



AYES, 41; NOES, 6.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 17, 1991

RECEIVED FROM SENATE.

APRIL 18, 1991

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

APRIL 19, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

APRIL 25, 1991

CONFERENCE COMMITTEE REPORT  
ADOPTED.

IN THE HOUSE

APRIL 25, 1991

CONFERENCE COMMITTEE REPORTED.

SECOND READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

THIRD READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

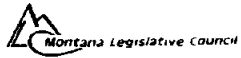
1 *House* BILL NO. *995*  
 2 INTRODUCED BY *James Maguire*  
 3 *THOMAS*

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD  
 5 OF INVESTMENTS TO ISSUE BONDS PAYABLE BY THE EMPLOYER'S  
 6 PAYROLL TAX TO PAY OFF THE UNFUNDED LIABILITY IN THE STATE'S  
 7 WORKERS' COMPENSATION INSURANCE PROGRAM; CREATING A STATE  
 8 DEBT; AMENDING SECTIONS 39-71-2321, 39-71-2351, 39-71-2352,  
 9 39-71-2503, AND 39-71-2504, MCA; REPEALING SECTION  
 10 39-71-2353, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

13 NEW SECTION. **Section 1. Use of payroll tax proceeds --**  
 14 **loans -- bonds.** (1) Taxes collected under 39-71-2503 may be  
 15 used only to administer and pay claims for injuries  
 16 resulting from accidents that occurred before July 1, 1990,  
 17 including the cost of repaying bonds issued and loan  
 18 proceeds given under [section 2] and this section. If the  
 19 state fund determines that, for the next 1 or more years  
 20 following the date of the determination, the tax revenue,  
 21 together with funds in the account required by 39-71-2321  
 22 for claims for injuries resulting from accidents that  
 23 occurred before July 1, 1990, will be insufficient to  
 24 administer and pay those claims, the state fund may, through  
 25 its board of directors, request the budget director to

1 certify to the board of investments that additional funding  
 2 is necessary. If the budget director agrees with the state  
 3 fund's board of directors that additional funding is  
 4 necessary, the budget director shall certify to the board of  
 5 investments the amount that the budget director determines  
 6 is necessary to administer and pay claims for injuries  
 7 resulting from accidents that occurred before July 1, 1990.  
 8 Except as provided in subsection (2), the board of  
 9 investments shall, at times and in amounts it considers  
 10 necessary or advisable, finance the amount certified by the  
 11 budget director by giving the state fund the proceeds of a  
 12 loan or a bond issue to administer and pay claims for  
 13 injuries resulting from accidents that occurred before July  
 14 1, 1990. Loans must be from reserves accumulated from  
 15 premiums paid to the state fund based upon wages payable on  
 16 or after July 1, 1990. The board of investments shall choose  
 17 the method of financing that is most cost-effective for the  
 18 state fund. A loan must bear interest at the rate the money  
 19 would earn in the pooled investment fund required by  
 20 17-6-203. The board of investments may also, upon request of  
 21 the board of directors of the state fund, give the state  
 22 fund the proceeds of a bond issue, to be used to pay off  
 23 loans made under [section 2] and this section. Bonds for the  
 24 state fund must be workers' compensation bonds issued under  
 25 [section 2].



1 (2) The total amount of loan proceeds given to the  
 2 state fund plus workers' compensation bonds issued under  
 3 [section 2], except bonds issued to repay loans as provided  
 4 for in subsection (1), may not exceed \$220 million. All loan  
 5 and bond proceeds given to the state fund must be repaid to  
 6 the board of investments before July 1, 2020.

7 NEW SECTION. **Section 2. Workers' compensation bonds --**  
 8 **loans -- form -- principal and interest.** (1) Subject to the  
 9 \$220 million limit contained in [section 1(2)], the board of  
 10 investments may not give the state fund loan proceeds or  
 11 issue workers' compensation bonds unless the aggregate  
 12 amount of outstanding and proposed loans and bonds can be  
 13 serviced with no more than 90% of the amount of tax revenue  
 14 that the department of revenue estimates will be raised by  
 15 the tax imposed under 39-71-2503 during the remainder of the  
 16 then current fiscal year and during each succeeding fiscal  
 17 year through the end of the fiscal year in which the last  
 18 then outstanding or proposed loan or bond will be repaid or  
 19 retired.

20 (2) Bonds are limited obligations payable solely from  
 21 and secured by the money deposited in the workers'  
 22 compensation bond repayment account created by 39-71-2504.  
 23 Each series of bonds may be issued by the board of  
 24 investments at public or private sale, in denominations and  
 25 form, whether payable to bearer or registered as to

1 principal or both principal and interest, with such  
 2 provisions for the conversion or exchange, bearing interest  
 3 at a rate or rates or the method of determining the rate or  
 4 rates, maturing at times, not later than June 30, 2020,  
 5 subject to redemption at earlier times and prices and upon  
 6 notice, and payable at the office of a fiscal agency of the  
 7 state, as determined by the board of investments. Any action  
 8 taken by the board of investments under [section 1] and this  
 9 section must be approved by at least a majority vote of its  
 10 members.

11 (3) In all other respects the board of investments is  
 12 authorized to prescribe the form and terms of the bonds and  
 13 shall do whatever is lawful and necessary for their issuance  
 14 and payment.

15 (4) Bonds and any interest coupons appurtenant thereto  
 16 must be signed by the members of the board of investments,  
 17 and the bonds must be issued under the great seal of the  
 18 state of Montana. The bonds and coupons may be executed with  
 19 facsimile signatures and seal in the manner and subject to  
 20 the limitations prescribed by law. The state treasurer shall  
 21 keep a record of all bonds issued and sold.

22 (5) All loan and bond proceeds given to the state fund  
 23 must be deposited to the credit of the account required by  
 24 39-71-2321 for claims for injuries resulting from accidents  
 25 that occurred before July 1, 1990, and may be used only for

1 the administration and payment of those claims and for the  
2 costs of giving the loan proceeds and issuing the bonds.

3 **Section 3.** Section 39-71-2321, MCA, is amended to read:

4 "**39-71-2321. What to be deposited in state fund.** (1)

5 All premiums, penalties, recoveries by subrogation, interest  
6 earned upon money belonging to the state fund, and  
7 securities acquired by or through use of money must be  
8 deposited in the state fund. They must be separated into two  
9 accounts based upon whether they relate to claims for  
10 injuries resulting from accidents that occurred before July  
11 1, 1990, or claims for injuries resulting from accidents  
12 that occur on or after that date.

13 (2) The loan proceeds of bonds issued and loans given  
14 to the state fund under 39-71-2353 [sections 1 and 2] must  
15 be deposited in the account for claims for injuries  
16 resulting from accidents that occurred before July 1, 1990."

17 **Section 4.** Section 39-71-2351, MCA, is amended to read:

18 "**39-71-2351. Purpose of separation of state fund**  
19 **liability as of July 1, 1990, and of separate funding of**  
20 **claims before and on or after that date.** (1) An unfunded  
21 liability exists in the state fund. It has existed since at  
22 least the mid-1980s and has grown each year. There have been  
23 numerous attempts to solve the problem by legislation and  
24 other methods. These attempts have alleviated the problem  
25 somewhat, but the problem has not been solved.

