) The commissioner shall require as part of the
9 application for license the certificate of an officer or
10 representative of the insurer proposed to be represented, in
11 the case of applicants for license as agent, or of the
12 proposed employing agent, in the case of applicants for
13 license as solicitor, as to whether the applicant is known
14 to such the officer or representative, whether the insurer
15 or agent has investigated the character and business record
16 of the applicant and the uses to be made of the license, if
17 granted, and his opinion, based on such investigation, as to
18 the applicant's trustworthiness and competence.

19 (9) All such applications must be accompanied by the
20 applicable license fee, appointment of agent fee where
21 applicable, and examination fee where an examination is
22 required under 33-17-212, ~~at~~ in the respective amounts
23 stated in 33-2-708."

24 **Section 8.** Section 33-30-312, MCA, is amended to read:

25 "33-30-312. Enrollment representative -- filing with

1 and approval by commissioner -- license. (1) Each
2 corporation subject to the provisions of this chapter shall
3 notify the commissioner through its proper officer or agent
4 of the name, title, and address of each person it desires
5 appointed as an enrollment representative. The notice shall
6 be accompanied by a written application, upon a form
7 furnished by the commissioner, from the appointee. The
8 commissioner shall issue to that appointee a license which
9 states that the person named is a constituted enrollment
10 representative of the corporation in this state if, upon
11 receipt of this written notice, when accompanied by the
12 proper fee, it appears that:

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

16 (b) he qualifies under the provisions of this section.

17 (2) For appointees who have not acted as an enrollment
18 representative for a health service corporation for a
19 period of 2 years prior to July 1, 1975, if he considers it
20 desirable, the commissioner may require an appointee to
21 submit to an examination to determine the qualifications of
22 the appointee to act as an enrollment representative in this
23 state. This examination must be the same as given to
24 applicants for a disability insurance agent license as
25 provided for in 33-17-212 through 33-17-214. A person

1 required to take this examination must fulfill the
 2 prelicensing education requirement set by [section 2].

3 (3) Upon receipt by the commissioner of notification
 4 from a health service corporation that the corporation
 5 desires a particular individual to be appointed as its
 6 enrollment representative, that person has a temporary
 7 enrollment representative's license until the commissioner
 8 notifies the corporation of action taken upon the
 9 application. If the commissioner rejects the application,
 10 the prospective appointee's eligibility to act as an
 11 enrollment representative ceases on the day the corporation
 12 is notified of rejection."

13 NEW SECTION. Section 9. Extension of authority. Any
 14 existing authority to make rules on the subject of the
 15 provisions of [this act] is extended to the provisions of
 16 [this act].

17 NEW SECTION. Section 10. Codification instruction.
 18 [Sections 1 through 3] are intended to be codified as an
 19 integral part of Title 33, chapter 17, part 2, and the
 20 provisions of Title 33, chapter 17, part 2, apply to
 21 [sections 1 through 3].

22 NEW SECTION. Section 11. Applicability. [This act]
 23 applies to persons applying for a license as an insurance
 24 agent, solicitor, or enrollment representative on or after
 25 January 1, 1990.

1 NEW SECTION. Section 12. Effective date. [This act]
 2 is effective January 1, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB536, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act requiring an applicant for an insurance agent, solicitor, or enrollment representative license to complete a course of prelicensing education prior to the licensing examination; authorizing the commissioner of insurance to review and approve courses and collect fees for prelicensing education; creating an advisory council; amending Sections 2-15-122, 33-2-708, 33-17-202, 33-17-211, and 33-30-312, MCA; and providing an effective date and an applicability date.

ASSUMPTIONS:

1. Required to monitor prelicensing education requirements and compliance when agents apply for license. It is assumed there will be 1500 applications each year of the biennium.
2. Necessary to review and approve courses, and conduct periodic course reviews. Review 20 courses. Each review would require approximately 2 hours and would be completed by a grade 12.
3. There will be a \$150 registration fee for each course and \$50 per course for each review. The course reviews would be conducted every other year.
4. Rule making process costs will be \$500.
5. No additional FTE will be needed.

FISCAL IMPACT:

	Current	FY90 Proposed		Proposed	FY91 Current	
<u>Expenditures:</u>	Law	Law	Difference	Law	Law	Difference
Personal Services	\$ -0-	\$ 900	\$ 900	\$ -0-	\$ 750	\$ 750
Operating Expenses	-0-	500	500	-0-	-0-	-0-
TOTAL	\$ -0-	\$ 1,400	\$ 1,400	\$ -0-	\$ 750	\$ 750
<u>Revenues:</u>						
Fees	\$ -0-	\$ 3,500	\$ 3,500	\$ -0-	\$ 500	\$ 500
<u>Net Effect:</u>	\$ -0-	\$ 2,100	\$ 2,100	\$ -0-	\$ (250)	\$ (250)


 RAY SHACKLEFORD, BUDGET DIRECTOR
 OFFICE OF BUDGET AND PROGRAM PLANNING
 DATE 2/8/89


 JAN BROWN, PRIMARY SPONSOR
 DATE 2/10/89

Fiscal Note for HB536, as introduced

HB 536

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 536

INTRODUCED BY J. BROWN, T. NELSON, THOMAS, WHALEN,

BOYLAN, LYNCH, ADDY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN APPLICANT FOR AN INSURANCE AGENT, SOLICITOR, OR ENROLLMENT REPRESENTATIVE LICENSE TO COMPLETE A COURSE OF PRELICENSING EDUCATION PRIOR TO THE LICENSING EXAMINATION; AUTHORIZING THE COMMISSIONER OF INSURANCE TO REVIEW AND APPROVE COURSES AND COLLECT FEES FOR PRELICENSING EDUCATION; CREATING AN ADVISORY COUNCIL; AMENDING SECTIONS 2-15-122, 33-2-708, 33-17-202, 33-17-211, AND 33-30-312, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is necessary because this bill delegates rulemaking authority to the insurance commissioner for approval of prelicensing education, including course content, instructors, and instructional format standards and application forms documenting the completion of the courses.

Standards for instructional format should accommodate Montana's geography and allow instruction by teleconferencing, computer-assisted training, and other available technologies. Correspondence courses and video cassettes for self-instruction at home should not be

permitted until the potential for abuse can be minimized.

Course content standards should address a reasonable distribution of hours between such fields as regulatory provisions, relevant income tax aspects, actuarial or claims adjusting practices, or other fields that pertain to the type of license sought. The standards should also indicate levels of knowledge that the student should attain through these courses.

The commissioner may authorize a certificate of completion form for the instructor to sign when a license applicant completes the ~~40th~~ 20TH hour of instruction. Rules and forms should allow an applicant to receive instruction from two or more course providers and allow the applicant in this situation to obtain partial completion certificates from each course provider.

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

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1 used to train prospective agents, solicitors, and
2 representatives.

3 NEW SECTION. Section 2. Prelicensing education --
4 basic requirement. (1) (a) A person applying for a license
5 to act as an agent or solicitor for property, casualty, and
6 surety insurance shall complete ~~40~~ 20 hours of approved
7 prelicensing education courses in those areas of insurance
8 within 12 months prior to the examination, unless he is
9 exempted from the requirement under subsection (3).

10 (b) A person applying for a license to act as an agent
11 or solicitor for life and disability insurance or as an
12 enrollment representative for a health service corporation
13 shall complete 40 hours of approved prelicensing education
14 courses in those areas of insurance within 12 months prior
15 to the examination, unless he is exempted from the
16 requirement under subsection (3).

17 (2) A person applying for licenses to act as an agent
18 or solicitor for both the property, casualty, and surety
19 areas and the life and disability areas must meet the
20 education requirements in all the areas of insurance.

21 (3) The minimum prelicensing education requirement
22 does not apply to a person who:

23 (a) has been licensed within the 12 preceding months
24 as an agent or solicitor in another state that requires
25 prelicensing education and has completed the education in

1 the other state;

2 (b) seeks a nonresident license, having been licensed
3 as an agent in his state of residence for at least 1 year;

4 (c) seeks a nonresident license and is from a state
5 having a prelicensing education requirement;

6 (d) seeks to reinstate a license lapsed for less than
7 2 years;

8 (e) seeks a temporary license under 33-17-216; or

9 (f) is exempt from examination requirements under
10 33-17-212(5).

11 NEW SECTION. Section 3. Review and approval of
12 prelicensing education courses by commissioner -- advisory
13 council. (1) The commissioner shall approve prelicensing
14 education instruction offered to persons intending to apply
15 for a license under 33-17-202 or 33-30-312. Course content,
16 instructors, and instructional format must be approved and
17 reviewed periodically at the discretion of the insurance
18 commissioner.

