

### Generally Revise Captive Insurance Laws

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Mary Belcher, CSI Attorney  
[Mary.belcher@mt.gov](mailto:Mary.belcher@mt.gov)  
406-444-3036

1. What is the problem or issue?

The examinations and investigations statute governing captive insurance companies does not differentiate between captive insurance companies and captive risk retention groups in terms of mandating examinations at least every 5 years. Captive insurance companies may not need examination every 5 years depending upon their particular circumstances, in contrast to captive risk retention groups which should be examined at least every 5 years.

2. What do you want the legislation to do?

- Include language that will eliminate the requirement for the CSI to conduct an examination at least every 5 years of each captive insurance company, other than a captive risk retention group, and instead enable the CSI to conduct an examination of a captive insurance company, other than a captive risk retention group, as often as it considers advisable.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

- MCA 33-28-108.

4. If the proposed change requires additional funding, what funding sources do you propose?

- No additional funding

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact?

- No

## Expand Practice of Telemedicine

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Mary Belcher, CSI Attorney  
[Mary.belcher@mt.gov](mailto:Mary.belcher@mt.gov)  
406-444-3036

1. What is the problem or issue?

During the pandemic, the Office of the Governor has issued numerous directives expanding the modes and use of telemedicine (than that which is currently authorized in Section 33-22-138, MCA). Not only has this expansion allowed patients to receive care without leaving home and ensured a safe distance between providers and patients, it has expanded the opportunities for Montanans to more easily and quickly access healthcare, particularly in rural communities where physical access to physicians and health care facilities are limited at best. However, the Governor's most recent directive, April 21, 2020, will expire at the end of the declared state of emergency. This legislation will amend Section 33-22-138, MCA, on a permanent basis to include many of the expanded modes of telemedicine authorized by the Governor on an emergency basis affording Montanans' greater access to health care services via telemedicine.

2. What do you want the legislation to do?

- Include language that an insurer or health plan may not require a previously established patient-provider relationship to receive services by telemedicine and modify the definition of telemedicine to expand the use of other permitted modes of telemedicine.
- Make 33-22-138 applicable to state employee group insurance program, the MUS system group benefit plans, et. seq.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

- MCA 2-18-704, MCA 33-22-138, MCA 37-3-102

4. If the proposed change requires additional funding, what funding sources do you propose?

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provided a citation, reference, or point of contact?

- There are a number of states that have enacted telemedicine acts, many of them similar to Montana's existing MCA 33-22-138. It is our understanding that other states may be preparing to take similar action as Montana with respect to amending their existing law to similarly provide for expanded modes of telemedicine.

### Generally Revise Insurance Laws Regarding Accreditation

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Rick Wootton, CSI Attorney  
[Richard.Wootton@mt.gov](mailto:Richard.Wootton@mt.gov)  
406-444-5234

1. What is the problem or issue?

The current statute does not meet the NAIC guidelines on reinsurance.

2. What do you want the legislation to do?

- Amend the current statute to allow insurance companies credit for reinsurance of their liabilities

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

- MCA 33-2-1216

4. If the proposed change requires additional funding, what funding sources do you propose?

- No additional funding

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact?

- National Association of Insurance Commissioners Model Law

### Authorize Insurtech Regulatory Sandbox

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Rick Wootton, CSI Attorney  
[Richard.Wootton@mt.gov](mailto:Richard.Wootton@mt.gov)  
406-444-5234

1. What is the problem or issue?
  - Current licensing requirements are a hurdle for introduction of innovative insurance products
2. What do you want the legislation to do?
  - New statute permitting insurance industry to roll out innovative insurance products for a trial/test period in Montana without having to receive a Certificate of Authority before doing so
3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.
  - New language
4. If the proposed change requires additional funding, what funding sources do you propose?
  - No additional funding
5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provided a citation, reference, or point of contact?
  - Utah and Kentucky have similar statutes. It is a key initiative of the National Association of Insurance Commissioners.

### Generally Revise Insurance Laws

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Rick Wootton, CSI Attorney  
[Richard.Wootton@mt.gov](mailto:Richard.Wootton@mt.gov)  
406-444-5234

1. What do you want the legislation to do?
  - Amend current statute to change the word “and” to “or” in one sentence
  - Amend current statute to add requirement for insurance company to obtain a qualified actuarial opinion regarding valuation of reserve limitations
2. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.
  - MCA 33-22-140 and MCA 33-2-407
3. If the proposed change requires additional funding, what funding sources do you propose?
  - No additional funding
4. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provided a citation, reference, or point of contact?
  - National Association of Insurance Commissioners Model Language

### Generally Revise Securities Laws

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Lynne Egan  
[legan@mt.gov](mailto:legan@mt.gov)  
406-444-4388

1. What is the Problem or Issue?

- Section 30-10-201(2)(c)(3) contains the word “person” which refers to a broker-dealer or investment adviser. Other sections in the Securities Code use the term broker-dealer or investment adviser.

2. What do you want the legislation to do?

- Change the term “person” in the existing statute to make it consistent with other language in the Securities Code.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

- 30-10-201(2)(c)(3)

4. If the proposed change requires additional funding, what would be the funding source?

- No additional funding

5. Has similar legislation been requested in the past, introduced in another state, or provided as a Model Act? If so, please provide a citation, reference, or point of contact.