1 (2) The legislature has determined that it is necessary  
2 to the public welfare to make workers' compensation  
3 insurance available to all employers through the state fund  
4 as the insurer of last resort. In making this insurance  
5 available, the state fund has incurred the unfunded  
6 liability. The legislature has determined that the most  
7 cost-effective and efficient way to provide a source of  
8 funding for and to ensure payment of the unfunded liability  
9 and the best way to administer the unfunded liability is to:

10 (a) separate the liability of the state fund on the  
11 basis of whether a claim is for an injury resulting from an  
12 accident that occurred before July 1, 1990, or an accident  
13 that occurs on or after that date;

14 (b) extend the payroll tax imposed by 39-71-2503 and  
15 dedicate the tax money first to the repayment of ~~loans-given~~  
16 bonds issued under 39-71-2353 [sections 1 and 2] and then to  
17 the repayment of loans given under [sections 1 and 2] and  
18 the direct payment of the costs of administering and paying  
19 claims for injuries from accidents that occurred before July  
20 1, 1990.

21 (3) The legislature further determines that in order to  
22 prevent the creation of a new unfunded liability with  
23 respect to claims for injuries for accidents that occur on  
24 or after July 1, 1990, certain duties of the state fund  
25 should be clarified and legislative oversight of the state

1 fund should be increased."

2 **Section 5.** Section 39-71-2352, MCA, is amended to read:

3 **"39-71-2352. Separate payment structure and sources for**  
4 **claims for injuries resulting from accidents that occurred**  
5 **before July 1, 1990, and on or after July 1, 1990 --**  
6 **spending limit.** (1) Premiums paid to the state fund based  
7 upon wages payable before July 1, 1990, may be used only to  
8 administer and pay claims for injuries resulting from  
9 accidents that occurred before July 1, 1990. Except as  
10 provided in 39-71-2316(9) and 39-71-2353 [section 1],  
11 premiums paid to the state fund based upon wages payable on  
12 or after July 1, 1990, may be used only to administer and  
13 pay claims for injuries resulting from accidents that occur  
14 on or after July 1, 1990.

15 (2) The state fund shall:

16 (a) determine the cost of administering and paying  
17 claims for injuries resulting from accidents that occurred  
18 before July 1, 1990, and separately determine the cost of  
19 administering and paying claims for injuries resulting from  
20 accidents that occur on or after July 1, 1990;

21 (b) keep adequate and separate accounts of the costs  
22 determined under subsection (2)(a); and

23 (c) fund administrative expenses and benefit payments  
24 for claims for injuries resulting from accidents that  
25 occurred before July 1, 1990, and claims for injuries

1 resulting from accidents that occur on or after July 1,  
2 1990, separately from the sources provided by law.

3 (3) The state fund may not spend more than \$3 million a  
4 year to administer claims for injuries resulting from  
5 accidents that occurred before July 1, 1990."

6 **Section 6.** Section 39-71-2503, MCA, is amended to read:

7 **"39-71-2503. Workers' compensation payroll tax.** (1) (a)  
8 There is imposed on each employer a workers' compensation  
9 payroll tax in an amount equal to 0.28% of the employer's  
10 payroll in the preceding calendar quarter for all  
11 employments covered under 39-71-401, except that if an  
12 employer is subject to 15-30-204(2), the tax is an amount  
13 equal to 0.28% of the employer's payroll in the preceding  
14 week. This payroll tax must be used to reduce the unfunded  
15 liability in the state fund incurred for claims for injuries  
16 resulting from accidents that occurred before July 1, 1990.  
17 ~~The department must report past and projected future tax~~  
18 ~~proceeds to the legislature, which shall consider the report~~  
19 ~~and determine the tax rate necessary for repayment of loans~~  
20 ~~with interest. If one or more loans or bonds are~~  
21 ~~outstanding, the tax must be continued at the 0.28% rate and~~  
22 ~~the legislature may not modify the tax rate, the use of the~~  
23 ~~tax proceeds, or this section in a manner that reduces the~~  
24 ~~security for repayment of the outstanding loans or bonds,~~  
25 ~~except that the legislature may forgive payment of the tax~~

1 or reduce the tax rate for any 12-month period if the  
 2 workers' compensation bond repayment account contains on the  
 3 first day of that period an amount that is in excess of the  
 4 reserve maintained in the account and that is equal to the  
 5 amount needed to pay and dedicated to the payment of the  
 6 principal, premium, and interest that must be paid during  
 7 that period on the outstanding loans or bonds.

8 (b) Each employer shall maintain the records the  
 9 department requires concerning the employer's payroll. The  
 10 records are subject to inspection by the department and its  
 11 employees and agents during regular business hours.

12 (2) All collections of the tax are appropriated to and  
 13 must be deposited as received in the tax account. The tax is  
 14 in addition to any other tax or fee assessed against  
 15 employers subject to the tax.

16 (3) (a) On or before the 20th day of May, August,  
 17 November, and February, each employer subject to the tax  
 18 shall file a return in the form and containing the  
 19 information required by the department and, except as  
 20 provided in subsection (3)(b), pay the amount of tax  
 21 required by this section to be paid on the employer's  
 22 payroll for the preceding calendar quarter.

23 (b) An employer subject to 15-30-204(2) shall remit to  
 24 the department a weekly payment with its weekly withholding  
 25 tax payment in the amount required by subsection (1)(a).

1 (c) A tax payment required by subsection (1)(a) must be  
 2 made with the return filed pursuant to 15-30-204. The  
 3 department shall first credit a payment to the liability  
 4 under 15-30-202 and credit any remainder to the workers'  
 5 compensation tax account provided in 39-71-2504.

6 (4) An employer's officer or employee with the duty to  
 7 collect, account for, and pay to the department the amounts  
 8 due under this section who willfully fails to pay an amount  
 9 is liable to the state for the unpaid amount and any penalty  
 10 and interest relating to that amount.

11 (5) Returns and remittances under subsection (3) and  
 12 any information obtained by the department during an audit  
 13 are subject to the provisions of 15-30-303, but the  
 14 department may disclose the information to the department of  
 15 labor and industry under circumstances and conditions that  
 16 ensure the continued confidentiality of the information.

17 (6) The department of labor and industry and the state  
 18 fund shall, on July 1, 1991, or as soon after that date as  
 19 possible, give the department a list of all employers having  
 20 coverage under any plan administered or regulated by the  
 21 department of labor and industry and the state fund. After  
 22 the lists have been given to the department, the department  
 23 of labor and industry and the state fund shall update the  
 24 lists weekly. The department of labor and industry and the  
 25 state fund shall provide the department with access to their

1 computer data bases and paper files and records for the  
2 purpose of the department's administration of the tax  
3 imposed by this section.

4 (7) The provisions of Title 15, chapter 30, not in  
5 conflict with the provisions of this part regarding  
6 administration, remedies, enforcement, collections,  
7 hearings, interest, deficiency assessments, credits for  
8 overpayment, statute of limitations, penalties, and  
9 department rulemaking authority apply to the tax, to  
10 employers, and to the department."

11 **Section 7.** Section 39-71-2504, MCA, is amended to read:

12 **"39-71-2504. Workers' compensation tax account.** (1)

13 There is a workers' compensation tax account in the state  
14 special revenue fund. The workers' compensation tax account  
15 consists of a tax account and a workers' compensation ~~loan~~  
16 bond repayment account.