19 (2) In formulating rules and standards for the
20 approval of prelicensing education courses, the commissioner
21 shall consult with an advisory council consisting of two
22 persons who are life and disability agents or health service
23 corporation enrollment representatives, two property and
24 casualty agents, one person employed by an insurer, and one
25 health enrollment representative. The commissioner shall

1 appoint the members of this advisory council pursuant to
2 2-15-122 and shall consult with them prior to approving
3 courses. The provisions of 2-15-122(5), (9), and (10) do not
4 apply to this advisory council.

5 (3) In conducting periodic reviews of course content,
6 instructors, or instructional format, the commissioner may
7 exercise any investigative power of his office created under
8 33-1-311 or 33-1-315.

9 (4) If, pursuant to review or investigation, the
10 commissioner determines that a prelicensing education
11 program is not being operated in compliance with standards
12 established under this section, he may revoke the program's
13 approval, place the program under probationary approval, or
14 issue a cease and desist order under 33-1-318.

15 **Section 4.** Section 2-15-122, MCA, is amended to read:

16 "2-15-122. Creation of advisory councils. (1) (a) A
17 department head or the governor may create advisory
18 councils.

19 (b) An agency or an official of the executive branch
20 of state government other than a department head or the
21 governor, including the superintendents of the state's
22 institutions and the presidents of the units of the state's
23 university system, may also create advisory councils but
24 only if federal law or regulation requires that such
25 official or agency create the advisory council as a

1 condition to the receipt of federal funds.

2 (c) The board of public education, the board of
3 regents of higher education, the state board of education,
4 the attorney general, the state auditor, and the
5 superintendent of public instruction may create advisory
6 councils, which shall serve at their pleasure, without the
7 approval of the governor. They must file a record of each
8 council created by them in the office of the governor and
9 the office of the secretary of state in accordance with
10 subsection (9) of this section.

11 (2) Each advisory council created under this section
12 shall be known as the "... advisory council".

13 (3) The creating authority shall prescribe the
14 composition and advisory functions of each advisory council
15 created; appoint its members, who shall serve at the
16 pleasure of the governor; and specify a date when the
17 existence of each advisory council ends.

18 (4) Advisory councils may be created only for the
19 purpose of acting in an advisory capacity as defined in
20 2-15-102(7).

21 (5) Unless he is a full-time salaried officer or
22 employee of this state or of any political subdivision of
23 this state, each member is entitled to be paid in an amount
24 to be determined by the department head, not to exceed \$25
25 for each day in which he is actually and necessarily engaged

1 in the performance of council duties, and he is also
 2 entitled to be reimbursed for travel expenses, as provided
 3 for in 2-18-501 through 2-18-503, incurred while in the
 4 performance of council duties. Members who are full-time
 5 salaried officers or employees of this state or of any
 6 political subdivision of this state are not entitled to be
 7 compensated for their service as members but are entitled to
 8 be reimbursed for travel expenses as provided for in
 9 2-18-501 through 2-18-503.

10 (6) Unless otherwise specified by the creating
 11 authority, at its first meeting in each year each advisory
 12 council shall elect a chairman and such other officers as it
 13 considers necessary.

14 (7) Unless otherwise specified by the creating
 15 authority, each advisory council shall meet at least
 16 annually and shall also meet on the call of the creating
 17 authority or the governor and may meet at other times on the
 18 call of the chairman or a majority of its members. An
 19 advisory council may not meet outside the city of Helena
 20 without the express prior authorization of the creating
 21 authority.

22 (8) A majority of the membership of an advisory
 23 council constitutes a quorum to do business.

24 (9) Except as provided in subsection (1)(c) of this
 25 section, an advisory council may not be created or appointed

1 by a department head or any other official without the
 2 approval of the governor. In order for the creation or
 3 approval of the creation of an advisory council to be
 4 effective, the governor must file in his office and in the
 5 office of the secretary of state a record of the council
 6 created showing the council's:

7 (a) name, in accordance with subsection (2) of this
 8 section;

9 (b) composition;

10 (c) names and addresses of the appointed members;

11 (d) purpose;

12 (e) term of existence, in accordance with subsection
 13 (10) of this section.

14 (10) An advisory council may not be created to remain
 15 in existence longer than 2 years after the date of its
 16 creation or beyond the period required to receive federal or
 17 private funds, whichever occurs later, unless extended by
 18 the governor or by the board of public education, the board
 19 of regents of higher education, the state board of
 20 education, the attorney general, the state auditor, or the
 21 superintendent of public instruction for those advisory
 22 councils created in the manner set forth in subsection
 23 (1)(c) of this section. If the existence of an advisory
 24 council is extended, they shall specify a new date, not more
 25 than 2 years later, when the existence of the advisory

1 council ends and file a record of the order in the office of
2 the governor and the office of the secretary of state. The
3 existence of any advisory council may be extended as many
4 times as necessary."

5 **Section 5.** Section 33-2-708, MCA, is amended to read:

6 "33-2-708. Fees and licenses. (1) The commissioner
7 shall collect in advance and the persons so served shall so
8 pay to the commissioner the following fees and licenses:

9 (a) certificates of authority:

10 (i) for filing applications for original certificates
11 of authority, articles of incorporation (except original
12 articles of incorporation of domestic insurers as provided
13 in subsection (b) below) and other charter documents,
14 bylaws, financial statement, examination report, power of
15 attorney to the commissioner, and all other documents and
16 filings required in connection with such application and for
17 issuance of an original certificate of authority, if issued:

18 (A) domestic insurers \$ 300.00

19 (B) foreign insurers 300.00

20 (ii) annual continuation of certificate of authority ..
21 300.00

22 (iii) reinstatement of certificate of authority
23 25.00

24 (iv) amendment of certificate of authority 50.00

25 (b) articles of incorporation:

1 (i) filing original articles of incorporation of
2 domestic insurer, exclusive of fees required to be paid by
3 the corporation to the secretary of state 20.00

4 (ii) filing amendment of articles of incorporation,
5 domestic and foreign insurers, exclusive of fees required to
6 be paid to the secretary of state by a domestic corporation
7 25.00

8 (c) filing bylaws or amendment thereto where required
9 10.00

10 (d) filing annual statement of insurer, other than as
11 part of application for original certificate of authority ..
12 25.00

13 (e) resident agent's license:

14 (i) application for original license, including
15 issuance of license, if issued (life and/or disability)
16 15.00

17 (ii) application for original license, including
18 issuance of license, if issued (other than life and/or
19 disability) 15.00

20 (iii) appointment of agent, each insurer 10.00

21 (iv) annual renewal, each insurer 10.00

22 (v) temporary license 10.00

23 (vi) amendment of license (excluding additions thereto)
24 or reissuance of master license 10.00

25 (f) nonresident agent's license:

1 (i) application for original license, including
 2 issuance of license, if issued (life and/or disability)
 3 100.00
 4 (ii) application for original license, including
 5 issuance of license, if issued (other than life and/or
 6 disability) 100.00
 7 (iii) appointment of agent, each insurer 10.00
 8 (iv) annual renewal, each insurer 10.00
 9 (v) amendment of license (excluding additions thereto)
 10 or reissuance of master license 10.00
 11 (g) solicitor's license:
 12 (i) application for original license, including
 13 issuance of license, if issued 15.00
 14 (ii) annual renewal of license 15.00
 15 (iii) appointment of solicitor 10.00
 16 (h) examination for license as agent or solicitor,
 17 each examination 15.00
 18 (i) surplus lines agent license:
 19 (i) application for original license and for issuance
 20 of license, if issued 50.00
 21 (ii) annual renewal of license 50.00
 22 (j) adjuster's license:
 23 (i) application for original license and for issuance
 24 of license, if issued 15.00
 25 (ii) annual renewal of license 15.00

1 (k) insurance vending machine license, each machine,
 2 each year 10.00
 3 (l) commissioner's certificate under seal (except when
 4 on certificates of authority or licenses) 10.00
 5 (m) copies of documents on file in the commissioner's
 6 office, per page50
 7 (n) policy forms:
 8 (i) filing each policy form 25.00
 9 (ii) filing each application, rider, endorsement,
 10 amendment, insert page, schedule of rates, and clarification
 11 of risks 10.00
 12 (iii) maximum charge if policy and all forms submitted
 13 at one time or resubmitted for approval within 180 days
 14 100.00
 15 (o) applications for approval of prelicensing
 16 education courses:
 17 (i) reviewing initial application 150.00
 18 (ii) periodic review 50.00
 19 (2) The commissioner shall promptly deposit with the
 20 state treasurer to the credit of the general fund of this
 21 state all fines and penalties, those amounts received
 22 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees
 23 and examination and miscellaneous charges received pursuant
 24 to Title 33, chapter 11, part 1, that are collected by him
 25 pursuant to Title 33 and the rules adopted thereunder.

