

SENATE BILL NO. 354

INTRODUCED BY CHRISTIAENS, REA, KOEHNKE, HARDING, HAGER,
MESAROS, TOEWS, WILSON, BRANDEWIE, BRUSKI-MAUS, LYNCH,
SIMON, PAVLOVICH, SCHYE, WHALEN, BACHINI
BY REQUEST OF THE STATE AUDITOR

IN THE SENATE

FIRST READING.

MARCH 27, 1993 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

MARCH 29, 1993 PRINTING REPORT.

SECOND READING. DO PASS.

MARCH 30, 1993 ENGROSSING REPORT -

THIRD READING, PASSED.
AYES, 50; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 31, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT

FIRST READING.

APRIL 14, 1993 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 19, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 20, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

APRIL 21, 1993

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 22, 1993

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

APRIL 23, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

STATEMENT OF INTENT

13 A statement of intent is required for this bill because
14 it authorizes the commissioner of insurance to promulgate
15 rules relating to the course content, instructors, material,
16 instructional format, department of insurance forms, and
17 procedures that will compose the continuing education
18 program for insurance producers and consultants and the fees
19 related to the costs of processing the documents and
20 preparing and providing the services mandated by this bill.
21 The legislature intends that the rules adopted to implement
22 this bill be designed principally to protect the
23 insurance-buying public in Montana by ensuring that
24 insurance producers and consultants complete appropriate
25 education activities as a condition of continued licensure.

1 To the extent that they do not conflict with this bill, the
2 model regulations on agents' continuing education adopted by
3 the national association of insurance commissioners in July
4 1990 express principles that are consistent with this
5 legislative intent and may be used as a model for the
6 continuing education program. The legislature further
7 intends that the commissioner adopt the rules in accordance
8 with 33-1-313, which grants the commissioner general
9 rulemaking authority that permits the commissioner:

10 (1) to make only reasonable rules that do not extend,
11 modify, or conflict with any laws of this state or with any
12 reasonable implication of those laws; and

13 (2) to make or amend those rules only after a hearing
14 of which notice has been given as required by 33-1-703.

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

17 **NEW SECTION.** **Section 1.** Short title. [Sections 1
18 through 6 and 9] may be cited as the "Insurance Producer and
19 Consultant Continuing Education Act".

20 NEW SECTION. **Section 2. Purpose.** The purposes of
21 [sections 1 through 6 and 9] are to:

22 (1) protect insurance consumers and dedicated insurance
23 producers and consultants by requiring continuing education
24 for insurance producers and consultants;

25 (2) better educate insurance producers and consultants



-2- INTRODUCED BILL

3B 354

INTRODUCED BILL

1 about changes in insurance law, products, ethical conduct as
2 an insurance producer or consultant, marketing, and
3 management; and

4 (3) provide standards for the qualification of
5 instructors, courses, and materials.

6 **NEW SECTION. Section 3. Continuing education -- basic**
7 **requirements -- exceptions.** (1) Unless exempt under
8 subsection (4):

9 (a) a person licensed to act as an insurance producer
10 for property, casualty, surety, or title insurance or as a
11 consultant for general insurance shall, during each calendar
12 year, complete at least 10 credit hours of approved
13 continuing education;

14 (b) a person licensed to act as an insurance producer
15 for life, disability, or credit life and disability
16 insurance or as a consultant for life insurance shall,
17 during each calendar year, complete at least 10 credit hours
18 of approved continuing education;

19 (c) a person holding multiple licenses shall, during
20 each calendar year, complete at least 15 credit hours of
21 approved continuing education;

22 (d) a person licensed as an insurance producer or
23 consultant shall, during each biennium, complete at least 1
24 credit hour of approved continuing education on changes in
25 Montana insurance statutes and administrative rules.

1 (2) If a person licensed as an insurance producer or
2 consultant completes more credit hours of approved
3 continuing education in a year than the minimum required in
4 subsection (1), the excess credit hours may be carried
5 forward and applied to the continuing education requirements
6 of the next year.

7 (3) The commissioner may, for good cause shown, grant
8 an extension of time, not to exceed 1 year, during which the
9 requirements imposed by subsection (1) may be completed.

10 (4) The minimum continuing education requirements do
11 not apply to:

12 (a) a person licensed to sell any kind of insurance for
13 which an examination is not required under 33-17-212(7)(d)
14 through 7(g);

15 (b) a person holding a temporary license issued under
16 33-17-216;

17 (c) a nonresident licensee who must meet continuing
18 education requirements in the licensee's state of residence
19 if that state accords substantially similar privileges to
20 and has similar requirements of residents of this state;

21 (d) a newly licensed insurance producer or consultant
22 during the calendar year in which the licensee first
23 received a license; or

24 (e) an insurance producer or consultant otherwise
25 exempted by the commissioner.

1 NEW SECTION. **Section 4.** Review and approval of
2 continuing education courses by commissioner -- advisory
3 council. (1) The commissioner shall, after review by and at
4 the recommendations of the advisory council established
5 under subsection (2), approve only those continuing
6 education courses, lectures, seminars, and instructional
7 programs that the commissioner determines would improve the
8 product knowledge, management, ethics, or marketing
9 capability of the licensee. Course content, instructors,
10 material, instructional format, and the sponsoring
11 organization must be approved and periodically reviewed by
12 the commissioner. The filing fee and process for approval of
13 a course, lecture, seminar, or instructional program must be
14 determined by the commissioner by rule. The commissioner
15 shall also determine the number of credit hours to be
16 awarded for completion of an approved continuing education
17 activity.

18 (2) The commissioner shall appoint an advisory council,
19 pursuant to 2-15-122, consisting of one representative of
20 the independent insurance agents of Montana, one
21 representative of the Montana association of life
22 underwriters, one representative of the professional
23 insurance agents of Montana, two public members who are not
24 directly employed by the insurance industry, one insurance
25 producer or consultant not affiliated with any of the three

1 listed organizations, and a nonvoting presiding officer from
2 the department who will be appointed by the commissioner as
3 a representative of the department. The members of the
4 council shall serve a term of 2 years, except that the
5 initial term of the representative from each organization is
6 3 years. The commissioner shall consult with the council in
7 formulating rules and standards for the approval of
8 continuing education activities and prior to approving
9 specific education activities. The provisions of 2-15-122(9)
10 and (10) do not apply to this council.

11 (3) In conducting periodic review of course content,
12 instructors, material, instructional format, or a sponsoring
13 organization, the commissioner may exercise any
14 investigative power of the commissioner provided for in
15 33-1-311 or 33-1-315.