17 (2) All collections of the tax, interest and penalties  
18 on the tax, and revenue appropriated to the workers'  
19 compensation tax account under section 11, Chapter 9,  
20 Special Laws of June 1989, must be deposited in the workers'  
21 compensation tax account. All such money deposited in the  
22 workers' compensation tax account must be credited to the  
23 workers' compensation ~~loan~~ bond repayment account to the  
24 extent necessary to pay the principal of and redemption  
25 premium and interest due on workers' compensation ~~loans~~

1 bonds issued under 39-71-2353 [sections 1 and 2] and to  
2 establish and maintain a reserve for the bonds equal to the  
3 maximum annual principal of and interest on the bonds in any  
4 future year. The balance in the workers' compensation ~~loan~~  
5 bond repayment account must be credited to the tax account  
6 within the workers' compensation tax account and is  
7 statutorily appropriated, as provided in 17-7-502, to the  
8 state fund to be used to reduce the unfunded liability in  
9 the state fund incurred for claims for injuries resulting  
10 from accidents that occurred before July 1, 1990."

11 **NEW SECTION. Section 8. Repealer.** Section 39-71-2353,  
12 MCA, is repealed.

13 **NEW SECTION. Section 9. Saving clause.** [This act] does  
14 not affect rights and duties that matured, penalties that  
15 were incurred, or proceedings that were begun before [the  
16 effective date of this act].

17 **NEW SECTION. Section 10. Severability.** If a part of  
18 [this act] is invalid, all valid parts that are severable  
19 from the invalid part remain in effect. If a part of [this  
20 act] is invalid in one or more of its applications, the part  
21 remains in effect in all valid applications that are  
22 severable from the invalid applications.

23 **NEW SECTION. Section 11. Codification instruction.**  
24 [Sections 1 and 2] are intended to be codified as an  
25 integral part of Title 39, chapter 71, part 23, and the



1 provisions of Title 39, chapter 71, part 23, apply to  
2 [sections 1 and 2].

3 NEW SECTION. **Section 12.** Requirements for approval of  
4 state debt. Because [this act] authorizes the creation of a  
5 state debt, a vote of two-thirds of the members of each  
6 house of the legislature is required for enactment of [this  
7 act]. If [this act] is not approved by the required vote,  
8 [this act] is void.

9 NEW SECTION. **Section 13.** Effective date. [This act] is  
10 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0995, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing the Board of Investments to issue bonds payable by the employer's payroll tax to pay off the unfunded liability in the state's workers' compensation insurance program and thereby creating a state debt.

ASSUMPTIONS:

1. Premiums paid to the state fund which were based on wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. At the end of FY90, the State Fund transferred approximately \$30 million of its \$42 million fund balance to a separate account for "old claims".
2. Under current law, the Board of Investments is required to loan the reserves of the new fund to the old fund at an annual interest rate of 7.5%. These reserves could be invested at 9% if they were not loaned. Increased earnings on these reserves would total \$79.3 million.
3. Under the proposed legislation, the Board of Investments may issue revenue bonds at 6.5% to finance the unfunded liability.
4. The payroll tax is 0.28% and covered payroll grows 5% per year.
5. The bond proposal would amortize the unfunded liability 2.5 years sooner than current law.

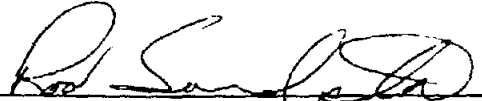
FISCAL IMPACT:

	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenues:</u>						
Employer Payroll Tax (02)	13,668,207	13,668,207	0	14,351,617	14,351,617	0
Interest Earnings (02)	<u>40,167</u>	<u>10,711,236</u>	<u>10,671,069</u>	<u>72,626</u>	<u>9,191,339</u>	<u>9,118,713</u>
Total	13,708,374	24,379,443	10,671,069	14,424,243	23,542,956	9,118,713

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Total benefit to the state would be \$196.3 million, as shown below.

	<u>Current Statute Loan</u>	<u>Proposed HB0995 Bond</u>	<u>Net Savings and Increased Earnings</u>
Payroll tax needed	\$760.3 million	\$643.3 million	\$117.0 million
Payroll tax duration	28 years	25.5 years	
Increased earnings on reserve		\$79.3 million	<u>\$ 79.3 million</u>
Total Benefit to the State			\$196.3 million

  
 ROD SUNDSTED, BUDGET DIRECTOR      3-20-91  
 Office of Budget and Program Planning      DATE

  
 HAL HARPER, PRIMARY SPONSOR      3-23-91  
 DATE

Fiscal Note for HB0995, as introduced.      **HB 995-1**

APPROVED BY COMMITTEE  
ON LABOR & EMPLOYMENT  
RELATIONS

HOUSE BILL NO. 995

INTRODUCED BY HARPER, MAZUREK, DRISCOLL, THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF INVESTMENTS TO ISSUE BONDS PAYABLE BY THE EMPLOYER'S PAYROLL TAX TO PAY OFF THE UNFUNDED LIABILITY IN THE STATE'S WORKERS' COMPENSATION INSURANCE PROGRAM; CREATING A STATE DEBT; ALLOWING MUTUALLY AGREEABLE LUMP-SUM SETTLEMENTS; AMENDING SECTIONS 39-71-2321, 39-71-2351, 39-71-2352, 39-71-2503, AND 39-71-2504, MCA; REPEALING SECTION 39-71-2353, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1.** Use of payroll tax proceeds --

loans -- bonds. (1) Taxes collected under 39-71-2503 may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990, including the cost of repaying bonds issued and loan proceeds given under [section 2] and this section. If the state fund determines that, for the next 1 or more years following the date of the determination, the tax revenue, together with funds in the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, will be insufficient to administer and pay those claims, the state fund may, through

its board of directors, request the budget director to certify to the board of investments that additional funding is necessary. If the budget director agrees with the state fund's board of directors that additional funding is necessary, the budget director shall certify to the board of investments the amount that the budget director determines is necessary to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Except as provided in subsection (2), the board of investments shall, at times and in amounts it considers necessary or advisable, finance the amount certified by the budget director by giving the state fund the proceeds of a loan or a bond issue to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Loans must be from reserves accumulated from premiums paid to the state fund based upon wages payable on or after July 1, 1990. The board of investments shall choose the method of financing that is most cost-effective for the state fund. A loan must bear interest at the rate the money would earn in the pooled investment fund required by 17-6-203. The board of investments may also, upon request of the board of directors of the state fund, give the state fund the proceeds of a bond issue, to be used to pay off loans made under [section 2] and this section. Bonds for the state fund must be workers' compensation bonds issued under

1 [section 2].

2 (2) The total amount of loan proceeds given to the  
3 state fund plus workers' compensation bonds issued under  
4 [section 2], except bonds issued to repay loans as provided  
5 for in subsection (1), may not exceed \$220 million. All loan  
6 and bond proceeds given to the state fund must be repaid to  
7 the board of investments before July 1, 2020.

8 NEW SECTION. Section 2. Workers' compensation bonds --  
9 loans -- form -- principal and interest. (1) Subject to the  
10 \$220 million limit contained in [section 1(2)], the board of  
11 investments may not give the state fund loan proceeds or  
12 issue workers' compensation bonds unless the aggregate  
13 amount of outstanding and proposed loans and bonds can be  
14 serviced with no more than 90% of the amount of tax revenue  
15 that the department of revenue estimates will be raised by  
16 the tax imposed under 39-71-2503 during the remainder of the  
17 then current fiscal year and during each succeeding fiscal  
18 year through the end of the fiscal year in which the last  
19 then outstanding or proposed loan or bond will be repaid or  
20 retired.