(3) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.

(4) All fees and examination and miscellaneous charges, except fines or penalties or those amounts received pursuant to 33-2-311, 33-2-705, or 33-2-706, collected by the commissioner pursuant to Title 33 and the rules adopted thereunder must be deposited in the insurance regulatory trust account pursuant to 17-2-121 through 17-2-123."

Section 6. Section 33-17-202, MCA, is amended to read:

"33-17-202. General qualifications of agents and solicitors. (1) For the protection of the people of this state the commissioner ~~shall~~ may not issue, continue, or permit to exist any agent or solicitor license as to insurance, except in compliance with this chapter, ~~or as to any individual not qualified therefor as follows~~ In order to be licensed as an agent or solicitor, a person:

(a) must be 18 years of age or more;

(b) must be a resident in and of this state or of another state if by reciprocal arrangements made by the commissioner with the other state similar licensure privileges ~~therein~~ are granted to residents of this state;

(c) must have been appointed as agent by an authorized insurer, subject to issuance of the license;

(d) ~~if~~ for a solicitor's license, must have been

appointed as solicitor by a licensed resident agent, subject to issuance of the license, and intend to make and make the soliciting of insurance a principal vocation;

(e) must be competent, trustworthy, and of good reputation;

(f) must ~~have had experience or training or be otherwise qualified in the kind or kinds of insurance as to which he is to be licensed and~~ be reasonably familiar with the provisions of this code which govern his operations as an insurance agent or solicitor; and, when required by [section 2], must have completed 40 20 hours of approved prelicensing education in the areas of:

(i) property, casualty, and surety insurance within 12 months before taking the examination in those areas of insurance; or

(ii) life and disability insurance within 12 months before taking the examination in those areas of insurance;

(g) must pass an examination for the license required under this chapter;

(h) ~~if~~ for an agent's license as to life or disability insurance, must not be a funeral director, undertaker, or mortician operating in this or any other state or an officer, employee, or representative thereof or hold an interest in or benefit from such a business in this or any other state.

1 (2) ~~In--determining~~ The commissioner shall determine
 2 the qualifications as to competence, training, experience,
 3 and knowledge of the provisions of this code governing his
 4 operations as an agent or solicitor, as provided for in
 5 subsection (1) ~~above~~, of applicant agents or solicitors
 6 proposing to represent ~~as-such~~ only insurers who confine
 7 their business in this state substantially to the insuring
 8 of the property, interests, and risks of farmers; ~~the~~ The
 9 commissioner shall ~~relate-such~~ require qualifications only
 10 to for the kinds of insurance policies which the applicant
 11 will handle as ~~such~~ a licensee."

12 **Section 7.** Section 33-17-211, MCA, is amended to read:

13 "**33-17-211. Application for license.** (1) Application
 14 for an agent or solicitor license must be made to the
 15 commissioner by the applicant and be signed and sworn to by
 16 the applicant before a notary public.

17 (2) The commissioner may designate the forms for
 18 application for license, which must require full answers to
 19 ~~such questions as that~~ may reasonably be necessary to
 20 determine the applicant's identity, residence, personal
 21 history, business record, experience and training in
 22 insurance, completion of the required preclicensing education
 23 courses, and other facts as required by the commissioner to
 24 determine whether the applicant meets the applicable
 25 qualifications for the license applied for.

1 (3) ~~If-for-an-agent's-license,-the~~ The application for
 2 an agent's license must state the kinds of insurance
 3 proposed to be transacted and be accompanied by written
 4 appointment of the applicant as agent by an authorized
 5 insurer, subject to issuance of the license.

6 (4) ~~If-for-a-solicitor's-license,-the~~ The application
 7 for a solicitor's license must be accompanied by written
 8 appointment of the applicant as solicitor by a licensed
 9 agent, subject to issuance of the license.

10 (5) If the applicant for an agent license is a
 11 partnership or corporation, the application shall show, in
 12 addition, the names of all members, officers, and directors
 13 and shall designate each individual who is to exercise the
 14 powers to be conferred by the license upon the partnership
 15 or corporation. Each ~~such~~ individual so designated shall
 16 furnish information as to himself, as part of the
 17 application, as though for an individual license.

18 (6) If the applicant for an agent license is an
 19 agents' association pursuant to 33-17-205, the application
 20 must show the names and residence addresses of the
 21 association's officers and trustees.

22 (7) ~~If--for--license-as-either-agent-or-solicitor,-the~~
 23 The application for licensure as either an agent or
 24 solicitor must ~~also~~ show whether the applicant was ever
 25 previously licensed to transact any kind of insurance in

1 this state or elsewhere; whether any such license was ever
 2 refused, suspended, or revoked; whether any insurer, general
 3 agent, or agent, in the case of a solicitor application,
 4 claims the applicant to-be is indebted to it and, if so, the
 5 details thereof of the claim and the defenses, if any, of
 6 the applicant thereto; and whether the applicant ever had an
 7 agency contract canceled and the facts thereof concerning
 8 the cancellation.

9 (8) The commissioner shall require as part of the
 10 application for license the certificate of an officer or
 11 representative of the insurer proposed to be represented, in
 12 the case of applicants for license as agent, or of the
 13 proposed employing agent, in the case of applicants for
 14 license as solicitor, as to whether the applicant is known
 15 to such the officer or representative, whether the insurer
 16 or agent has investigated the character and business record
 17 of the applicant and the uses to be made of the license, if
 18 granted, and his opinion, based on such investigation, as to
 19 the applicant's trustworthiness and competence.

20 (9) All such applications must be accompanied by the
 21 applicable license fee, appointment of agent fee where
 22 applicable, and examination fee where an examination is
 23 required under 33-17-212, ~~all~~ in the respective amounts
 24 stated in 33-2-708."

25 **Section 8.** Section 33-30-312, MCA, is amended to read:

1 "33-30-312. Enrollment representative -- filing with
 2 and approval by commissioner -- license. (1) Each
 3 corporation subject to the provisions of this chapter shall
 4 notify the commissioner through its proper officer or agent
 5 of the name, title, and address of each person it desires
 6 appointed as an enrollment representative. The notice shall
 7 be accompanied by a written application, upon a form
 8 furnished by the commissioner, from the appointee. The
 9 commissioner shall issue to that appointee a license which
 10 states that the person named is a constituted enrollment
 11 representative of the corporation in this state if, upon
 12 receipt of this written notice, when accompanied by the
 13 proper fee, it appears that:

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

17 (b) he qualifies under the provisions of this section.

18 (2) For appointees who have not acted as an enrollment
 19 representative for a health service corporation for a
 20 period of 2 years prior to July 1, 1975, if he considers it
 21 desirable, the commissioner may require an appointee to
 22 submit to an examination to determine the qualifications of
 23 the appointee to act as an enrollment representative in this
 24 state. This examination must be the same as given to
 25 applicants for a disability insurance agent license as

1 provided for in 33-17-212 through 33-17-214. A person
 2 required to take this examination must fulfill the
 3 prelicensing education requirement set by [section 2].

4 (3) Upon receipt by the commissioner of notification
 5 from a health service corporation that the corporation
 6 desires a particular individual to be appointed as its
 7 enrollment representative, that person has a temporary
 8 enrollment representative's license until the commissioner
 9 notifies the corporation of action taken upon the
 10 application. If the commissioner rejects the application,
 11 the prospective appointee's eligibility to act as an
 12 enrollment representative ceases on the day the corporation
 13 is notified of rejection."

14 NEW SECTION. Section 9. Extension of authority. Any
 15 existing authority to make rules on the subject of the
 16 provisions of [this act] is extended to the provisions of
 17 [this act].

18 NEW SECTION. Section 10. Codification instruction.
 19 [Sections 1 through 3] are intended to be codified as an
 20 integral part of Title 33, chapter 17, part 2, and the
 21 provisions of Title 33, chapter 17, part 2, apply to
 22 [sections 1 through 3].