16 (4) If after review or investigation the commissioner
17 determines an approved continuing education activity is not
18 being operated in compliance with the standards established
19 under this section, the commissioner may revoke approval,
20 place the activity under probationary approval, or issue a
21 cease and desist order under 33-1-318.

22 NEW SECTION. **Section 5.** Compliance -- failure to
23 comply. (1) Each person subject to the requirements of
24 [section 3] shall file annually on a form supplied by the
25 commissioner written certification as to the approved

1 courses, lectures, seminars, and instructional programs
 2 successfully completed by that person during the preceding
 3 calendar year. The form must be accompanied with a filing
 4 fee established by the commissioner.

5 (2) The commissioner may suspend the license of any
 6 person failing to comply with subsection (1) who has not
 7 been granted an extension under [section 3] and may impose a
 8 late renewal fee in the amount of twice the annual filing
 9 fee. The suspension must remain in effect until the time
 10 that the person demonstrates to the satisfaction of the
 11 commissioner that the person has complied with all the
 12 provisions of [sections 1 through 6 and 9]. If the license
 13 of an insurance producer or consultant is suspended by
 14 reason of this section for a period exceeding 12 months, the
 15 license must be terminated upon notice to the insurance
 16 producer or consultant.

17 (3) Each person providing approved courses, lectures,
 18 seminars, and instructional programs, including insurance
 19 company education programs, shall file annually with the
 20 commissioner an alphabetical list of the names and addresses
 21 of all persons who have successfully completed an approved
 22 continuing education activity during the preceding calendar
 23 year.

24 (4) The commissioner may, following the process
 25 provided for in 33-1-314, withdraw approval of all courses,

1 lectures, seminars, and instructional programs of any person
 2 that fails to comply with subsection (3). The commissioner
 3 may, after having conducted a hearing pursuant to 33-1-701,
 4 impose a fine upon a person that has failed to comply with
 5 subsection (3). The fine may not exceed the penalty
 6 permitted by 33-1-317.

7 **NEW SECTION. Section 6. Rulemaking authority.** The
 8 commissioner may adopt rules to implement [sections 1
 9 through 6 and 9].

10 **Section 7.** Section 33-2-708, MCA, is amended to read:

11 "33-2-708. Fees and licenses. (1) Except as provided in
 12 33-17-212(2), the commissioner shall collect in advance and
 13 the persons served shall pay to the commissioner the
 14 following fees:

15 (a) certificates of authority:

16 (i) for filing applications for original certificates
 17 of authority, articles of incorporation (except original
 18 articles of incorporation of domestic insurers as provided
 19 in subsection (1)(b)) and other charter documents, bylaws,
 20 financial statement, examination report, power of attorney
 21 to the commissioner, and all other documents and filings
 22 required in connection with the application and for issuance
 23 of an original certificate of authority, if issued:

24 (A) domestic insurers \$ 600.00

25 (B) foreign insurers 600.00

1 (ii) annual continuation of certificate of authority
 2 600.00
 3 (iii) reinstatement of certificate of authority
 4 25.00
 5 (iv) amendment of certificate of authority 50.00
 6 (b) articles of incorporation:
 7 (i) filing original articles of incorporation of a
 8 domestic insurer, exclusive of fees required to be paid by
 9 the corporation to the secretary of state 20.00
 10 (ii) filing amendment of articles of incorporation,
 11 domestic and foreign insurers, exclusive of fees required to
 12 be paid to the secretary of state by a domestic corporation
 13 25.00
 14 (c) filing bylaws or amendment to bylaws where
 15 required 10.00
 16 (d) filing annual statement of insurer, other than as
 17 part of application for original certificate of authority
 18 25.00
 19 (e) insurance producer's license:
 20 (i) application for original license, including
 21 issuance of license, if issued 15.00
 22 (ii) appointment of insurance producer, each insurer
 23 10.00
 24 (iii) temporary license 15.00
 25 (iv) amendment of license (excluding additions to

1 license) or reissuance of master license 15.00
 2 (f) nonresident insurance producer's license:
 3 (i) application for original license, including
 4 issuance of license, if issued 100.00
 5 (ii) appointment of insurance producer, each insurer
 6 10.00
 7 (iii) annual renewal of license 10.00
 8 (iv) amendment of license (excluding additions to
 9 license) or reissuance of master license 15.00
 10 (g) examination, if administered by the commissioner,
 11 for license as insurance producer, each examination
 12 15.00
 13 (h) surplus lines insurance producer license:
 14 (i) application for original license and for issuance
 15 of license, if issued 50.00
 16 (ii) annual renewal of license 50.00
 17 (i) adjuster's license:
 18 (i) application for original license and for issuance
 19 of license, if issued 15.00
 20 (ii) annual renewal of license 15.00
 21 (j) insurance vending machine license, each machine,
 22 each year 10.00
 23 (k) commissioner's certificate under seal (except when
 24 on certificates of authority or licenses) 10.00
 25 (l) copies of documents on file in the commissioner's

1 office, per page50

2 (m) policy forms:

3 (i) filing each policy form 25.00

4 (ii) filing each application, rider, endorsement,

5 amendment, insert page, schedule of rates, and clarification

6 of risks 10.00

7 (iii) maximum charge if policy and all forms submitted

8 at one time or resubmitted for approval within 180 days

9 100.00

10 (n) applications for approval of prelicensing education

11 courses:

12 (i) reviewing initial application 150.00

13 (ii) periodic review 50.00

14 (2) The commissioner shall establish by rule fees for

15 filings documents and conducting the course reviews required

16 by [sections 4 and 5].

17 ~~(2)(3)~~ The commissioner shall promptly deposit with the

18 state treasurer to the credit of the general fund of this

19 state all fines and penalties, those amounts received

20 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees

21 and examination and miscellaneous charges that are collected

22 by--him pursuant to Title 33 and the rules adopted under

23 Title 33, except that all fees for filing documents and

24 conducting the course reviews required by [sections 4 and 5]

25 must be deposited in the state special revenue fund pursuant

1 to [section 9].

2 ~~(3)(4)~~ All fees are considered fully earned when

3 received. In the event of overpayment, only those amounts in

4 excess of \$10 will be refunded."