21 (2) Bonds are limited obligations payable solely from  
22 and secured by the money deposited in the workers'  
23 compensation bond repayment account created by 39-71-2504.  
24 Each series of bonds may be issued by the board of  
25 investments at public or private sale, in denominations and

1 form, whether payable to bearer or registered as to  
2 principal or both principal and interest, with such  
3 provisions for the conversion or exchange, bearing interest  
4 at a rate or rates or the method of determining the rate or  
5 rates, maturing at times, not later than June 30, 2020,  
6 subject to redemption at earlier times and prices and upon  
7 notice, and payable at the office of a fiscal agency of the  
8 state, as determined by the board of investments. Any action  
9 taken by the board of investments under [section 1] and this  
10 section must be approved by at least a majority vote of its  
11 members.

12 (3) In all other respects the board of investments is  
13 authorized to prescribe the form and terms of the bonds and  
14 shall do whatever is lawful and necessary for their issuance  
15 and payment.

16 (4) Bonds and any interest coupons appurtenant thereto  
17 must be signed by the members of the board of investments,  
18 and the bonds must be issued under the great seal of the  
19 state of Montana. The bonds and coupons may be executed with  
20 facsimile signatures and seal in the manner and subject to  
21 the limitations prescribed by law. The state treasurer shall  
22 keep a record of all bonds issued and sold.

23 (5) All loan and bond proceeds given to the state fund  
24 must be deposited to the credit of the account required by  
25 39-71-2321 for claims for injuries resulting from accidents

1 that occurred before July 1, 1990, and may be used only for  
 2 the administration and payment of those claims and for the  
 3 costs of giving the loan proceeds and issuing the bonds.

4 NEW SECTION. SECTION 3. MUTUALLY AGREEABLE LUMP-SUM  
 5 SETTLEMENTS. DURING THE PERIOD BEGINNING OCTOBER 1, 1991,  
 6 AND ENDING SEPTEMBER 30, 1992, A WORKERS' COMPENSATION  
 7 CLAIMANT AND THE STATE FUND MAY, REGARDLESS OF THE LUMP-SUM  
 8 LAW IN EFFECT ON THE DATE OF THE INJURY, MUTUALLY AGREE TO A  
 9 LUMP-SUM SETTLEMENT OF A CLAIM. IF A MUTUAL AGREEMENT IS NOT  
 10 REACHED, THE LUMP-SUM LAW IN EFFECT ON THE DATE OF THE  
 11 INJURY APPLIES.

12 **Section 4.** Section 39-71-2321, MCA, is amended to read:

13 "39-71-2321. What to be deposited in state fund. (1)  
 14 All premiums, penalties, recoveries by subrogation, interest  
 15 earned upon money belonging to the state fund, and  
 16 securities acquired by or through use of money must be  
 17 deposited in the state fund. They must be separated into two  
 18 accounts based upon whether they relate to claims for  
 19 injuries resulting from accidents that occurred before July  
 20 1, 1990, or claims for injuries resulting from accidents  
 21 that occur on or after that date.

22 (2) The ~~loan~~ proceeds of bonds issued and loans given  
 23 to the state fund under 39-71-2353 [sections 1 and 2] must  
 24 be deposited in the account for claims for injuries  
 25 resulting from accidents that occurred before July 1, 1990."

1 **Section 5.** Section 39-71-2351, MCA, is amended to read:

2 "39-71-2351. Purpose of separation of state fund  
 3 liability as of July 1, 1990, and of separate funding of  
 4 claims before and on or after that date. (1) An unfunded  
 5 liability exists in the state fund. It has existed since at  
 6 least the mid-1980s and has grown each year. There have been  
 7 numerous attempts to solve the problem by legislation and  
 8 other methods. These attempts have alleviated the problem  
 9 somewhat, but the problem has not been solved.

10 (2) The legislature has determined that it is necessary  
 11 to the public welfare to make workers' compensation  
 12 insurance available to all employers through the state fund  
 13 as the insurer of last resort. In making this insurance  
 14 available, the state fund has incurred the unfunded  
 15 liability. The legislature has determined that the most  
 16 cost-effective and efficient way to provide a source of  
 17 funding for and to ensure payment of the unfunded liability  
 18 and the best way to administer the unfunded liability is to:

19 (a) separate the liability of the state fund on the  
 20 basis of whether a claim is for an injury resulting from an  
 21 accident that occurred before July 1, 1990, or an accident  
 22 that occurs on or after that date;

23 (b) extend the payroll tax imposed by 39-71-2503 and  
 24 dedicate the tax money first to the repayment of ~~loans-given~~  
 25 bonds issued under 39-71-2353 [sections 1 and 2] and then to

1 the repayment of loans given under [sections 1 and 2] and  
 2 the direct payment of the costs of administering and paying  
 3 claims for injuries from accidents that occurred before July  
 4 1, 1990.

5 (3) The legislature further determines that in order to  
 6 prevent the creation of a new unfunded liability with  
 7 respect to claims for injuries for accidents that occur on  
 8 or after July 1, 1990, certain duties of the state fund  
 9 should be clarified and legislative oversight of the state  
 10 fund should be increased."

11 **Section 6.** Section 39-71-2352, MCA, is amended to read:

12 "39-71-2352. **Separate payment structure and sources for**  
 13 **claims for injuries resulting from accidents that occurred**  
 14 **before July 1, 1990, and on or after July 1, 1990 --**  
 15 **spending limit.** (1) Premiums paid to the state fund based  
 16 upon wages payable before July 1, 1990, may be used only to  
 17 administer and pay claims for injuries resulting from  
 18 accidents that occurred before July 1, 1990. Except as  
 19 provided in 39-71-2316(9) and ~~39-71-2353~~ [section 1],  
 20 premiums paid to the state fund based upon wages payable on  
 21 or after July 1, 1990, may be used only to administer and  
 22 pay claims for injuries resulting from accidents that occur  
 23 on or after July 1, 1990.

24 (2) The state fund shall:

25 (a) determine the cost of administering and paying

1 claims for injuries resulting from accidents that occurred  
 2 before July 1, 1990, and separately determine the cost of  
 3 administering and paying claims for injuries resulting from  
 4 accidents that occur on or after July 1, 1990;

5 (b) keep adequate and separate accounts of the costs  
 6 determined under subsection (2)(a); and

7 (c) fund administrative expenses and benefit payments  
 8 for claims for injuries resulting from accidents that  
 9 occurred before July 1, 1990, and claims for injuries  
 10 resulting from accidents that occur on or after July 1,  
 11 1990, separately from the sources provided by law.

12 (3) The state fund may not spend more than \$3 million a  
 13 year to administer claims for injuries resulting from  
 14 accidents that occurred before July 1, 1990."

15 **Section 7.** Section 39-71-2503, MCA, is amended to read:

16 "39-71-2503. **Workers' compensation payroll tax.** (1) (a)  
 17 There is imposed on each employer a workers' compensation  
 18 payroll tax in an amount equal to 0.28% of the employer's  
 19 payroll in the preceding calendar quarter for all  
 20 employments covered under 39-71-401, except that if an  
 21 employer is subject to 15-30-204(2), the tax is an amount  
 22 equal to 0.28% of the employer's payroll in the preceding  
 23 week. This payroll tax must be used to reduce the unfunded  
 24 liability in the state fund incurred for claims for injuries  
 25 resulting from accidents that occurred before July 1, 1990.