23 NEW SECTION. Section 11. Applicability. [This act]
 24 applies to persons applying for a license as an insurance
 25 agent, solicitor, or enrollment representative on or after

1 January 1, 1990.

2 NEW SECTION. Section 12. Effective date. [This act]
 3 is effective January 1, 1990.

-End-

1 HOUSE BILL NO. 536

2 INTRODUCED BY J. BROWN, T. NELSON, THOMAS, WHALEN,
3 BOYLAN, LYNCH, ADDY
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN APPLICANT
6 FOR AN INSURANCE AGENT, SOLICITOR, OR ENROLLMENT
7 REPRESENTATIVE LICENSE TO COMPLETE A COURSE OF PRELICENSING
8 EDUCATION PRIOR TO THE LICENSING EXAMINATION; AUTHORIZING
9 THE COMMISSIONER OF INSURANCE TO REVIEW AND APPROVE COURSES
10 AND COLLECT FEES FOR PRELICENSING EDUCATION; CREATING AN
11 ADVISORY COUNCIL; AMENDING SECTIONS 2-15-122, 33-2-708,
12 33-17-202, 33-17-211, AND 33-30-312, MCA; AND PROVIDING AN
13 EFFECTIVE DATE AND AN APPLICABILITY DATE."
14

15 STATEMENT OF INTENT

16 A statement of intent is necessary because this bill
17 delegates rulemaking authority to the insurance commissioner
18 for approval of prelicensing education, including course
19 content, instructors, and instructional format standards and
20 application forms documenting the completion of the courses.

21 Standards for instructional format should accommodate
22 Montana's geography and allow instruction by
23 teleconferencing, computer-assisted training, and other
24 available technologies. Correspondence courses and video
25 cassettes for self-instruction at home should not be

1 permitted until the potential for abuse can be minimized.

2 Course content standards should address a reasonable
3 distribution of hours between such fields as regulatory
4 provisions, relevant income tax aspects, actuarial or claims
5 adjusting practices, or other fields that pertain to the
6 type of license sought. The standards should also indicate
7 levels of knowledge that the student should attain through
8 these courses.

9 The commissioner may authorize a certificate of
10 completion form for the instructor to sign when a license
11 applicant completes the ~~40th~~ 20TH hour of instruction.
12 Rules and forms should allow an applicant to receive
13 instruction from two or more course providers and allow the
14 applicant in this situation to obtain partial completion
15 certificates from each course provider.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 NEW SECTION. **Section 1. Purpose.** The purposes of
19 [sections 2 and 3] are to further protect insurance
20 consumers by producing better trained and more dedicated
21 insurance agents, solicitors, and enrollment
22 representatives; to educate and qualify prospective agents,
23 solicitors, and representatives to pass the state insurance
24 agent's license examination; and to provide standards for
25 the qualification of instructors, courses, and materials

used to train prospective agents, solicitors, and representatives.

NEW SECTION. Section 2. Prelicensing education -- basic requirement. (1) (a) A person applying for a license to act as an agent or solicitor for property, casualty, and surety insurance shall complete ~~40~~ 20 hours of approved prelicensing education courses in those areas of insurance within 12 months prior to the examination, unless he is exempted from the requirement under subsection (3).

(b) A person applying for a license to act as an agent or solicitor for life and disability insurance or as an enrollment representative for a health service corporation shall complete ~~40~~ 20 hours of approved prelicensing education courses in those areas of insurance within 12 months prior to the examination, unless he is exempted from the requirement under subsection (3).

(2) A person applying for licenses to act as an agent or solicitor for both the property, casualty, and surety areas and the life and disability areas must meet the education requirements in all the areas of insurance.

(3) The minimum prelicensing education requirement does not apply to a person who:

(a) has been licensed within the 12 preceding months as an agent or solicitor in another state that requires prelicensing education and has completed the education in

the other state;

(b) seeks a nonresident license, having been licensed as an agent in his state of residence for at least 1 year;

(c) seeks a nonresident license and is from a state having a prelicensing education requirement;

(d) seeks to reinstate a license lapsed for less than 2 years;

(e) seeks a temporary license under 33-17-216; or

(f) is exempt from examination requirements under 33-17-212(5).

NEW SECTION. Section 3. Review and approval of prelicensing education courses by commissioner -- advisory council. (1) The commissioner shall approve prelicensing education instruction offered to persons intending to apply for a license under 33-17-202 or 33-30-312. Course content, instructors, and instructional format must be approved and reviewed periodically at the discretion of the insurance commissioner.

(2) In formulating rules and standards for the approval of prelicensing education courses, the commissioner shall consult with an advisory council consisting of two persons who are life and disability agents or health service corporation enrollment representatives, two property and casualty agents, one person employed by an insurer, and one health enrollment representative. The commissioner shall

1 appoint the members of this advisory council pursuant to
2 2-15-122 and shall consult with them prior to approving
3 courses. The provisions of 2-15-122(5), (9), and (10) do not
4 apply to this advisory council.

5 (3) In conducting periodic reviews of course content,
6 instructors, or instructional format, the commissioner may
7 exercise any investigative power of his office created under
8 33-1-311 or 33-1-315.

9 (4) If, pursuant to review or investigation, the
10 commissioner determines that a prelicensing education
11 program is not being operated in compliance with standards
12 established under this section, he may revoke the program's
13 approval, place the program under probationary approval, or
14 issue a cease and desist order under 33-1-318.

15 **Section 4.** Section 2-15-122, MCA, is amended to read:

16 "2-15-122. Creation of advisory councils. (1) (a) A
17 department head or the governor may create advisory
18 councils.

19 (b) An agency or an official of the executive branch
20 of state government other than a department head or the
21 governor, including the superintendents of the state's
22 institutions and the presidents of the units of the state's
23 university system, may also create advisory councils but
24 only if federal law or regulation requires that such
25 official or agency create the advisory council as a

1 condition to the receipt of federal funds.

2 (c) The board of public education, the board of
3 regents of higher education, the state board of education,
4 the attorney general, the state auditor, and the
5 superintendent of public instruction may create advisory
6 councils, which shall serve at their pleasure, without the
7 approval of the governor. They must file a record of each
8 council created by them in the office of the governor and
9 the office of the secretary of state in accordance with
10 subsection (9) of this section.

11 (2) Each advisory council created under this section
12 shall be known as the ".... advisory council".

13 (3) The creating authority shall prescribe the
14 composition and advisory functions of each advisory council
15 created; appoint its members, who shall serve at the
16 pleasure of the governor; and specify a date when the
17 existence of each advisory council ends.

18 (4) Advisory councils may be created only for the
19 purpose of acting in an advisory capacity as defined in
20 2-15-102(7).

21 (5) Unless he is a full-time salaried officer or
22 employee of this state or of any political subdivision of
23 this state, each member is entitled to be paid in an amount
24 to be determined by the department head, not to exceed \$25
25 for each day in which he is actually and necessarily engaged

1 in the performance of council duties, and he is also
 2 entitled to be reimbursed for travel expenses, as provided
 3 for in 2-18-501 through 2-18-503, incurred while in the
 4 performance of council duties. Members who are full-time
 5 salaried officers or employees of this state or of any
 6 political subdivision of this state are not entitled to be
 7 compensated for their service as members but are entitled to
 8 be reimbursed for travel expenses as provided for in
 9 2-18-501 through 2-18-503.

10 (6) Unless otherwise specified by the creating
 11 authority, at its first meeting in each year each advisory
 12 council shall elect a chairman and such other officers as it
 13 considers necessary.

14 (7) Unless otherwise specified by the creating
 15 authority, each advisory council shall meet at least
 16 annually and shall also meet on the call of the creating
 17 authority or the governor and may meet at other times on the
 18 call of the chairman or a majority of its members. An
 19 advisory council may not meet outside the city of Helena
 20 without the express prior authorization of the creating
 21 authority.

22 (8) A majority of the membership of an advisory
 23 council constitutes a quorum to do business.

24 (9) Except as provided in subsection (1)(c) of this
 25 section, an advisory council may not be created or appointed

1 by a department head or any other official without the
 2 approval of the governor. In order for the creation or
 3 approval of the creation of an advisory council to be
 4 effective, the governor must file in his office and in the
 5 office of the secretary of state a record of the council
 6 created showing the council's:

7 (a) name, in accordance with subsection (2) of this
 8 section;

9 (b) composition;

10 (c) names and addresses of the appointed members;

11 (d) purpose;

12 (e) term of existence, in accordance with subsection
 13 (10) of this section.

14 (10) An advisory council may not be created to remain
 15 in existence longer than 2 years after the date of its
 16 creation or beyond the period required to receive federal or
 17 private funds, whichever occurs later, unless extended by
 18 the governor or by the board of public education, the board
 19 of regents of higher education, the state board of
 20 education, the attorney general, the state auditor, or the
 21 superintendent of public instruction for those advisory
 22 councils created in the manner set forth in subsection
 23 (1)(c) of this section. If the existence of an advisory
 24 council is extended, they shall specify a new date, not more
 25 than 2 years later, when the existence of the advisory

1 council ends and file a record of the order in the office of
2 the governor and the office of the secretary of state. The
3 existence of any advisory council may be extended as many
4 times as necessary."