5 **Section 8.** Section 33-17-1001, MCA, is amended to read:

6 "33-17-1001. Suspension, revocation, or refusal of

7 license. (1) Except as provided in 33-17-411, the

8 commissioner may suspend for not more than 12 months, may

9 revoke or refuse to continue, or may deny an application for

10 a license issued under this chapter or any surplus lines

11 insurance producer license if, after hearing held on not

12 less than 10 days' advance notice by certified mail of the

13 hearing and of the charges against the licensee given as

14 provided in 33-1-314(3) to the licensee, ~~he~~ the commissioner

15 finds that the licensee or applicant has:

16 (a) engaged or is about to engage in an act or practice

17 for which issuance of the license could have been refused

18 had it then existed and been known to the commissioner;

19 (b) obtained or attempted to obtain a license through

20 misrepresentation or fraud;

21 (c) violated or failed to comply with a provision of

22 this code or has violated a rule, subpoena, or order of the

23 commissioner or of the commissioner of any other state;

24 (d) improperly withheld, misappropriated, or converted

25 to ~~his~~ the licensee's or applicant's own use money or

1 property belonging to policyholders, insurers,
 2 beneficiaries, or others and received in conduct of business
 3 under the license;

4 (e) been convicted of a felony;

5 (f) in the conduct of his the affairs under the
 6 license, used fraudulent, coercive, or dishonest practices
 7 or the licensee or applicant is has shown himself to be
 8 incompetent, untrustworthy, financially irresponsible, or a
 9 source of injury and loss to the public;

10 (g) made a materially untrue statement in the license
 11 application or in the continuing education affidavit;

12 (h) misrepresented the terms of an actual or proposed
 13 insurance contract;

14 (i) been found guilty of an unfair trade practice or
 15 fraud prohibited by Title 33, chapter 18;

16 (j) had his a license suspended or revoked in any other
 17 state;

18 (k) forged another's name to an application for
 19 insurance;

20 (l) cheated on an examination for a license; or

21 (m) knowingly accepted insurance business from a person
 22 who is not licensed.

23 (2) The license of a partnership or corporation may be
 24 suspended, revoked, refused, or denied if a reason listed in
 25 subsection (1) applies to an individual designated in the

1 license to exercise its powers.

2 (3) The commissioner may suspend, revoke, or refuse to
 3 continue a license under subsection (1)(e) without
 4 conducting an investigation pursuant to 37-1-203 or making a
 5 written finding pursuant to 37-1-204."

6 NEW SECTION. Section 9. Funding for continuing
 7 education program. All annual continuing education filing
 8 fees collected by the commissioner and fees paid to the
 9 commissioner for the review of initial applications for
 10 approval of continuing education courses or the periodic
 11 review of these courses must be turned over promptly to the
 12 state treasurer who shall place the money in the state
 13 special revenue fund to the credit of the state auditor's
 14 office to be used for the continuing education program. The
 15 funds allocated by this section to the state special revenue
 16 fund may be used only to defray the expenses of the state
 17 auditor's office in discharging its duties as prescribed by
 18 law, subject to the applicable laws relating to the
 19 appropriation of state funds and to the deposit and
 20 expenditure of state money. The state auditor is responsible
 21 for the proper expenditure of this money as provided by law.

22 NEW SECTION. Section 10. Codification instruction.
 23 [Sections 1 through 6 and 9] are intended to be codified as
 24 an integral part of Title 33, and the provisions of Title 33
 25 apply to [sections 1 through 6 and 9].

1 NEW SECTION. Section 11. Effective dates. (1)
2 [Sections 1 through 4 and 6 through 11] are effective July
3 1, 1993.
4 (2) [Section 5] is effective January 1, 1995.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0354, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act creating a continuing education for insurers program; providing that the program be administered by the commissioner of insurance; granting rulemaking authority to conduct the program.

ASSUMPTIONS:

1. It is assumed that 1.00 FTE Grade 14 program specialist and 1.00 FTE (0.75 FTE in FY94) administrative assistant will be added to the Insurance Program in the State Auditor's Office to implement and manage the new requirements.
2. Operating expense increases are estimated to include \$9,000 in FY94 and \$4,000 in FY95 for advisory council meetings. Data processing development expenses are estimated to require \$35,000 in FY94 and \$15,000 in FY95. Other operating expenses include administrative rule fees, postage and mailing, in-state travel, communications, and supplies.
3. Currently, 4,185 out-of-state insurance agents pay a \$10 per year renewal fee. With the new program requirements, this number will drop to 2,090.
4. There are currently 6,900 in-state agents who pay no fee. With the new program, this number will decrease to 5,900.
5. Initially, 200 continuing education courses will be certified at a fee of \$150 per course. Courses will be reauthorized every other year. There will be no renewal fee until FY96.
6. The State Auditor's Office will set fees at a level necessary to cover the costs of the licensing and continuing education program. Fees will be set to match revenue and expenditures over the biennium, but most revenue will not be collected until FY95. Therefore, an interentity loan will be necessary in FY94 to provide necessary cash. Fees are estimated at \$25 per year for agents, \$150 for initial certification courses and \$50 for the biennial renewal fee.
7. The executive budget recommended 100% general fund support for the Insurance Program. However, on February 2, 1993, the Joint Appropriations Subcommittee on General Government and Transportation approved a program budget which included \$41,850 each year in state special revenue funds attributable to non-resident insurance producer fees.

FISCAL IMPACT: State Auditor's Office - Insurance Program:

	FY '94			FY '95		
Expenditures:	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	30.00	31.75	1.75	30.00	32.00	2.00
Personal Services	935,160	981,490	46,330	937,320	989,052	51,732
Operating Expenses	168,580	233,630	65,050	159,270	207,320	48,050
Equipment	<u>3,300</u>	<u>7,768</u>	<u>4,468</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	1,107,040	1,222,888	115,848	1,096,590	1,196,372	99,782
<u>Funding:</u>						
General Fund	1,065,190	1,065,190	0	1,054,740	1,054,740	0
State Special Revenue	<u>41,850</u>	<u>157,698</u>	<u>115,848</u>	<u>41,850</u>	<u>141,632</u>	<u>99,782</u>
Total	1,107,040	1,222,888	115,848	1,096,590	1,196,372	99,782
<u>Revenue:</u>						
State Special Revenue	41,850	71,850	30,000	41,850	228,150	186,300
Net Impact on State Special Revenue			(85,848)			86,518

Dave Lewis 2-16-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

B.F. "Chris" Christiaens 2/18/93
B.F. "CHRIS" CHRISTIAENS, PRIMARY SPONSOR DATE

Fiscal Note for SB0354, as introduced

SB 354

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

STATEMENT OF INTENT

13 A statement of intent is required for this bill because
14 it authorizes the commissioner of insurance to promulgate
15 rules relating to the course content, instructors, material,
16 instructional format, department of insurance forms, and
17 procedures that will compose the continuing education
18 program for insurance producers and consultants and the fees
19 related to the costs of processing the documents and
20 preparing and providing the services mandated by this bill.
21 The legislature intends that the rules adopted to implement
22 this bill be designed principally to protect the
23 insurance-buying public in Montana by ensuring that
24 insurance producers and consultants complete appropriate
25 education activities as a condition of continued licensure.