1 ~~The department must report past and projected future tax~~  
 2 ~~proceeds to the legislature, which shall consider the report~~  
 3 ~~and determine the tax rate necessary for repayment of loans~~  
 4 ~~with interest. If one or more loans or bonds are~~  
 5 ~~outstanding, the tax must be continued at the 0.28% rate and~~  
 6 ~~the legislature may not modify the tax rate, the use of the~~  
 7 ~~tax proceeds, or this section in a manner that reduces the~~  
 8 ~~security for repayment of the outstanding loans or bonds,~~  
 9 ~~except that the legislature may forgive payment of the tax~~  
 10 ~~or reduce the tax rate for any 12-month period if the~~  
 11 ~~workers' compensation bond repayment account contains on the~~  
 12 ~~first day of that period an amount, REGARDLESS OF THE~~  
 13 ~~SOURCE, that is in excess of the reserve maintained in the~~  
 14 ~~account and that is equal to the amount needed to pay and~~  
 15 ~~dedicated to the payment of the principal, premium, and~~  
 16 ~~interest that must be paid during that period on the~~  
 17 ~~outstanding loans or bonds.~~

18 (b) Each employer shall maintain the records the  
 19 department requires concerning the employer's payroll. The  
 20 records are subject to inspection by the department and its  
 21 employees and agents during regular business hours.

22 (2) All collections of the tax are appropriated to and  
 23 must be deposited as received in the tax account. The tax is  
 24 in addition to any other tax or fee assessed against  
 25 employers subject to the tax.

1 (3) (a) On or before the 20th day of May, August,  
 2 November, and February, each employer subject to the tax  
 3 shall file a return in the form and containing the  
 4 information required by the department and, except as  
 5 provided in subsection (3)(b), pay the amount of tax  
 6 required by this section to be paid on the employer's  
 7 payroll for the preceding calendar quarter.

8 (b) An employer subject to 15-30-204(2) shall remit to  
 9 the department a weekly payment with its weekly withholding  
 10 tax payment in the amount required by subsection (1)(a).

11 (c) A tax payment required by subsection (1)(a) must be  
 12 made with the return filed pursuant to 15-30-204. The  
 13 department shall first credit a payment to the liability  
 14 under 15-30-202 and credit any remainder to the workers'  
 15 compensation tax account provided in 39-71-2504.

16 (4) An employer's officer or employee with the duty to  
 17 collect, account for, and pay to the department the amounts  
 18 due under this section who willfully fails to pay an amount  
 19 is liable to the state for the unpaid amount and any penalty  
 20 and interest relating to that amount.

21 (5) Returns and remittances under subsection (3) and  
 22 any information obtained by the department during an audit  
 23 are subject to the provisions of 15-30-303, but the  
 24 department may disclose the information to the department of  
 25 labor and industry under circumstances and conditions that

1 ensure the continued confidentiality of the information.

2 (6) The department of labor and industry and the state  
 3 fund shall, on July 1, 1991, or as soon after that date as  
 4 possible, give the department a list of all employers having  
 5 coverage under any plan administered or regulated by the  
 6 department of labor and industry and the state fund. After  
 7 the lists have been given to the department, the department  
 8 of labor and industry and the state fund shall update the  
 9 lists weekly. The department of labor and industry and the  
 10 state fund shall provide the department with access to their  
 11 computer data bases and paper files and records for the  
 12 purpose of the department's administration of the tax  
 13 imposed by this section.

14 (7) The provisions of Title 15, chapter 30, not in  
 15 conflict with the provisions of this part regarding  
 16 administration, remedies, enforcement, collections,  
 17 hearings, interest, deficiency assessments, credits for  
 18 overpayment, statute of limitations, penalties, and  
 19 department rulemaking authority apply to the tax, to  
 20 employers, and to the department."

21 **Section 8.** Section 39-71-2504, MCA, is amended to read:  
 22 **"39-71-2504. Workers' compensation tax account.** (1)  
 23 There is a workers' compensation tax account in the state  
 24 special revenue fund. The workers' compensation tax account  
 25 consists of a tax account and a workers' compensation loan

1 bond repayment account.

2 (2) All collections of the tax, interest and penalties  
 3 on the tax, and revenue appropriated to the workers'  
 4 compensation tax account under section 11, Chapter 9,  
 5 Special Laws of June 1989, must be deposited in the workers'  
 6 compensation tax account. All such money deposited in the  
 7 workers' compensation tax account must be credited to the  
 8 workers' compensation ~~loan~~ bond repayment account to the  
 9 extent necessary to pay the principal of and redemption  
 10 premium and interest due on workers' compensation ~~loans~~  
 11 bonds issued under 39-71-2353 [sections 1 and 2] and to  
 12 establish and maintain a reserve for the bonds equal to the  
 13 maximum annual principal of and interest on the bonds in any  
 14 future year. The balance in the workers' compensation ~~loan~~  
 15 bond repayment account must be credited to the tax account  
 16 within the workers' compensation tax account and is  
 17 statutorily appropriated, as provided in 17-7-502, to the  
 18 state fund to be used to reduce the unfunded liability in  
 19 the state fund incurred for claims for injuries resulting  
 20 from accidents that occurred before July 1, 1990."

21 NEW SECTION. Section 9. Repealer. Section 39-71-2353,  
 22 MCA, is repealed.

23 NEW SECTION. Section 10. Saving clause. [This act]  
 24 does not affect rights and duties that matured, penalties  
 25 that were incurred, or proceedings that were begun before



1 [the effective date of this act].

2 NEW SECTION. Section 11. Severability. If a part of  
3 [this act] is invalid, all valid parts that are severable  
4 from the invalid part remain in effect. If a part of [this  
5 act] is invalid in one or more of its applications, the part  
6 remains in effect in all valid applications that are  
7 severable from the invalid applications.

8 NEW SECTION. Section 12. Codification instruction.  
9 [Sections 1 and-2 THROUGH 3] are intended to be codified as  
10 an integral part of Title 39, chapter 71, part 23, and the  
11 provisions of Title 39, chapter 71, part 23, apply to  
12 [sections 1 and-2 THROUGH 3].

13 NEW SECTION. Section 13. Requirements for approval of  
14 state debt. Because [this act] authorizes the creation of a  
15 state debt, a vote of two-thirds of the members of each  
16 house of the legislature is required for enactment of [this  
17 act]. If [this act] is not approved by the required vote,  
18 [this act] is void.