5 **Section 5.** Section 33-2-708, MCA, is amended to read:

6 **"33-2-708. Fees and licenses.** (1) The commissioner
7 shall collect in advance and the persons ~~so~~ served shall ~~so~~
8 pay to the commissioner the following fees and licenses:

9 (a) certificates of authority:

10 (i) for filing applications for original certificates
11 of authority, articles of incorporation (except original
12 articles of incorporation of domestic insurers as provided
13 in subsection (b) below) and other charter documents,
14 bylaws, financial statement, examination report, power of
15 attorney to the commissioner, and all other documents and
16 filings required in connection with such application and for
17 issuance of an original certificate of authority, if issued:

18 (A) domestic insurers \$ 300.00

19 (B) foreign insurers 300.00

20 (ii) annual continuation of certificate of authority ..
21 300.00

22 (iii) reinstatement of certificate of authority
23 25.00

24 (iv) amendment of certificate of authority 50.00

25 (b) articles of incorporation:

1 (i) filing original articles of incorporation of
2 domestic insurer, exclusive of fees required to be paid by
3 the corporation to the secretary of state 20.00

4 (ii) filing amendment of articles of incorporation,
5 domestic and foreign insurers, exclusive of fees required to
6 be paid to the secretary of state by a domestic corporation
7 25.00

8 (c) filing bylaws or amendment thereto where required
9 10.00

10 (d) filing annual statement of insurer, other than as
11 part of application for original certificate of authority ..
12 25.00

13 (e) resident agent's license:

14 (i) application for original license, including
15 issuance of license, if issued (life and/or disability)
16 15.00

17 (ii) application for original license, including
18 issuance of license, if issued (other than life and/or
19 disability) 15.00

20 (iii) appointment of agent, each insurer 10.00

21 (iv) annual renewal, each insurer 10.00

22 (v) temporary license 10.00

23 (vi) amendment of license (excluding additions thereto)
24 or reissuance of master license 10.00

25 (f) nonresident agent's license:

1 (i) application for original license, including
 2 issuance of license, if issued (life and/or disability)
 3 100.00
 4 (ii) application for original license, including
 5 issuance of license, if issued (other than life and/or
 6 disability) 100.00
 7 (iii) appointment of agent, each insurer 10.00
 8 (iv) annual renewal, each insurer 10.00
 9 (v) amendment of license (excluding additions thereto)
 10 or reissuance of master license 10.00
 11 (g) solicitor's license:
 12 (i) application for original license, including
 13 issuance of license, if issued 15.00
 14 (ii) annual renewal of license 15.00
 15 (iii) appointment of solicitor 10.00
 16 (h) examination for license as agent or solicitor,
 17 each examination 15.00
 18 (i) surplus lines agent license:
 19 (i) application for original license and for issuance
 20 of license, if issued 50.00
 21 (ii) annual renewal of license 50.00
 22 (j) adjuster's license:
 23 (i) application for original license and for issuance
 24 of license, if issued 15.00
 25 (ii) annual renewal of license 15.00

1 (k) insurance vending machine license, each machine,
 2 each year 10.00
 3 (l) commissioner's certificate under seal (except when
 4 on certificates of authority or licenses) 10.00
 5 (m) copies of documents on file in the commissioner's
 6 office, per page50
 7 (n) policy forms:
 8 (i) filing each policy form 25.00
 9 (ii) filing each application, rider, endorsement,
 10 amendment, insert page, schedule of rates, and clarification
 11 of risks 10.00
 12 (iii) maximum charge if policy and all forms submitted
 13 at one time or resubmitted for approval within 180 days
 14 100.00
 15 (o) applications for approval of prelicensing
 16 education courses:
 17 (i) reviewing initial application 150.00
 18 (ii) periodic review 50.00
 19 (2) The commissioner shall promptly deposit with the
 20 state treasurer to the credit of the general fund of this
 21 state all fines and penalties, those amounts received
 22 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees
 23 and examination and miscellaneous charges received pursuant
 24 to Title 33, chapter 11, part 1, that are collected by him
 25 pursuant to Title 33 and the rules adopted thereunder.

(3) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.

(4) All fees and examination and miscellaneous charges, except fines or penalties or those amounts received pursuant to 33-2-311, 33-2-705, or 33-2-706, collected by the commissioner pursuant to Title 33 and the rules adopted thereunder must be deposited in the insurance regulatory trust account pursuant to 17-2-121 through 17-2-123."

Section 6. Section 33-17-202, MCA, is amended to read:

"33-17-202. General qualifications of agents and solicitors. (1) For the protection of the people of this state the commissioner ~~shall~~ may not issue, continue, or permit to exist any agent or solicitor license as to insurance, except in compliance with this chapter, ~~or as to any individual not qualified therefor as follows~~ In order to be licensed as an agent or solicitor, a person:

(a) must be 18 years of age or more;

(b) must be a resident in and of this state or of another state if by reciprocal arrangements made by the commissioner with the other state similar licensure privileges ~~therein~~ are granted to residents of this state;

(c) must have been appointed as agent by an authorized insurer, subject to issuance of the license;

(d) ~~if~~ for a solicitor's license, must have been

appointed as solicitor by a licensed resident agent, subject to issuance of the license, and intend to make and make the soliciting of insurance a principal vocation;

(e) must be competent, trustworthy, and of good reputation;

(f) must ~~have--had--experience--or--training--or--be otherwise-qualified-in-the-kind-or-kinds-of-insurance-as--to which--he--is-to-be-licensed-and~~ be reasonably familiar with the provisions of this code which govern his operations as an insurance agent or solicitor; and, when required by [section 2], must have completed 40 20 hours of approved prelicensing education in the areas of:

(i) property, casualty, and surety insurance within 12 months before taking the examination in those areas of insurance; or

(ii) life and disability insurance within 12 months before taking the examination in those areas of insurance;

(g) must pass an examination for the license required under this chapter;

(h) if for an agent's license as to life or disability insurance, must not be a funeral director, undertaker, or mortician operating in this or any other state or an officer, employee, or representative thereof or hold an interest in or benefit from such a business in this or any other state.

1 (2) ~~in--determining~~ The commissioner shall determine
 2 the qualifications as to competence, training, experience,
 3 and knowledge of the provisions of this code governing his
 4 operations as an agent or solicitor, as provided for in
 5 subsection (1) above, of applicant agents or solicitors
 6 proposing to represent ~~as-such~~ only insurers who confine
 7 their business in this state substantially to the insuring
 8 of the property, interests, and risks of farmers; ~~the~~ The
 9 commissioner shall ~~relate-such~~ require qualifications only
 10 to for the kinds of insurance policies which the applicant
 11 will handle as ~~such~~ a licensee."

12 **Section 7.** Section 33-17-211, MCA, is amended to read:

13 "33-17-211. Application for license. (1) Application
 14 for an agent or solicitor license must be made to the
 15 commissioner by the applicant and be signed and sworn to by
 16 the applicant before a notary public.

17 (2) The commissioner may designate the forms for
 18 application for license, which must require full answers to
 19 such questions ~~as that~~ may reasonably be necessary to
 20 determine the applicant's identity, residence, personal
 21 history, business record, experience and training in
 22 insurance, completion of the required prelicensing education
 23 courses, and other facts as required by the commissioner to
 24 determine whether the applicant meets the applicable
 25 qualifications for the license applied for.

1 (3) ~~if-for-an-agent's-license, the~~ The application for
 2 an agent's license must state the kinds of insurance
 3 proposed to be transacted and be accompanied by written
 4 appointment of the applicant as agent by an authorized
 5 insurer, subject to issuance of the license.

6 (4) ~~if-for-a-solicitor's-license, the~~ The application
 7 for a solicitor's license must be accompanied by written
 8 appointment of the applicant as solicitor by a licensed
 9 agent, subject to issuance of the license.

10 (5) If the applicant for an agent license is a
 11 partnership or corporation, the application shall show, in
 12 addition, the names of all members, officers, and directors
 13 and shall designate each individual who is to exercise the
 14 powers to be conferred by the license upon the partnership
 15 or corporation. Each ~~such~~ individual so designated shall
 16 furnish information as to himself, as part of the
 17 application, as though for an individual license.

18 (6) If the applicant for an agent license is an
 19 agents' association pursuant to 33-17-205, the application
 20 must show the names and residence addresses of the
 21 association's officers and trustees.