1 To the extent that they do not conflict with this bill, the
2 model regulations on agents' continuing education adopted by
3 the national association of insurance commissioners in July
4 1990 express principles that are consistent with this
5 legislative intent and may be used as a model for the
6 continuing education program. The legislature further
7 intends that the commissioner adopt the rules in accordance
8 with 33-1-313, which grants the commissioner general
9 rulemaking authority that permits the commissioner:

10 (1) to make only reasonable rules that do not extend,
11 modify, or conflict with any laws of this state or with any
12 reasonable implication of those laws; and

13 (2) to make or amend those rules only after a hearing
14 of which notice has been given as required by 33-1-703.

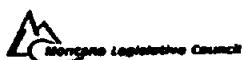
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. Section 1. Short title. [Sections 1
18 through 6 and 9] may be cited as the "Insurance Producer and
19 Consultant Continuing Education Act".

20 NEW SECTION. Section 2. Purpose. The purposes of
21 [sections 1 through 6 and 9] are to:

22 (1) protect insurance consumers and dedicated insurance
23 producers and consultants by requiring continuing education
24 for insurance producers and consultants;

25 (2) better educate insurance producers and consultants



1 about changes in insurance law, products, ethical conduct as
2 an insurance producer or consultant, marketing, and
3 management; and

4 (3) provide standards for the qualification of
5 instructors, courses, and materials.

6 **NEW SECTION. Section 3. Continuing education — basic**
7 requirements — exceptions. (1) Unless exempt under
8 subsection (4):

9 (a) a person licensed to act as an insurance producer
10 for property, casualty, surety, or title insurance or as a
11 consultant for general insurance shall, during each calendar
12 year, complete at least 10 credit hours of approved
13 continuing education;

14 (b) a person licensed to act as an insurance producer
15 for life, disability, or credit life and disability
16 insurance or as a consultant for life insurance shall,
17 during each calendar year, complete at least 10 credit hours
18 of approved continuing education;

19 (c) a person holding multiple licenses shall, during
20 each calendar year, complete at least 15 credit hours of
21 approved continuing education;

22 (d) a person licensed as an insurance producer or
23 consultant shall, during each biennium, complete at least 1
24 credit hour of approved continuing education on changes in
25 Montana insurance statutes and administrative rules.

1 (2) If a person licensed as an insurance producer or
2 consultant completes more credit hours of approved
3 continuing education in a year than the minimum required in
4 subsection (1), the excess credit hours may be carried
5 forward and applied to the continuing education requirements
6 of the next year.

7 (3) The commissioner may, for good cause shown, grant
8 an extension of time, not to exceed 1 year, during which the
9 requirements imposed by subsection (1) may be completed.

10 (4) The minimum continuing education requirements do
11 not apply to:

12 (a) a person licensed to sell any kind of insurance for
13 which an examination is not required under 33-17-212(7)(d)
14 through 7(g);

15 (b) a person holding a temporary license issued under
16 33-17-216;

17 (c) a nonresident licensee who must meet continuing
18 education requirements in the licensee's state of residence
19 if that state accords substantially similar privileges to
20 and has similar requirements of residents of this state;

21 (d) a newly licensed insurance producer or consultant
22 during the calendar year in which the licensee first
23 received a license; or

24 (e) an insurance producer or consultant otherwise
25 exempted by the commissioner.

1 NEW SECTION. Section 4. Review and approval of
 2 continuing education courses by commissioner -- advisory
 3 council. (1) The commissioner shall, after review by and at
 4 the recommendations of the advisory council established
 5 under subsection (2), approve only those continuing
 6 education courses, lectures, seminars, and instructional
 7 programs that the commissioner determines would improve the
 8 product knowledge, management, ethics, or marketing
 9 capability of the licensee. Course content, instructors,
 10 material, instructional format, and the sponsoring
 11 organization must be approved and periodically reviewed by
 12 the commissioner. The filing fee and process for approval of
 13 a course, lecture, seminar, or instructional program must be
 14 determined by the commissioner by rule. The commissioner
 15 shall also determine the number of credit hours to be
 16 awarded for completion of an approved continuing education
 17 activity.

18 (2) The commissioner shall appoint an advisory council,
 19 pursuant to 2-15-122, consisting of one representative of
 20 the independent insurance agents of Montana, one
 21 representative of the Montana association of life
 22 underwriters, one representative of the professional
 23 insurance agents of Montana, two public members who are not
 24 directly employed by the insurance industry, one insurance
 25 producer or consultant not affiliated with any of the three

1 listed organizations, and a nonvoting presiding officer from
 2 the department who will be appointed by the commissioner as
 3 a representative of the department. The members of the
 4 council shall serve a term of 2 years, except that the
 5 initial term of the representative from each organization is
 6 3 years. The commissioner shall consult with the council in
 7 formulating rules and standards for the approval of
 8 continuing education activities and prior to approving
 9 specific education activities. The provisions of 2-15-122(9)
 10 and (10) do not apply to this council.

11 (3) In conducting periodic review of course content,
 12 instructors, material, instructional format, or a sponsoring
 13 organization, the commissioner may exercise any
 14 investigative power of the commissioner provided for in
 15 33-1-311 or 33-1-315.

16 (4) If after review or investigation the commissioner
 17 determines an approved continuing education activity is not
 18 being operated in compliance with the standards established
 19 under this section, the commissioner may revoke approval,
 20 place the activity under probationary approval, or issue a
 21 cease and desist order under 33-1-318.

22 NEW SECTION. Section 5. Compliance -- failure to
 23 comply. (1) Each person subject to the requirements of
 24 [section 3] shall file annually on a form supplied by the
 25 commissioner written certification as to the approved

1 courses, lectures, seminars, and instructional programs
 2 successfully completed by that person during the preceding
 3 calendar year. The form must be accompanied with a filing
 4 fee established by the commissioner.

5 (2) The commissioner may suspend the license of any
 6 person failing to comply with subsection (1) who has not
 7 been granted an extension under [section 3] and may impose a
 8 late renewal fee in the amount of twice the annual filing
 9 fee. The suspension must remain in effect until the time
 10 that the person demonstrates to the satisfaction of the
 11 commissioner that the person has complied with all the
 12 provisions of [sections 1 through 6 and 9]. If the license
 13 of an insurance producer or consultant is suspended by
 14 reason of this section for a period exceeding 12 months, the
 15 license must be terminated upon notice to the insurance
 16 producer or consultant.

17 (3) Each person providing approved courses, lectures,
 18 seminars, and instructional programs, including insurance
 19 company education programs, shall file annually with the
 20 commissioner an alphabetical list of the names and addresses
 21 of all persons who have successfully completed an approved
 22 continuing education activity during the preceding calendar
 23 year.