19 NEW SECTION. Section 14. Effective date. [This act] is  
20 effective July 1, 1991.

-End-

1 HOUSE BILL NO. 995  
 2 INTRODUCED BY HARPER, MAZUREK, DRISCOLL, THOMAS  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD  
 5 OF INVESTMENTS TO ISSUE BONDS PAYABLE BY THE EMPLOYER'S  
 6 PAYROLL TAX TO PAY OFF THE UNFUNDED LIABILITY IN THE STATE'S  
 7 WORKERS' COMPENSATION INSURANCE PROGRAM; CREATING A STATE  
 8 DEBT; ALLOWING MUTUALLY AGREEABLE LUMP-SUM SETTLEMENTS;  
 9 AMENDING SECTIONS 39-71-2321, 39-71-2351, 39-71-2352,  
 10 39-71-2503, AND 39-71-2504, MCA; REPEALING SECTION  
 11 39-71-2353, MCA; AND PROVIDING AN EFFECTIVE DATE."  
 12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 14 NEW SECTION. Section 1. Use of payroll tax proceeds --  
 15 loans -- bonds. (1) Taxes collected under 39-71-2503 may be  
 16 used only to administer and pay claims for injuries  
 17 resulting from accidents that occurred before July 1, 1990,  
 18 including the cost of repaying bonds issued and loan  
 19 proceeds given under [section 2] and this section. If the  
 20 state fund determines that, for the next 1 or more years  
 21 following the date of the determination, the tax revenue,  
 22 together with funds in the account required by 39-71-2321  
 23 for claims for injuries resulting from accidents that  
 24 occurred before July 1, 1990, will be insufficient to  
 25 administer and pay those claims, the state fund may, through

1 its board of directors, request the budget director to  
 2 certify to the board of investments that additional funding  
 3 is necessary. If the budget director agrees with the state  
 4 fund's board of directors that additional funding is  
 5 necessary, the budget director shall certify to the board of  
 6 investments the amount that the budget director determines  
 7 is necessary to administer and pay claims for injuries  
 8 resulting from accidents that occurred before July 1, 1990.  
 9 Except as provided in subsection (2), the board of  
 10 investments shall, at times and in amounts it considers  
 11 necessary or advisable, finance the amount certified by the  
 12 budget director by giving the state fund the proceeds of a  
 13 loan or a bond issue to administer and pay claims for  
 14 injuries resulting from accidents that occurred before July  
 15 1, 1990. Loans must be from reserves accumulated from  
 16 premiums paid to the state fund based upon wages payable on  
 17 or after July 1, 1990. The board of investments shall choose  
 18 the method of financing that is most cost-effective for the  
 19 state fund. A loan must bear interest at the rate the money  
 20 would earn in the pooled investment fund required by  
 21 17-6-203. The board of investments may also, upon request of  
 22 the board of directors of the state fund, give the state  
 23 fund the proceeds of a bond issue, to be used to pay off  
 24 loans made under [section 2] and this section. Bonds for the  
 25 state fund must be workers' compensation bonds issued under



1 [section 2].

2 (2) The total amount of loan proceeds given to the  
3 state fund plus workers' compensation bonds issued under  
4 [section 2], except bonds issued to repay loans as provided  
5 for in subsection (1), may not exceed \$220 million. All loan  
6 and bond proceeds given to the state fund must be repaid to  
7 the board of investments before July 1, 2020.

8 NEW SECTION. **Section 2. Workers' compensation bonds --**  
9 **loans -- form -- principal and interest.** (1) Subject to the  
10 \$220 million limit contained in [section 1(2)], the board of  
11 investments may not give the state fund loan proceeds or  
12 issue workers' compensation bonds unless the aggregate  
13 amount of outstanding and proposed loans and bonds can be  
14 serviced with no more than 90% of the amount of tax revenue  
15 that the department of revenue estimates will be raised by  
16 the tax imposed under 39-71-2503 during the remainder of the  
17 then current fiscal year and during each succeeding fiscal  
18 year through the end of the fiscal year in which the last  
19 then outstanding or proposed loan or bond will be repaid or  
20 retired.

21 (2) Bonds are limited obligations payable solely from  
22 and secured by the money deposited in the workers'  
23 compensation bond repayment account created by 39-71-2504.  
24 Each series of bonds may be issued by the board of  
25 investments at public or private sale, in denominations and

1 form, whether payable to bearer or registered as to  
2 principal or both principal and interest, with such  
3 provisions for the conversion or exchange, bearing interest  
4 at a rate or rates or the method of determining the rate or  
5 rates, maturing at times, not later than June 30, 2020,  
6 subject to redemption at earlier times and prices and upon  
7 notice, and payable at the office of a fiscal agency of the  
8 state, as determined by the board of investments. Any action  
9 taken by the board of investments under [section 1] and this  
10 section must be approved by at least a majority vote of its  
11 members.

12 (3) In all other respects the board of investments is  
13 authorized to prescribe the form and terms of the bonds and  
14 shall do whatever is lawful and necessary for their issuance  
15 and payment.

16 (4) Bonds and any interest coupons appurtenant thereto  
17 must be signed by the members of the board of investments,  
18 and the bonds must be issued under the great seal of the  
19 state of Montana. The bonds and coupons may be executed with  
20 facsimile signatures and seal in the manner and subject to  
21 the limitations prescribed by law. The state treasurer shall  
22 keep a record of all bonds issued and sold.

23 (5) All loan and bond proceeds given to the state fund  
24 must be deposited to the credit of the account required by  
25 39-71-2321 for claims for injuries resulting from accidents

1 that occurred before July 1, 1990, and may be used only for  
2 the administration and payment of those claims and for the  
3 costs of giving the loan proceeds and issuing the bonds.

4 NEW SECTION. SECTION 3. MUTUALLY AGREEABLE LUMP-SUM  
5 SETTLEMENTS. DURING THE PERIOD BEGINNING OCTOBER 1, 1991,  
6 AND ENDING SEPTEMBER 30, 1992, A WORKERS' COMPENSATION  
7 CLAIMANT AND THE STATE FUND MAY, REGARDLESS OF THE LUMP-SUM  
8 LAW IN EFFECT ON THE DATE OF THE INJURY, MUTUALLY AGREE TO A  
9 LUMP-SUM SETTLEMENT OF A CLAIM. IF A MUTUAL AGREEMENT IS NOT  
10 REACHED, THE LUMP-SUM LAW IN EFFECT ON THE DATE OF THE  
11 INJURY APPLIES.

12 **Section 4.** Section 39-71-2321, MCA, is amended to read:

13 "39-71-2321. What to be deposited in state fund. (1)  
14 All premiums, penalties, recoveries by subrogation, interest  
15 earned upon money belonging to the state fund, and  
16 securities acquired by or through use of money must be  
17 deposited in the state fund. They must be separated into two  
18 accounts based upon whether they relate to claims for  
19 injuries resulting from accidents that occurred before July  
20 1, 1990, or claims for injuries resulting from accidents  
21 that occur on or after that date.

22 (2) The loan proceeds of bonds issued and loans given  
23 to the state fund under 39-71-2353 [sections 1 and 2] must  
24 be deposited in the account for claims for injuries  
25 resulting from accidents that occurred before July 1, 1990."

1 **Section 5.** Section 39-71-2351, MCA, is amended to read:

2 "39-71-2351. Purpose of separation of state fund  
3 liability as of July 1, 1990, and of separate funding of  
4 claims before and on or after that date. (1) An unfunded  
5 liability exists in the state fund. It has existed since at  
6 least the mid-1980s and has grown each year. There have been  
7 numerous attempts to solve the problem by legislation and  
8 other methods. These attempts have alleviated the problem  
9 somewhat, but the problem has not been solved.