22 (7) ~~if--for--license-as-either-agent-or-solicitor, the~~
 23 The application for licensure as either an agent or
 24 solicitor must ~~also~~ show whether the applicant was ever
 25 previously licensed to transact any kind of insurance in

1 this state or elsewhere; whether any such license was ever
 2 refused, suspended, or revoked; whether any insurer, general
 3 agent, or agent, in the case of a solicitor application,
 4 claims the applicant to-be is indebted to it and, if so, the
 5 details thereof of the claim and the defenses, if any, of
 6 the applicant thereto; and whether the applicant ever had an
 7 agency contract canceled and the facts thereof concerning
 8 the cancellation.

9 (8) The commissioner shall require as part of the
 10 application for license the certificate of an officer or
 11 representative of the insurer proposed to be represented, in
 12 the case of applicants for license as agent, or of the
 13 proposed employing agent, in the case of applicants for
 14 license as solicitor, as to whether the applicant is known
 15 to such the officer or representative, whether the insurer
 16 or agent has investigated the character and business record
 17 of the applicant and the uses to be made of the license, if
 18 granted, and his opinion, based on such investigation, as to
 19 the applicant's trustworthiness and competence.

20 (9) All such applications must be accompanied by the
 21 applicable license fee, appointment of agent fee where
 22 applicable, and examination fee where an examination is
 23 required under 33-17-212, ~~at~~ in the respective amounts
 24 stated in 33-2-708."

25 **Section 8.** Section 33-30-312, MCA, is amended to read:

1 "33-30-312. Enrollment representative -- filing with
 2 and approval by commissioner -- license. (1) Each
 3 corporation subject to the provisions of this chapter shall
 4 notify the commissioner through its proper officer or agent
 5 of the name, title, and address of each person it desires
 6 appointed as an enrollment representative. The notice shall
 7 be accompanied by a written application, upon a form
 8 furnished by the commissioner, from the appointee. The
 9 commissioner shall issue to that appointee a license which
 10 states that the person named is a constituted enrollment
 11 representative of the corporation in this state if, upon
 12 receipt of this written notice, when accompanied by the
 13 proper fee, it appears that:

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

17 (b) he qualifies under the provisions of this section.

18 (2) For appointees who have not acted as an enrollment
 19 representative for a health service corporation for a
 20 period of 2 years prior to July 1, 1975, if he considers it
 21 desirable, the commissioner may require an appointee to
 22 submit to an examination to determine the qualifications of
 23 the appointee to act as an enrollment representative in this
 24 state. This examination must be the same as given to
 25 applicants for a disability insurance agent license as

1 provided for in 33-17-212 through 33-17-214. A person
 2 required to take this examination must fulfill the
 3 prelicensing education requirement set by [section 2].

4 (3) Upon receipt by the commissioner of notification
 5 from a health service corporation that the corporation
 6 desires a particular individual to be appointed as its
 7 enrollment representative, that person has a temporary
 8 enrollment representative's license until the commissioner
 9 notifies the corporation of action taken upon the
 10 application. If the commissioner rejects the application,
 11 the prospective appointee's eligibility to act as an
 12 enrollment representative ceases on the day the corporation
 13 is notified of rejection."

14 NEW SECTION. Section 9. Extension of authority. Any
 15 existing authority to make rules on the subject of the
 16 provisions of [this act] is extended to the provisions of
 17 [this act].

18 NEW SECTION. Section 10. Codification instruction.
 19 [Sections 1 through 3] are intended to be codified as an
 20 integral part of Title 33, chapter 17, part 2, and the
 21 provisions of Title 33, chapter 17, part 2, apply to
 22 [sections 1 through 3].

23 NEW SECTION. Section 11. Applicability. [This act]
 24 applies to persons applying for a license as an insurance
 25 agent, solicitor, or enrollment representative on or after

1 January 1, 1990.

2 NEW SECTION. Section 12. Effective date. [This act]
 3 is effective January 1, 1990.

-End-

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 536 (third reading copy -- blue), respectfully report that HB 536 be amended and as so amended be concurred in:

Sponsor: Brown, J. (Lynch)

1. Page 2, line 11.

Strike: "20TH"

Insert: "40th"

2. Page 3, lines 6 and 13.

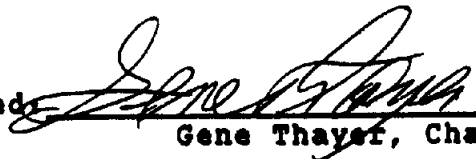
Page 14, line 11.

Strike: "20"

Insert: "40"

AND AS AMENDED BE CONCURRED IN

Signed



Gene Thayer, Chairman

**HB 536
SENATE**

1 HOUSE BILL NO. 536

2 INTRODUCED BY J. BROWN, T. NELSON, THOMAS, WHALEN,
3 BOYLAN, LYNCH, ADDY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN APPLICANT
6 FOR AN INSURANCE AGENT, SOLICITOR, OR ENROLLMENT
7 REPRESENTATIVE LICENSE TO COMPLETE A COURSE OF PRELICENSING
8 EDUCATION PRIOR TO THE LICENSING EXAMINATION; AUTHORIZING
9 THE COMMISSIONER OF INSURANCE TO REVIEW AND APPROVE COURSES
10 AND COLLECT FEES FOR PRELICENSING EDUCATION; CREATING AN
11 ADVISORY COUNCIL; AMENDING SECTIONS 2-15-122, 33-2-708,
12 33-17-202, 33-17-211, AND 33-30-312, MCA; AND PROVIDING AN
13 EFFECTIVE DATE AND AN APPLICABILITY DATE."

14
15 STATEMENT OF INTENT

16 A statement of intent is necessary because this bill
17 delegates rulemaking authority to the insurance commissioner
18 for approval of prelicensing education, including course
19 content, instructors, and instructional format standards and
20 application forms documenting the completion of the courses.

21 Standards for instructional format should accommodate
22 Montana's geography and allow instruction by
23 teleconferencing, computer-assisted training, and other
24 available technologies. Correspondence courses and video
25 cassettes for self-instruction at home should not be

1 permitted until the potential for abuse can be minimized.

2 Course content standards should address a reasonable
3 distribution of hours between such fields as regulatory
4 provisions, relevant income tax aspects, actuarial or claims
5 adjusting practices, or other fields that pertain to the
6 type of license sought. The standards should also indicate
7 levels of knowledge that the student should attain through
8 these courses.

9 The commissioner may authorize a certificate of
10 completion form for the instructor to sign when a license
11 applicant completes the 40th ~~20TH~~ 40TH hour of instruction.
12 Rules and forms should allow an applicant to receive
13 instruction from two or more course providers and allow the
14 applicant in this situation to obtain partial completion
15 certificates from each course provider.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 NEW SECTION. Section 1. Purpose. The purposes of
19 [sections 2 and 3] are to further protect insurance
20 consumers by producing better trained and more dedicated
21 insurance agents, solicitors, and enrollment
22 representatives; to educate and qualify prospective agents,
23 solicitors, and representatives to pass the state insurance
24 agent's license examination; and to provide standards for
25 the qualification of instructors, courses, and materials

1 used to train prospective agents, solicitors, and
2 representatives.

3 NEW SECTION. Section 2. Prelicensing education --
4 basic requirement. (1) (a) A person applying for a license
5 to act as an agent or solicitor for property, casualty, and
6 surety insurance shall complete ~~40~~ 20 ~~40~~ hours of approved
7 prelicensing education courses in those areas of insurance
8 within 12 months prior to the examination, unless he is
9 exempted from the requirement under subsection (3).

10 (b) A person applying for a license to act as an agent
11 or solicitor for life and disability insurance or as an
12 enrollment representative for a health service corporation
13 shall complete ~~40~~ 20 ~~40~~ hours of approved prelicensing
14 education courses in those areas of insurance within 12
15 months prior to the examination, unless he is exempted from
16 the requirement under subsection (3).

17 (2) A person applying for licenses to act as an agent
18 or solicitor for both the property, casualty, and surety
19 areas and the life and disability areas must meet the
20 education requirements in all the areas of insurance.

21 (3) The minimum prelicensing education requirement
22 does not apply to a person who:

23 (a) has been licensed within the 12 preceding months
24 as an agent or solicitor in another state that requires
25 prelicensing education and has completed the education in

1 the other state;

2 (b) seeks a nonresident license, having been licensed
3 as an agent in his state of residence for at least 1 year;

4 (c) seeks a nonresident license and is from a state
5 having a prelicensing education requirement;

6 (d) seeks to reinstate a license lapsed for less than
7 2 years;

8 (e) seeks a temporary license under 33-17-216; or

9 (f) is exempt from examination requirements under
10 33-17-212(5).