24 (4) The commissioner may, following the process
 25 provided for in 33-1-314, withdraw approval of all courses,

1 lectures, seminars, and instructional programs of any person
 2 that fails to comply with subsection (3). The commissioner
 3 may, after having conducted a hearing pursuant to 33-1-701,
 4 impose a fine upon a person that has failed to comply with
 5 subsection (3). The fine may not exceed the penalty
 6 permitted by 33-1-317.

7 NEW SECTION. **Section 6. Rulemaking authority.** The
 8 commissioner may adopt rules to implement [sections 1
 9 through 6 and 9].

10 **Section 7.** Section 33-2-708, MCA, is amended to read:

11 "33-2-708. Fees and licenses. (1) Except as provided in
 12 33-17-212(2), the commissioner shall collect in advance and
 13 the persons served shall pay to the commissioner the
 14 following fees:

15 (a) certificates of authority:

16 (i) for filing applications for original certificates
 17 of authority, articles of incorporation (except original
 18 articles of incorporation of domestic insurers as provided
 19 in subsection (1)(b)) and other charter documents, bylaws,
 20 financial statement, examination report, power of attorney
 21 to the commissioner, and all other documents and filings
 22 required in connection with the application and for issuance
 23 of an original certificate of authority, if issued:

24 (A) domestic insurers \$ 600.00
 25 (B) foreign insurers 600.00

1 (ii) annual continuation of certificate of authority
 2 600.00
 3 (iii) reinstatement of certificate of authority
 4 25.00
 5 (iv) amendment of certificate of authority 50.00
 6 (b) articles of incorporation:
 7 (i) filing original articles of incorporation of a
 8 domestic insurer, exclusive of fees required to be paid by
 9 the corporation to the secretary of state 20.00
 10 (ii) filing amendment of articles of incorporation,
 11 domestic and foreign insurers, exclusive of fees required to
 12 be paid to the secretary of state by a domestic corporation
 13 25.00
 14 (c) filing bylaws or amendment to bylaws where
 15 required 10.00
 16 (d) filing annual statement of insurer, other than as
 17 part of application for original certificate of authority
 18 25.00
 19 (e) insurance producer's license:
 20 (i) application for original license, including
 21 issuance of license, if issued 15.00
 22 (ii) appointment of insurance producer, each insurer
 23 10.00
 24 (iii) temporary license 15.00
 25 (iv) amendment of license (excluding additions to

1 license) or reissuance of master license 15.00
 2 (f) nonresident insurance producer's license:
 3 (i) application for original license, including
 4 issuance of license, if issued 100.00
 5 (ii) appointment of insurance producer, each insurer
 6 10.00
 7 (iii) annual renewal of license 10.00
 8 (iv) amendment of license (excluding additions to
 9 license) or reissuance of master license 15.00
 10 (g) examination, if administered by the commissioner,
 11 for license as insurance producer, each examination
 12 15.00
 13 (h) surplus lines insurance producer license:
 14 (i) application for original license and for issuance
 15 of license, if issued 50.00
 16 (ii) annual renewal of license 50.00
 17 (i) adjuster's license:
 18 (i) application for original license and for issuance
 19 of license, if issued 15.00
 20 (ii) annual renewal of license 15.00
 21 (j) insurance vending machine license, each machine,
 22 each year 10.00
 23 (k) commissioner's certificate under seal (except when
 24 on certificates of authority or licenses) 10.00
 25 (l) copies of documents on file in the commissioner's

1 office, per page50

2 (m) policy forms:

3 (i) filing each policy form 25.00

4 (ii) filing each application, rider, endorsement,
amendment, insert page, schedule of rates, and clarification
of risks 10.00

7 (iii) maximum charge if policy and all forms submitted
at one time or resubmitted for approval within 180 days
..... 100.00

10 (n) applications for approval of prelicensing education
courses:

12 (i) reviewing initial application 150.00

13 (ii) periodic review 50.00

14 (2) The commissioner shall establish by rule fees for
filing documents and conducting the course reviews required
by [sections 4 and 5].

17 t27(3) The commissioner shall promptly deposit with the
state treasurer to the credit of the general fund of this
state all fines and penalties, those amounts received
pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees
and examination and miscellaneous charges that are collected
by--him pursuant to Title 33 and the rules adopted under
Title 33, except that all fees for filing documents and
conducting the course reviews required by [sections 4 and 5]
must be deposited in the state special revenue fund pursuant

1 to [section 9].

2 t37(4) All fees are considered fully earned when
3 received. In the event of overpayment, only those amounts in
4 excess of \$10 will be refunded."

5 **Section 8.** Section 33-17-1001, MCA, is amended to read:

6 "33-17-1001. Suspension, revocation, or refusal of
7 license. (1) Except as provided in 33-17-411, the
8 commissioner may suspend for not more than 12 months, may
9 revoke or refuse to continue, or may deny an application for
10 a license issued under this chapter or any surplus lines
11 insurance producer license if, after hearing held on not
12 less than 10 days' advance notice by certified mail of the
13 hearing and of the charges against the licensee given as
14 provided in 33-1-314(3) to the licensee, he the commissioner
15 finds that the licensee or applicant has:

16 (a) engaged or is about to engage in an act or practice
17 for which issuance of the license could have been refused
18 had it then existed and been known to the commissioner;

19 (b) obtained or attempted to obtain a license through
20 misrepresentation or fraud;

21 (c) violated or failed to comply with a provision of
22 this code or has violated a rule, subpoena, or order of the
23 commissioner or of the commissioner of any other state;

24 (d) improperly withheld, misappropriated, or converted
25 to him the licensee's or applicant's own use money or

1 property belonging to policyholders, insurers,
 2 beneficiaries, or others and received in conduct of business
 3 under the license;

4 (e) been convicted of a felony;

5 (f) in the conduct of his the affairs under the
 6 license, used fraudulent, coercive, or dishonest practices
 7 or the licensee or applicant is has shown himself to be
 8 incompetent, untrustworthy, financially irresponsible, or a
 9 source of injury and loss to the public;

10 (g) made a materially untrue statement in the license
 11 application or in the continuing education affidavit;

12 (h) misrepresented the terms of an actual or proposed
 13 insurance contract;

14 (i) been found guilty of an unfair trade practice or
 15 fraud prohibited by Title 33, chapter 18;

16 (j) had his a license suspended or revoked in any other
 17 state;

18 (k) forged another's name to an application for
 19 insurance;

20 (l) cheated on an examination for a license; or

21 (m) knowingly accepted insurance business from a person
 22 who is not licensed.

23 (2) The license of a partnership or corporation may be
 24 suspended, revoked, refused, or denied if a reason listed in
 25 subsection (1) applies to an individual designated in the

1 license to exercise its powers.