10 (2) The legislature has determined that it is necessary  
11 to the public welfare to make workers' compensation  
12 insurance available to all employers through the state fund  
13 as the insurer of last resort. In making this insurance  
14 available, the state fund has incurred the unfunded  
15 liability. The legislature has determined that the most  
16 cost-effective and efficient way to provide a source of  
17 funding for and to ensure payment of the unfunded liability  
18 and the best way to administer the unfunded liability is to:

19 (a) separate the liability of the state fund on the  
20 basis of whether a claim is for an injury resulting from an  
21 accident that occurred before July 1, 1990, or an accident  
22 that occurs on or after that date;

23 (b) extend the payroll tax imposed by 39-71-2503 and  
24 dedicate the tax money first to the repayment of loans-given  
25 bonds issued under 39-71-2353 [sections 1 and 2] and then to

1 the repayment of loans given under [sections 1 and 2] and  
 2 the direct payment of the costs of administering and paying  
 3 claims for injuries from accidents that occurred before July  
 4 1, 1990.

5 (3) The legislature further determines that in order to  
 6 prevent the creation of a new unfunded liability with  
 7 respect to claims for injuries for accidents that occur on  
 8 or after July 1, 1990, certain duties of the state fund  
 9 should be clarified and legislative oversight of the state  
 10 fund should be increased."

11 **Section 6.** Section 39-71-2352, MCA, is amended to read:

12 **"39-71-2352. Separate payment structure and sources for**  
 13 **claims for injuries resulting from accidents that occurred**  
 14 **before July 1, 1990, and on or after July 1, 1990 --**  
 15 **spending limit.** (1) Premiums paid to the state fund based  
 16 upon wages payable before July 1, 1990, may be used only to  
 17 administer and pay claims for injuries resulting from  
 18 accidents that occurred before July 1, 1990. Except as  
 19 provided in 39-71-2316(9) and 39-71-2353 [section 1],  
 20 premiums paid to the state fund based upon wages payable on  
 21 or after July 1, 1990, may be used only to administer and  
 22 pay claims for injuries resulting from accidents that occur  
 23 on or after July 1, 1990.

24 (2) The state fund shall:

25 (a) determine the cost of administering and paying

1 claims for injuries resulting from accidents that occurred  
 2 before July 1, 1990, and separately determine the cost of  
 3 administering and paying claims for injuries resulting from  
 4 accidents that occur on or after July 1, 1990;

5 (b) keep adequate and separate accounts of the costs  
 6 determined under subsection (2)(a); and

7 (c) fund administrative expenses and benefit payments  
 8 for claims for injuries resulting from accidents that  
 9 occurred before July 1, 1990, and claims for injuries  
 10 resulting from accidents that occur on or after July 1,  
 11 1990, separately from the sources provided by law.

12 (3) The state fund may not spend more than \$3 million a  
 13 year to administer claims for injuries resulting from  
 14 accidents that occurred before July 1, 1990."

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 17 There is imposed on each employer a workers' compensation  
 18 payroll tax in an amount equal to 0.28% of the employer's  
 19 payroll in the preceding calendar quarter for all  
 20 employments covered under 39-71-401, except that if an  
 21 employer is subject to 15-30-204(2), the tax is an amount  
 22 equal to 0.28% of the employer's payroll in the preceding  
 23 week. This payroll tax must be used to reduce the unfunded  
 24 liability in the state fund incurred for claims for injuries  
 25 resulting from accidents that occurred before July 1, 1990.

1 ~~The department must report past and projected future tax~~  
 2 ~~proceeds to the legislature, which shall consider the report~~  
 3 ~~and determine the tax rate necessary for repayment of loans~~  
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 5 ~~outstanding, the tax must be continued at the 0.28% rate and~~  
 6 ~~the legislature may not modify the tax rate, the use of the~~  
 7 ~~tax proceeds, or this section in a manner that reduces the~~  
 8 ~~security for repayment of the outstanding loans or bonds,~~  
 9 ~~except that the legislature may forgive payment of the tax~~  
 10 ~~or reduce the tax rate for any 12-month period if the~~  
 11 ~~workers' compensation bond repayment account contains on the~~  
 12 ~~first day of that period an amount, REGARDLESS OF THE~~  
 13 ~~SOURCE, that is in excess of the reserve maintained in the~~  
 14 ~~account and that is equal to the amount needed to pay and~~  
 15 ~~dedicated to the payment of the principal, premium, and~~  
 16 ~~interest that must be paid during that period on the~~  
 17 ~~outstanding loans or bonds. THE LEGISLATURE MAY NOT INCREASE~~  
 18 ~~THE TAX RATE EXCEPT UPON A TWO-THIRDS VOTE OF EACH HOUSE.~~

19 (b) Each employer shall maintain the records the  
 20 department requires concerning the employer's payroll. The  
 21 records are subject to inspection by the department and its  
 22 employees and agents during regular business hours.

23 (2) All collections of the tax are appropriated to and  
 24 must be deposited as received in the tax account. The tax is  
 25 in addition to any other tax or fee assessed against

1 employers subject to the tax.

2 (3) (a) On or before the 20th day of May, August,  
 3 November, and February, each employer subject to the tax  
 4 shall file a return in the form and containing the  
 5 information required by the department and, except as  
 6 provided in subsection (3)(b), pay the amount of tax  
 7 required by this section to be paid on the employer's  
 8 payroll for the preceding calendar quarter.

9 (b) An employer subject to 15-30-204(2) shall remit to  
 10 the department a weekly payment with its weekly withholding  
 11 tax payment in the amount required by subsection (1)(a).

12 (c) A tax payment required by subsection (1)(a) must be  
 13 made with the return filed pursuant to 15-30-204. The  
 14 department shall first credit a payment to the liability  
 15 under 15-30-202 and credit any remainder to the workers'  
 16 compensation tax account provided in 39-71-2504.

17 (4) An employer's officer or employee with the duty to  
 18 collect, account for, and pay to the department the amounts  
 19 due under this section who willfully fails to pay an amount  
 20 is liable to the state for the unpaid amount and any penalty  
 21 and interest relating to that amount.

22 (5) Returns and remittances under subsection (3) and  
 23 any information obtained by the department during an audit  
 24 are subject to the provisions of 15-30-303, but the  
 25 department may disclose the information to the department of

1 labor and industry under circumstances and conditions that  
2 ensure the continued confidentiality of the information.

3 (6) The department of labor and industry and the state  
4 fund shall, on July 1, 1991, or as soon after that date as  
5 possible, give the department a list of all employers having  
6 coverage under any plan administered or regulated by the  
7 department of labor and industry and the state fund. After  
8 the lists have been given to the department, the department  
9 of labor and industry and the state fund shall update the  
10 lists weekly. The department of labor and industry and the  
11 state fund shall provide the department with access to their  
12 computer data bases and paper files and records for the  
13 purpose of the department's administration of the tax  
14 imposed by this section.

15 (7) The provisions of Title 15, chapter 30, not in  
16 conflict with the provisions of this part regarding  
17 administration, remedies, enforcement, collections,  
18 hearings, interest, deficiency assessments, credits for  
19 overpayment, statute of limitations, penalties, and  
20 department rulemaking authority apply to the tax, to  
21 employers, and to the department."

22 **Section 8.** Section 39-71-2504, MCA, is amended to read:

23 "39-71-2504. **Workers' compensation tax account.** (1)  
24 There is a workers' compensation tax account in the state  
25 special revenue fund. The workers' compensation tax account

1 consists of a tax account and a workers' compensation ~~loan~~  
2 bond repayment account.