11 NEW SECTION. Section 3. Review and approval of
12 prelicensing education courses by commissioner -- advisory
13 council. (1) The commissioner shall approve prelicensing
14 education instruction offered to persons intending to apply
15 for a license under 33-17-202 or 33-30-312. Course content,
16 instructors, and instructional format must be approved and
17 reviewed periodically at the discretion of the insurance
18 commissioner.

19 (2) In formulating rules and standards for the
20 approval of prelicensing education courses, the commissioner
21 shall consult with an advisory council consisting of two
22 persons who are life and disability agents or health service
23 corporation enrollment representatives, two property and
24 casualty agents, one person employed by an insurer, and one
25 health enrollment representative. The commissioner shall

1 appoint the members of this advisory council pursuant to
2 2-15-122 and shall consult with them prior to approving
3 courses. The provisions of 2-15-122(5), (9), and (10) do not
4 apply to this advisory council.

5 (3) In conducting periodic reviews of course content,
6 instructors, or instructional format, the commissioner may
7 exercise any investigative power of his office created under
8 33-1-311 or 33-1-315.

9 (4) If, pursuant to review or investigation, the
10 commissioner determines that a prelicensing education
11 program is not being operated in compliance with standards
12 established under this section, he may revoke the program's
13 approval, place the program under probationary approval, or
14 issue a cease and desist order under 33-1-318.

15 **Section 4.** Section 2-15-122, MCA, is amended to read:

16 "2-15-122. Creation of advisory councils. (1) (a) A
17 department head or the governor may create advisory
18 councils.

19 (b) An agency or an official of the executive branch
20 of state government other than a department head or the
21 governor, including the superintendents of the state's
22 institutions and the presidents of the units of the state's
23 university system, may also create advisory councils but
24 only if federal law or regulation requires that such
25 official or agency create the advisory council as a

1 condition to the receipt of federal funds.

2 (c) The board of public education, the board of
3 regents of higher education, the state board of education,
4 the attorney general, the state auditor, and the
5 superintendent of public instruction may create advisory
6 councils, which shall serve at their pleasure, without the
7 approval of the governor. They must file a record of each
8 council created by them in the office of the governor and
9 the office of the secretary of state in accordance with
10 subsection (9) of this section.

11 (2) Each advisory council created under this section
12 shall be known as the ".... advisory council".

13 (3) The creating authority shall prescribe the
14 composition and advisory functions of each advisory council
15 created; appoint its members, who shall serve at the
16 pleasure of the governor; and specify a date when the
17 existence of each advisory council ends.

18 (4) Advisory councils may be created only for the
19 purpose of acting in an advisory capacity as defined in
20 2-15-102(7).

21 (5) Unless he is a full-time salaried officer or
22 employee of this state or of any political subdivision of
23 this state, each member is entitled to be paid in an amount
24 to be determined by the department head, not to exceed \$25
25 for each day in which he is actually and necessarily engaged

1 in the performance of council duties, and he is also
 2 entitled to be reimbursed for travel expenses, as provided
 3 for in 2-18-501 through 2-18-503, incurred while in the
 4 performance of council duties. Members who are full-time
 5 salaried officers or employees of this state or of any
 6 political subdivision of this state are not entitled to be
 7 compensated for their service as members but are entitled to
 8 be reimbursed for travel expenses as provided for in
 9 2-18-501 through 2-18-503.

10 (6) Unless otherwise specified by the creating
 11 authority, at its first meeting in each year each advisory
 12 council shall elect a chairman and such other officers as it
 13 considers necessary.

14 (7) Unless otherwise specified by the creating
 15 authority, each advisory council shall meet at least
 16 annually and shall also meet on the call of the creating
 17 authority or the governor and may meet at other times on the
 18 call of the chairman or a majority of its members. An
 19 advisory council may not meet outside the city of Helena
 20 without the express prior authorization of the creating
 21 authority.

22 (8) A majority of the membership of an advisory
 23 council constitutes a quorum to do business.

24 (9) Except as provided in subsection (1)(c) of this
 25 section, an advisory council may not be created or appointed

1 by a department head or any other official without the
 2 approval of the governor. In order for the creation or
 3 approval of the creation of an advisory council to be
 4 effective, the governor must file in his office and in the
 5 office of the secretary of state a record of the council
 6 created showing the council's:

7 (a) name, in accordance with subsection (2) of this
 8 section;

9 (b) composition;

10 (c) names and addresses of the appointed members;

11 (d) purpose;

12 (e) term of existence, in accordance with subsection
 13 (10) of this section.

14 (10) An advisory council may not be created to remain
 15 in existence longer than 2 years after the date of its
 16 creation or beyond the period required to receive federal or
 17 private funds, whichever occurs later, unless extended by
 18 the governor or by the board of public education, the board
 19 of regents of higher education, the state board of
 20 education, the attorney general, the state auditor, or the
 21 superintendent of public instruction for those advisory
 22 councils created in the manner set forth in subsection
 23 (1)(c) of this section. If the existence of an advisory
 24 council is extended, they shall specify a new date, not more
 25 than 2 years later, when the existence of the advisory

1 council ends and file a record of the order in the office of
2 the governor and the office of the secretary of state. The
3 existence of any advisory council may be extended as many
4 times as necessary."

5 **Section 5.** Section 33-2-708, MCA, is amended to read:

6 **"33-2-708. Fees and licenses.** (1) The commissioner
7 shall collect in advance and the persons so served shall so
8 pay to the commissioner the following fees and licenses:

9 (a) certificates of authority:

10 (i) for filing applications for original certificates
11 of authority, articles of incorporation (except original
12 articles of incorporation of domestic insurers as provided
13 in subsection (b) below) and other charter documents,
14 bylaws, financial statement, examination report, power of
15 attorney to the commissioner, and all other documents and
16 filings required in connection with such application and for
17 issuance of an original certificate of authority, if issued:

18 (A) domestic insurers \$ 300.00

19 (B) foreign insurers 300.00

20 (ii) annual continuation of certificate of authority ..
21 300.00

22 (iii) reinstatement of certificate of authority
23 25.00

24 (iv) amendment of certificate of authority 50.00

25 (b) articles of incorporation:

1 (i) filing original articles of incorporation of
2 domestic insurer, exclusive of fees required to be paid by
3 the corporation to the secretary of state 20.00

4 (ii) filing amendment of articles of incorporation,
5 domestic and foreign insurers, exclusive of fees required to
6 be paid to the secretary of state by a domestic corporation
7 25.00

8 (c) filing bylaws or amendment thereto where required
9 10.00

10 (d) filing annual statement of insurer, other than as
11 part of application for original certificate of authority ..
12 25.00

13 (e) resident agent's license:

14 (i) application for original license, including
15 issuance of license, if issued (life and/or disability)
16 15.00

17 (ii) application for original license, including
18 issuance of license, if issued (other than life and/or
19 disability) 15.00

20 (iii) appointment of agent, each insurer 10.00

21 (iv) annual renewal, each insurer 10.00

22 (v) temporary license 10.00

23 (vi) amendment of license (excluding additions thereto)
24 or reissuance of master license 10.00

25 (f) nonresident agent's license:

1 (i) application for original license, including
 2 issuance of license, if issued (life and/or disability)
 3 100.00
 4 (ii) application for original license, including
 5 issuance of license, if issued (other than life and/or
 6 disability) 100.00
 7 (iii) appointment of agent, each insurer 10.00
 8 (iv) annual renewal, each insurer 10.00
 9 (v) amendment of license (excluding additions thereto)
 10 or reissuance of master license 10.00
 11 (g) solicitor's license:
 12 (i) application for original license, including
 13 issuance of license, if issued 15.00
 14 (ii) annual renewal of license 15.00
 15 (iii) appointment of solicitor 10.00
 16 (h) examination for license as agent or solicitor,
 17 each examination 15.00
 18 (i) surplus lines agent license:
 19 (i) application for original license and for issuance
 20 of license, if issued 50.00
 21 (ii) annual renewal of license 50.00
 22 (j) adjuster's license:
 23 (i) application for original license and for issuance
 24 of license, if issued 15.00
 25 (ii) annual renewal of license 15.00

1 (k) insurance vending machine license, each machine,
 2 each year 10.00
 3 (l) commissioner's certificate under seal (except when
 4 on certificates of authority or licenses) 10.00
 5 (m) copies of documents on file in the commissioner's
 6 office, per page50
 7 (n) policy forms:
 8 (i) filing each policy form 25.00
 9 (ii) filing each application, rider, endorsement,
 10 amendment, insert page, schedule of rates, and clarification
 11 of risks 10.00
 12 (iii) maximum charge if policy and all forms submitted
 13 at one time or resubmitted for approval within 180 days
 14 100.00
 15 (o) applications for approval of prelicensing
 16 education courses:
 17 (i) reviewing initial application 150.00
 18 (ii) periodic review 50.00
 19 (2) The commissioner shall promptly deposit with the
 20 state treasurer to the credit of the general fund of this
 21 state all fines and penalties, those amounts received
 22 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees
 23 and examination and miscellaneous charges received pursuant
 24 to Title 33, chapter 11, part 1, that are collected by him
 25 pursuant to Title 33 and the rules adopted thereunder.