2 (3) The commissioner may suspend, revoke, or refuse to
 3 continue a license under subsection (1)(e) without
 4 conducting an investigation pursuant to 37-1-203 or making a
 5 written finding pursuant to 37-1-204."

6 NEW SECTION. Section 9. Funding for continuing
 7 education program. All annual continuing education filing
 8 fees collected by the commissioner and fees paid to the
 9 commissioner for the review of initial applications for
 10 approval of continuing education courses or the periodic
 11 review of these courses must be turned over promptly to the
 12 state treasurer who shall place the money in the state
 13 special revenue fund to the credit of the state auditor's
 14 office to be used for the continuing education program. The
 15 funds allocated by this section to the state special revenue
 16 fund may be used only to defray the expenses of the state
 17 auditor's office in discharging its duties as prescribed by
 18 law, subject to the applicable laws relating to the
 19 appropriation of state funds and to the deposit and
 20 expenditure of state money. The state auditor is responsible
 21 for the proper expenditure of this money as provided by law.

22 NEW SECTION. Section 10. Codification instruction.
 23 [Sections 1 through 6 and 9] are intended to be codified as
 24 an integral part of Title 33, and the provisions of Title 33
 25 apply to [sections 1 through 6 and 9].

1 NEW SECTION. Section 11. Effective dates. (1)
2 [Sections 1 through 4 and 6 through 11] are effective July
3 1, 1993.
4 (2) [Section 5] is effective January 1, 1995.

-End-

STATEMENT OF INTENT

13 A statement of intent is required for this bill because
14 it authorizes the commissioner of insurance to promulgate
15 rules relating to the course content, instructors, material,
16 instructional format, department of insurance forms, and
17 procedures that will compose the continuing education
18 program for insurance producers and consultants and the fees
19 related to the costs of processing the documents and
20 preparing and providing the services mandated by this bill.
21 The legislature intends that the rules adopted to implement
22 this bill be designed principally to protect the
23 insurance-buying public in Montana by ensuring that
24 insurance producers and consultants complete appropriate
25 education activities as a condition of continued licensure.

1 To the extent that they do not conflict with this bill, the
2 model regulations on agents' continuing education adopted by
3 the national association of insurance commissioners in July
4 1990 express principles that are consistent with this
5 legislative intent and may be used as a model for the
6 continuing education program. The legislature further
7 intends that the commissioner adopt the rules in accordance
8 with 33-1-313, which grants the commissioner general
9 rulemaking authority that permits the commissioner:

10 (1) to make only reasonable rules that do not extend,
11 modify, or conflict with any laws of this state or with any
12 reasonable implication of those laws; and

13 (2) to make or amend those rules only after a hearing
14 of which notice has been given as required by 33-1-703.

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

17 NEW SECTION. Section 1. Short title. [Sections 1
18 through 6 and 9] may be cited as the "Insurance Producer and

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 354 (third reading copy - blue) be concurred in as amended.

Signed: Steve Benedict
Steve Benedict, Chair

And, that such amendments read:

Carried by: Rep. Simon

1. Page 4, line 23.

Strike: "or"

2. Page 4, line 25.

Following: "commissioner"

Insert: ";" or

(f) a person selling only credit life and disability insurance incidental to other noninsurance activities"

3. Page 11, line 14.

Following: "fees"

Insert: "commensurate with costs"

4. Page 14, line 18.

Strike: "law"

Insert: "[sections 1 through 6]"

-END-

HOUSE

SB 354

Committee Vote:

Yes 16, No 2.

781422SC.Hpf

SENATE BILL NO. 354

INTRODUCED BY CHRISTIAENS, REA, KOEHNKE, HARDING, HAGER,
MESAROS, TOEWS, WILSON, BRANDEWIE, BRUSKI-MAUS, LYNCH,
SIMON, PAVLOVICH, SCHYE, WHALEN, BACHINI
BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A CONTINUING EDUCATION FOR INSURERS PROGRAM; PROVIDING THAT THE PROGRAM BE ADMINISTERED BY THE COMMISSIONER OF INSURANCE; GRANTING RULEMAKING AUTHORITY TO CONDUCT THE PROGRAM; AMENDING SECTIONS 33-2-708 AND 33-17-1001, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because it authorizes the commissioner of insurance to promulgate rules relating to the course content, instructors, material, instructional format, department of insurance forms, and procedures that will compose the continuing education program for insurance producers and consultants and the fees related to the costs of processing the documents and preparing and providing the services mandated by this bill. The legislature intends that the rules adopted to implement this bill be designed principally to protect the insurance-buying public in Montana by ensuring that

1 insurance producers and consultants complete appropriate
2 education activities as a condition of continued licensure.
3 To the extent that they do not conflict with this bill, the
4 model regulations on agents' continuing education adopted by
5 the national association of insurance commissioners in July
6 1990 express principles that are consistent with this
7 legislative intent and may be used as a model for the
8 continuing education program. The legislature further
9 intends that the commissioner adopt the rules in accordance
10 with 33-1-313, which grants the commissioner general
11 rulemaking authority that permits the commissioner:

12 (1) to make only reasonable rules that do not extend,
13 modify, or conflict with any laws of this state or with any
14 reasonable implication of those laws; and

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

19 NEW SECTION. Section 1. Short title. [Sections 1
20 through 6 and 9] may be cited as the "Insurance Producer and
21 Consultant Continuing Education Act".

22 NEW SECTION. **Section 2. Purpose.** The purposes of
23 {sections 1 through 6 and 9] are to:

24 (1) protect insurance consumers and dedicated insurance
25 producers and consultants by requiring continuing education



1 for insurance producers and consultants;

2 (2) better educate insurance producers and consultants
3 about changes in insurance law, products, ethical conduct as
4 an insurance producer or consultant, marketing, and
5 management; and

6 (3) provide standards for the qualification of
7 instructors, courses, and materials.

8 **NEW SECTION. Section 3. Continuing education -- basic**
9 requirements -- exceptions. (1) Unless exempt under
10 subsection (4):

11 (a) a person licensed to act as an insurance producer
12 for property, casualty, surety, or title insurance or as a
13 consultant for general insurance shall, during each calendar
14 year, complete at least 10 credit hours of approved
15 continuing education;

16 (b) a person licensed to act as an insurance producer
17 for life, disability, or credit life and disability
18 insurance or as a consultant for life insurance shall,
19 during each calendar year, complete at least 10 credit hours
20 of approved continuing education;

21 (c) a person holding multiple licenses shall, during
22 each calendar year, complete at least 15 credit hours of
23 approved continuing education;

24 (d) a person licensed as an insurance producer or
25 consultant shall, during each biennium, complete at least 1

1 credit hour of approved continuing education on changes in
2 Montana insurance statutes and administrative rules.