- This has not been the subject of legislation.

## Authorize the Securities Uniform Whistleblower Act

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Lynne Egan  
[legan@mt.gov](mailto:legan@mt.gov)  
406-444-4388

**1. What is the Problem or Issue?**

- The North American Securities Administrators Association (NASAA) and the states of Utah and Indiana have developed a Whistleblower Award and Protection Act to incentivize individuals who have knowledge of potential securities law violations to make reports to state regulators in the interest of investor protection.

**2. What do you want the legislation to do?**

- A Whistleblower Award and Protection Act would provide monetary awards to whistleblowers and provide protections for those who make whistleblower complaints; and includes an express cause of action against employers that retaliate against whistleblowers. Funding for the monetary awards is a percentage of the fine levied against the wrongdoer.

**3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.**

- This is new law and we recommend using reserved section Mont. Code Ann. § 30-10-328

**4. If the proposed change requires additional funding, what would be the funding source?**

- No additional funding required.

**5. Has similar legislation been requested in the past, introduced in another state, or provided as a Model Act? If so, please provide a citation, reference, or point of contact.**

- Utah and Indiana have similar legislation. NASAA has developed a Model Whistleblower Award and Protection Act that will be available in the early fall for state to propose to legislatures.

### **Provide for Securities Supervisor Registration**

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Lynne Egan  
[legan@mt.gov](mailto:legan@mt.gov)  
406-444-4388

**1. What is the Problem or Issue?**

- Supervisors of securities salespeople transacting business to or from Montana are currently not required to be registered in Montana. As a result, when an individual the supervisor supervises violates the Securities Act through an unethical or fraudulent sales practice, it is difficult to bring an action against the supervisor for failing to supervise.

**2. What do you want the legislation to do?**

- Include within the definition of salesperson a person that is compensated directly or indirectly for supervising the sales practices of a salesperson registered in Montana.

**3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.**

- 30-10-103(22)(a)

**4. If the proposed change requires additional funding, what would be the funding source?**

- No additional funding

**5. Has similar legislation been requested in the past, introduced in another state, or provided as a Model Act? Is so, please provide a citation, reference, or point of contact.**

- Multiple states include within the definition of salesperson a person responsible for the supervision of a salesperson registered to transact business to or from that state.



## **Make Permanent the Securities Restitution Fund**

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Lynne Egan, Deputy Securities Commissioner  
[Legan@mt.gov](mailto:Legan@mt.gov)  
406-444-4388

### **1. What is the Problem or Issue?**

- Section 30-10-1004 created a securities restitution assistance fund in 2011. The restitution fund terminates on June 30, 2021. The fund has helped more than 133 Montana victims of securities fraud since its inception, of which more than 80% were elderly Montanans.
- Section 30-10-115(2)(c) permits certain fees collected by the Commissioner for Securities and Insurance to be deposited into a Securities Restitution Fund. The provisions for the deposit of funds terminates July 1, 2021.

### **2. What do you want the legislation to do?**

- Remove the termination dates and restore the 4.5% deposit to the fund.

### **3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.**

- 30-10-1001, et seq; 30-10-115(2)(c)

### **4. If the proposed change requires additional funding, what would be the funding source?**

- No additional funding

### **5. Has similar legislation been requested in the past, introduced in another state, or provided as a Model Act? Is so, please provide a citation, reference, or point of contact.**

- Montana has had the Fund since 2011. The states of Indiana, Vermont, and Maine currently have a securities restitution assistance fund. In 2020 the North American Securities Administrators Association (NASAA) drafted a Model Act Creating a Securities Restitution Assistance Fund for use by its members. NASAA's Model Act is mirrored after Montana's statute.

## REPEAL MEDICAL MALPRACTICE INSURANCE JOINT UNDERWRITING ASSOCIATION

**Proposer's Name:** Commissioner of Securities and Insurance, Montana State Auditor  
Mary Belcher, CSI Attorney  
[Mary.belcher@mt.gov](mailto:Mary.belcher@mt.gov)  
406-444-3036

1. What is the problem or issue?

Since establishment of the Medical Malpractice Insurance Joint Underwriting Association in 2005, the association has not been instituted with membership, commenced operations, issued policies, or otherwise carried out any duty or function contemplated under Title 33, Chapter 23, Part 5, MCA. The private insurance marketplace has adapted to meet consumer needs and is no longer needed.

2. What do you want the legislation to do?

- Repeal Title 33, Chapter 23, Part 5, MCA

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be repealed or amended.

- Repeal: MCA §§ 33-23-501, 33-23-502, 33-23-503, 33-23-507, 33-23-508, 33-23-509, 33-23-510, 33-23-511, 33-23-512, 33-23-513, 33-23-514, 33-23-515, 33-23-519, 33-23-520, 33-23-521, 33-23-522, 33-23-523, 33-23-524, 33-23-525, AND 33-23-526, MCA
- Amend: MCA § 33-11-105

4. If the proposed change requires additional funding, what funding sources do you propose?

- No additional funding

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provided a citation, reference, or point of contact?

- No