(3) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.

(4) All fees and examination and miscellaneous charges, except fines or penalties or those amounts received pursuant to 33-2-311, 33-2-705, or 33-2-706, collected by the commissioner pursuant to Title 33 and the rules adopted thereunder must be deposited in the insurance regulatory trust account pursuant to 17-2-121 through 17-2-123."

Section 6. Section 33-17-202, MCA, is amended to read:

"33-17-202. General qualifications of agents and solicitors. (1) For the protection of the people of this state the commissioner ~~shall~~ may not issue, continue, or permit to exist any agent or solicitor license as to insurance, except in compliance with this chapter, or as to any individual not qualified therefor as follows In order to be licensed as an agent or solicitor, a person:

(a) must be 18 years of age or more;

(b) must be a resident in and of this state or of another state if by reciprocal arrangements made by the commissioner with the other state similar licensure privileges ~~therein~~ are granted to residents of this state;

(c) must have been appointed as agent by an authorized insurer, subject to issuance of the license;

(d) ~~if~~ for a solicitor's license, must have been

appointed as solicitor by a licensed resident agent, subject to issuance of the license, and intend to make and make the soliciting of insurance a principal vocation;

(e) must be competent, trustworthy, and of good reputation;

(f) must ~~have--had--experience--or--training--or--be otherwise-qualified-in-the-kind-or-kinds-of-insurance-as--to which--he--is-to-be-licensed-and~~ be reasonably familiar with the provisions of this code which govern his operations as an insurance agent or solicitor; and, when required by [section 2], must have completed 40 20 40 hours of approved prelicensing education in the areas of:

(i) property, casualty, and surety insurance within 12 months before taking the examination in those areas of insurance; or

(ii) life and disability insurance within 12 months before taking the examination in those areas of insurance;

(g) must pass an examination for the license required under this chapter;

(h) if for an agent's license as to life or disability insurance, must not be a funeral director, undertaker, or mortician operating in this or any other state or an officer, employee, or representative thereof or hold an interest in or benefit from such a business in this or any other state.

1 (2) ~~in--determining~~ The commissioner shall determine
 2 the qualifications as to competence, training, experience,
 3 and knowledge of the provisions of this code governing his
 4 operations as an agent or solicitor, as provided for in
 5 subsection (1) ~~above~~, of applicant agents or solicitors
 6 proposing to represent ~~as-such~~ only insurers who confine
 7 their business in this state substantially to the insuring
 8 of the property, interests, and risks of farmers~~y~~. the The
 9 commissioner shall ~~restate-such~~ require qualifications only
 10 to for the kinds of insurance policies which the applicant
 11 will handle as ~~such~~ a licensee."

12 **Section 7.** Section 33-17-211, MCA, is amended to read:

13 "33-17-211. Application for license. (1) Application
 14 for an agent or solicitor license must be made to the
 15 commissioner by the applicant and be signed and sworn to by
 16 the applicant before a notary public.

17 (2) The commissioner may designate the forms for
 18 application for license, which must require full answers to
 19 such questions ~~as that~~ that may reasonably be necessary to
 20 determine the applicant's identity, residence, personal
 21 history, business record, experience and training in
 22 insurance, completion of the required prelicensing education
 23 courses, and other facts as required by the commissioner to
 24 determine whether the applicant meets the applicable
 25 qualifications for the licens~~e~~ applied for.

1 (3) ~~if-for-an-agent's-license,-the~~ The application for
 2 an agent's license must state the kinds of insurance
 3 proposed to be transacted and be accompanied by written
 4 appointment of the applicant as agent by an authorized
 5 insurer, subject to issuance of the license.

6 (4) ~~if-for-a-solicitor's-license,-the~~ The application
 7 for a solicitor's license must be accompanied by written
 8 appointment of the applicant as solicitor by a licensed
 9 agent, subject to issuance of the license.

10 (5) If the applicant for an agent license is a
 11 partnership or corporation, the application shall show, in
 12 addition, the names of all members, officers, and directors
 13 and shall designate each individual who is to exercise the
 14 powers to be conferred by the license upon the partnership
 15 or corporation. Each ~~such~~ individual so designated shall
 16 furnish information as to himself, as part of the
 17 application, as though for an individual license.

18 (6) If the applicant for an agent license is an
 19 agents' association pursuant to 33-17-205, the application
 20 must show the names and residence addresses of the
 21 association's officers and trustees.

22 (7) ~~if--for--license-as-either-agent-or-solicitor,-the~~
 23 The application for licensure as either an agent or
 24 solicitor must ~~also~~ show whether the applicant was ever
 25 previously licensed to transact any kind of insurance in

1 this state or elsewhere; whether any such license was ever
 2 refused, suspended, or revoked; whether any insurer, general
 3 agent, or agent, in the case of a solicitor application,
 4 claims the applicant to-be is indebted to it and, if so, the
 5 details thereof of the claim and the defenses, if any, of
 6 the applicant thereto; and whether the applicant ever had an
 7 agency contract canceled and the facts thereof concerning
 8 the cancellation.

9 (8) The commissioner shall require as part of the
 10 application for license the certificate of an officer or
 11 representative of the insurer proposed to be represented, in
 12 the case of applicants for license as agent, or of the
 13 proposed employing agent, in the case of applicants for
 14 license as solicitor, as to whether the applicant is known
 15 to ~~such~~ the officer or representative, whether the insurer
 16 or agent has investigated the character and business record
 17 of the applicant and the uses to be made of the license, if
 18 granted, and his opinion, based on such investigation, as to
 19 the applicant's trustworthiness and competence.

20 (9) All such applications must be accompanied by the
 21 applicable license fee, appointment of agent fee where
 22 applicable, and examination fee where an examination is
 23 required under 33-17-212, ~~all~~ in the respective amounts
 24 stated in 33-2-708."

25 **Section 8.** Section 33-30-312, MCA, is amended to read:

1 "33-30-312. Enrollment representative -- filing with
 2 and approval by commissioner -- license. (1) Each
 3 corporation subject to the provisions of this chapter shall
 4 notify the commissioner through its proper officer or agent
 5 of the name, title, and address of each person it desires
 6 appointed as an enrollment representative. The notice shall
 7 be accompanied by a written application, upon a form
 8 furnished by the commissioner, from the appointee. The
 9 commissioner shall issue to that appointee a license which
 10 states that the person named is a constituted enrollment
 11 representative of the corporation in this state if, upon
 12 receipt of this written notice, when accompanied by the
 13 proper fee, it appears that:

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

17 (b) he qualifies under the provisions of this section.

18 (2) For appointees who have not acted as an enrollment
 19 representative for a health service corporation for a
 20 period of 2 years prior to July 1, 1975, if he considers it
 21 desirable, the commissioner may require an appointee to
 22 submit to an examination to determine the qualifications of
 23 the appointee to act as an enrollment representative in this
 24 state. This examination must be the same as given to
 25 applicants for a disability insurance agent license as

1 provided for in 33-17-212 through 33-17-214. A person
 2 required to take this examination must fulfill the
 3 prelicensing education requirement set by [section 2].

4 (3) Upon receipt by the commissioner of notification
 5 from a health service corporation that the corporation
 6 desires a particular individual to be appointed as its
 7 enrollment representative, that person has a temporary
 8 enrollment representative's license until the commissioner
 9 notifies the corporation of action taken upon the
 10 application. If the commissioner rejects the application,
 11 the prospective appointee's eligibility to act as an
 12 enrollment representative ceases on the day the corporation
 13 is notified of rejection."

14 NEW SECTION. Section 9. Extension of authority. Any
 15 existing authority to make rules on the subject of the
 16 provisions of [this act] is extended to the provisions of
 17 [this act].

18 NEW SECTION. Section 10. Codification instruction.
 19 [Sections 1 through 3] are intended to be codified as an
 20 integral part of Title 33, chapter 17, part 2, and the
 21 provisions of Title 33, chapter 17, part 2, apply to
 22 [sections 1 through 3].

23 NEW SECTION. Section 11. Applicability. [This act]
 24 applies to persons applying for a license as an insurance
 25 agent, solicitor, or enrollment representative on or after

1 January 1, 1990.

2 NEW SECTION. Section 12. Effective date. [This act]
 3 is effective January 1, 1990.

-End-