3 (2) If a person licensed as an insurance producer or
4 consultant completes more credit hours of approved
5 continuing education in a year than the minimum required in
6 subsection (1), the excess credit hours may be carried
7 forward and applied to the continuing education requirements
8 of the next year.

9 (3) The commissioner may, for good cause shown, grant
10 an extension of time, not to exceed 1 year, during which the
11 requirements imposed by subsection (1) may be completed.

12 (4) The minimum continuing education requirements do
13 not apply to:

14 (a) a person licensed to sell any kind of insurance for
15 which an examination is not required under 33-17-212(7)(d)
16 through 7(g);

17 (b) a person holding a temporary license issued under
18 33-17-216;

19 (c) a nonresident licensee who must meet continuing
20 education requirements in the licensee's state of residence
21 if that state accords substantially similar privileges to
22 and has similar requirements of residents of this state;

23 (d) a newly licensed insurance producer or consultant
24 during the calendar year in which the licensee first
25 received a license; or

1 (e) an insurance producer or consultant otherwise
2 exempted by the commissioner; OR

3 (F) A PERSON SELLING ONLY CREDIT LIFE AND DISABILITY
4 INSURANCE INCIDENTAL TO OTHER NONINSURANCE ACTIVITIES.

5 NEW SECTION. Section 4. Review and approval of
6 continuing education courses by commissioner -- advisory
7 council. (1) The commissioner shall, after review by and at
8 the recommendations of the advisory council established
9 under subsection (2), approve only those continuing
10 education courses, lectures, seminars, and instructional
11 programs that the commissioner determines would improve the
12 product knowledge, management, ethics, or marketing
13 capability of the licensee. Course content, instructors,
14 material, instructional format, and the sponsoring
15 organization must be approved and periodically reviewed by
16 the commissioner. The filing fee and process for approval of
17 a course, lecture, seminar, or instructional program must be
18 determined by the commissioner by rule. The commissioner
19 shall also determine the number of credit hours to be
20 awarded for completion of an approved continuing education
21 activity.

22 (2) The commissioner shall appoint an advisory council,
23 pursuant to 2-15-122, consisting of one representative of
24 the independent insurance agents of Montana, one
25 representative of the Montana association of life

1 underwriters, one representative of the professional
2 insurance agents of Montana, two public members who are not
3 directly employed by the insurance industry, one insurance
4 producer or consultant not affiliated with any of the three
5 listed organizations, and a nonvoting presiding officer from
6 the department who will be appointed by the commissioner as
7 a representative of the department. The members of the
8 council shall serve a term of 2 years, except that the
9 initial term of the representative from each organization is
10 3 years. The commissioner shall consult with the council in
11 formulating rules and standards for the approval of
12 continuing education activities and prior to approving
13 specific education activities. The provisions of 2-15-122(9)
14 and (10) do not apply to this council.

15 (3) In conducting periodic review of course content,
16 instructors, material, instructional format, or a sponsoring
17 organization, the commissioner may exercise any
18 investigative power of the commissioner provided for in
19 33-1-311 or 33-1-315.

20 (4) If after review or investigation the commissioner
21 determines an approved continuing education activity is not
22 being operated in compliance with the standards established
23 under this section, the commissioner may revoke approval,
24 place the activity under probationary approval, or issue a
25 cease and desist order under 33-1-318.

1 NEW SECTION. **Section 5. Compliance** -- failure to
2 comply. (1) Each person subject to the requirements of
3 [section 3] shall file annually on a form supplied by the
4 commissioner written certification as to the approved
5 courses, lectures, seminars, and instructional programs
6 successfully completed by that person during the preceding
7 calendar year. The form must be accompanied with a filing
8 fee established by the commissioner.

9 (2) The commissioner may suspend the license of any
10 person failing to comply with subsection (1) who has not
11 been granted an extension under [section 3] and may impose a
12 late renewal fee in the amount of twice the annual filing
13 fee. The suspension must remain in effect until the time
14 that the person demonstrates to the satisfaction of the
15 commissioner that the person has complied with all the
16 provisions of [sections 1 through 6 and 9]. If the license
17 of an insurance producer or consultant is suspended by
18 reason of this section for a period exceeding 12 months, the
19 license must be terminated upon notice to the insurance
20 producer or consultant.

21 (3) Each person providing approved courses, lectures,
22 seminars, and instructional programs, including insurance
23 company education programs, shall file annually with the
24 commissioner an alphabetical list of the names and addresses
25 of all persons who have successfully completed an approved

1 continuing education activity during the preceding calendar
2 year.

3 (4) The commissioner may, following the process
4 provided for in 33-1-314, withdraw approval of all courses,
5 lectures, seminars, and instructional programs of any person
6 that fails to comply with subsection (3). The commissioner
7 may, after having conducted a hearing pursuant to 33-1-701,
8 impose a fine upon a person that has failed to comply with
9 subsection (3). The fine may not exceed the penalty
10 permitted by 33-1-317.

11 NEW SECTION. **Section 6. Rulemaking authority.** The
12 commissioner may adopt rules to implement [sections 1
13 through 6 and 9].

14 **Section 7.** Section 33-2-708, MCA, is amended to read:

15 **"33-2-708. Fees and licenses.** (1) Except as provided in
16 33-17-212(2), the commissioner shall collect in advance and
17 the persons served shall pay to the commissioner the
18 following fees:

19 (a) certificates of authority:

20 (i) for filing applications for original certificates
21 of authority, articles of incorporation (except original
22 articles of incorporation of domestic insurers as provided
23 in subsection (1)(b)) and other charter documents, bylaws,
24 financial statement, examination report, power of attorney
25 to the commissioner, and all other documents and filings

1 required in connection with the application and for issuance
 2 of an original certificate of authority, if issued:
 3 (A) domestic insurers \$ 600.00
 4 (B) foreign insurers 600.00
 5 (iii) annual continuation of certificate of authority
 6 600.00
 7 (iii) reinstatement of certificate of authority
 8 25.00
 9 (iv) amendment of certificate of authority 50.00
 10 (b) articles of incorporation:
 11 (i) filing original articles of incorporation of a
 12 domestic insurer, exclusive of fees required to be paid by
 13 the corporation to the secretary of state 20.00
 14 (ii) filing amendment of articles of incorporation,
 15 domestic and foreign insurers, exclusive of fees required to
 16 be paid to the secretary of state by a domestic corporation
 17 25.00
 18 (c) filing bylaws or amendment to bylaws where
 19 required 10.00
 20 (d) filing annual statement of insurer, other than as
 21 part of application for original certificate of authority
 22 25.00
 23 (e) insurance producer's license:
 24 (i) application for original license, including
 25 issuance of license, if issued 15.00

1 (ii) appointment of insurance producer, each insurer
 2 10.00
 3 (iii) temporary license 15.00
 4 (iv) amendment of license (excluding additions to
 5 license) or reissuance of master license 15.00
 6 (f) nonresident insurance producer's license:
 7 (i) application for original license, including
 8 issuance of license, if issued 100.00
 9 (ii) appointment of insurance producer, each insurer
 10 10.00
 11 (iii) annual renewal of license 10.00
 12 (iv) amendment of license (excluding additions to
 13 license) or reissuance of master license 15.00
 14 (g) examination, if administered by the commissioner,
 15 for license as insurance producer, each examination
 16 15.00
 17 (h) surplus lines insurance producer 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 (i) 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 (j) insurance vending machine license, each machine,

1 each year 10.00
 2 (k) commissioner's certificate under seal (except when
 3 on certificates of authority or licenses) 10.00
 4 (l) copies of documents on file in the commissioner's
 5 office, per page50
 6 (m) 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 (n) applications for approval of prelicensing education
 15 courses:
 16 (i) reviewing initial application 150.00
 17 (ii) periodic review 50.00
 18 (2) The commissioner shall establish by rule fees
 19 COMMENSURATE WITH COSTS for filing documents and conducting
 20 the course reviews required by [sections 4 and 5].
 21 (2)(3) The commissioner shall promptly deposit with the
 22 state treasurer to the credit of the general fund of this
 23 state all fines and penalties, those amounts received
 24 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees
 25 and examination and miscellaneous charges that are collected

1 by--him pursuant to Title 33 and the rules adopted under
 2 Title 33, except that all fees for filing documents and
 3 conducting the course reviews required by [sections 4 and 5]
 4 must be deposited in the state special revenue fund pursuant
 5 to [section 9].
 6 (3)(4) All fees are considered fully earned when
 7 received. In the event of overpayment, only those amounts in
 8 excess of \$10 will be refunded."
 9 **Section 8.** Section 33-17-1001, MCA, is amended to read:
 10 "33-17-1001. Suspension, revocation, or refusal of
 11 license. (1) Except as provided in 33-17-411, the
 12 commissioner may suspend for not more than 12 months, may
 13 revoke or refuse to continue, or may deny an application for
 14 a license issued under this chapter or any surplus lines
 15 insurance producer license if, after hearing held on not
 16 less than 10 days' advance notice by certified mail of the
 17 hearing and of the charges against the licensee given as
 18 provided in 33-1-314(3) to the licensee, he the commissioner
 19 finds that the licensee or applicant has:
 20 (a) engaged or is about to engage in an act or practice
 21 for which issuance of the license could have been refused
 22 had it then existed and been known to the commissioner;
 23 (b) obtained or attempted to obtain a license through
 24 misrepresentation or fraud;
 25 (c) violated or failed to comply with a provision of

1 this code or has violated a rule, subpoena, or order of the
 2 commissioner or of the commissioner of any other state;

3 (d) improperly withheld, misappropriated, or converted
 4 to his the licensee's or applicant's own use money or
 5 property belonging to policyholders, insurers,
 6 beneficiaries, or others and received in conduct of business
 7 under the license;

8 (e) been convicted of a felony;

9 (f) in the conduct of his the affairs under the
 10 license, used fraudulent, coercive, or dishonest practices
 11 or the licensee or applicant is has shown himself to be
 12 incompetent, untrustworthy, financially irresponsible, or a
 13 source of injury and loss to the public;

14 (g) made a materially untrue statement in the license
 15 application or in the continuing education affidavit;

16 (h) misrepresented the terms of an actual or proposed
 17 insurance contract;

18 (i) been found guilty of an unfair trade practice or
 19 fraud prohibited by Title 33, chapter 18;

20 (j) had his a license suspended or revoked in any other
 21 state;

22 (k) forged another's name to an application for
 23 insurance;

24 (l) cheated on an examination for a license; or

25 (m) knowingly accepted insurance business from a person

1 who is not licensed.

2 (2) The license of a partnership or corporation may be
 3 suspended, revoked, refused, or denied if a reason listed in
 4 subsection (1) applies to an individual designated in the
 5 license to exercise its powers.

6 (3) The commissioner may suspend, revoke, or refuse to
 7 continue a license under subsection (1)(e) without
 8 conducting an investigation pursuant to 37-1-203 or making a
 9 written finding pursuant to 37-1-204."

10 **NEW SECTION. Section 9. Funding for continuing**
 11 **education program.** All annual continuing education filing
 12 fees collected by the commissioner and fees paid to the
 13 commissioner for the review of initial applications for
 14 approval of continuing education courses or the periodic
 15 review of these courses must be turned over promptly to the
 16 state treasurer who shall place the money in the state
 17 special revenue fund to the credit of the state auditor's
 18 office to be used for the continuing education program. The
 19 funds allocated by this section to the state special revenue
 20 fund may be used only to defray the expenses of the state
 21 auditor's office in discharging its duties as prescribed by
 22 ~~law~~ **[SECTIONS 1 THROUGH 6]**, subject to the applicable laws
 23 relating to the appropriation of state funds and to the
 24 deposit and expenditure of state money. The state auditor is
 25 responsible for the proper expenditure of this money as

1 provided by law.

2 NEW SECTION. Section 10. Codification instruction.

3 [Sections 1 through 6 and 9] are intended to be codified as
4 an integral part of Title 33, and the provisions of Title 33
5 apply to [sections 1 through 6 and 9].

6 NEW SECTION. Section 11. Effective dates. (1)

7 [Sections 1 through 4 and 6 through 11] are effective July
8 1, 1993.

9 (2) [Section 5] is effective January 1, 1995.

-End-

Conference Committee
on Senate Bill No. 354
Report No. 1, April 20, 1993

Page 1 of 1

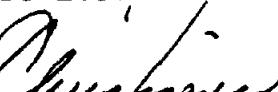
Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill No. 354, met and considered: House amendments to Senate Bill No. 354. We recommend that Senate Bill No. 354 (reference copy - salmon) be amended as follows:

Adopt the amendments of House Business and Economic Development committee in the report dated April 7, 1993.

And that this Conference Committee report be adopted.

For the Senate:


Senator Christiaens, Chair

For the House:


Representative Simon, Chair


Senator Brenden


Representative Brandewie


Senator Bruski-Maus


Representative Pavlovich

M -
Amd. Coord.

Sec. of Senate

ADOPT

REJECT

CCR. #1
SB 354
871709CC.Sma