3 (2) All collections of the tax, interest and penalties  
4 on the tax, and revenue appropriated to the workers'  
5 compensation tax account under section 11, Chapter 9,  
6 Special Laws of June 1989, must be deposited in the workers'  
7 compensation tax account. All such money deposited in the  
8 workers' compensation tax account must be credited to the  
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12 bonds issued under 39-71-2353 [sections 1 and 2] and to  
13 establish and maintain a reserve for the bonds equal to the  
14 maximum annual principal of and interest on the bonds in any  
15 future year. The balance in the workers' compensation ~~loan~~  
16 bond repayment account must be credited to the tax account  
17 within the workers' compensation tax account and is  
18 statutorily appropriated, as provided in 17-7-502, to the  
19 state fund to be used to reduce the unfunded liability in  
20 the state fund incurred for claims for injuries resulting  
21 from accidents that occurred before July 1, 1990."

22 **NEW SECTION. Section 9.** Repealer. Section 39-71-2353,  
23 MCA, is repealed.

24 **NEW SECTION. Section 10.** Saving clause. [This act]  
25 does not affect rights and duties that matured, penalties

1 that were incurred, or proceedings that were begun before  
2 [the effective date of this act].

3 NEW SECTION. **Section 11.** Severability. If a part of  
4 [this act] is invalid, all valid parts that are severable  
5 from the invalid part remain in effect. If a part of [this  
6 act] is invalid in one or more of its applications, the part  
7 remains in effect in all valid applications that are  
8 severable from the invalid applications.

9 NEW SECTION. **Section 12.** Codification instruction.  
10 [Sections 1 and-2 THROUGH 3] are intended to be codified as  
11 an integral part of Title 39, chapter 71, part 23, and the  
12 provisions of Title 39, chapter 71, part 23, apply to  
13 [sections 1 and-2 THROUGH 3].

14 NEW SECTION. **Section 13.** Requirements for approval of  
15 state debt. Because [this act] authorizes the creation of a  
16 state debt, a vote of two-thirds of the members of each  
17 house of the legislature is required for enactment of [this  
18 act]. If [this act] is not approved by the required vote,  
19 [this act] is void.

20 NEW SECTION. **Section 14.** Effective date. [This act] is  
21 effective July 1, 1991.

-End-



SENATE COMMITTEE OF THE WHOLE AMENDMENT

April 17, 1991 7:27 am

Mr. Chairman: I move to amend House Bill No. 995 (reference bill) as follows:

1. Title, line 8.

Strike: "ALLOWING MUTUALLY AGREEABLE LUMP-SUM SETTLEMENTS;"

2. Page 5, lines 4 through 11.

Strike: section 3 in its entirety.

Re-number: subsequent sections

3. Page 13, lines 10 and 13.

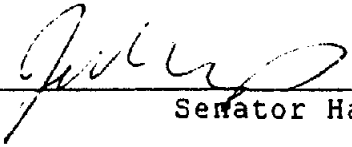
Strike: "THROUGH 3"

Insert: "and 2"

ADOPT

REJECT

Signed: \_\_\_\_\_

  
Senator Harp

4-17-91  
App. Coord.

SB 4/17  
Sec. of Senate

SENATE

HB 995

## 1 HOUSE BILL NO. 995

2 INTRODUCED BY HARPER, MAZUREK, DRISCOLL, THOMAS

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD  
5 OF INVESTMENTS TO ISSUE BONDS PAYABLE BY THE EMPLOYER'S  
6 PAYROLL TAX TO PAY OFF THE UNFUNDED LIABILITY IN THE STATE'S  
7 WORKERS' COMPENSATION INSURANCE PROGRAM; CREATING A STATE  
8 DEBT; ALLOWING MUTUALLY AGREEABLE LUMP-SUM SETTLEMENTS;  
9 AMENDING SECTIONS 39-71-2321, 39-71-2351, 39-71-2352,  
10 39-71-2503, AND 39-71-2504, MCA; REPEALING SECTION  
11 39-71-2353, MCA; AND PROVIDING AN EFFECTIVE DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Use of payroll tax proceeds --  
15 loans -- bonds. (1) Taxes collected under 39-71-2503 may be  
16 used only to administer and pay claims for injuries  
17 resulting from accidents that occurred before July 1, 1990,  
18 including the cost of repaying bonds issued and loan  
19 proceeds given under [section 2] and this section. If the  
20 state fund determines that, for the next 1 or more years  
21 following the date of the determination, the tax revenue,  
22 together with funds in the account required by 39-71-2321  
23 for claims for injuries resulting from accidents that  
24 occurred before July 1, 1990, will be insufficient to  
25 administer and pay those claims, the state fund may, through

1 its board of directors, request the budget director to  
2 certify to the board of investments that additional funding  
3 is necessary. If the budget director agrees with the state  
4 fund's board of directors that additional funding is  
5 necessary, the budget director shall certify to the board of  
6 investments the amount that the budget director determines  
7 is necessary to administer and pay claims for injuries  
8 resulting from accidents that occurred before July 1, 1990.  
9 Except as provided in subsection (2), the board of  
10 investments shall, at times and in amounts it considers  
11 necessary or advisable, finance the amount certified by the  
12 budget director by giving the state fund the proceeds of a  
13 loan or a bond issue to administer and pay claims for  
14 injuries resulting from accidents that occurred before July  
15 1, 1990. Loans must be from reserves accumulated from  
16 premiums paid to the state fund based upon wages payable on  
17 or after July 1, 1990. The board of investments shall choose  
18 the method of financing that is most cost-effective for the  
19 state fund. A loan must bear interest at the rate the money  
20 would earn in the pooled investment fund required by  
21 17-6-203. The board of investments may also, upon request of  
22 the board of directors of the state fund, give the state  
23 fund the proceeds of a bond issue, to be used to pay off  
24 loans made under [section 2] and this section. Bonds for the  
25 state fund must be workers' compensation bonds issued under

1 [section 2].

2 (2) The total amount of loan proceeds given to the  
3 state fund plus workers' compensation bonds issued under  
4 [section 2], except bonds issued to repay loans as provided  
5 for in subsection (1), may not exceed \$220 million. All loan  
6 and bond proceeds given to the state fund must be repaid to  
7 the board of investments before July 1, 2020.

8 NEW SECTION. **Section 2. Workers' compensation bonds --**  
9 **loans -- form -- principal and interest.** (1) Subject to the  
10 \$220 million limit contained in [section 1(2)], the board of  
11 investments may not give the state fund loan proceeds or  
12 issue workers' compensation bonds unless the aggregate  
13 amount of outstanding and proposed loans and bonds can be  
14 serviced with no more than 90% of the amount of tax revenue  
15 that the department of revenue estimates will be raised by  
16 the tax imposed under 39-71-2503 during the remainder of the  
17 then current fiscal year and during each succeeding fiscal  
18 year through the end of the fiscal year in which the last  
19 then outstanding or proposed loan or bond will be repaid or  
20 retired.

21 (2) Bonds are limited obligations payable solely from  
22 and secured by the money deposited in the workers'  
23 compensation bond repayment account created by 39-71-2504.  
24 Each series of bonds may be issued by the board of  
25 investments at public or private sale, in denominations and

1 form, whether payable to bearer or registered as to  
2 principal or both principal and interest, with such  
3 provisions for the conversion or exchange, bearing interest  
4 at a rate or rates or the method of determining the rate or  
5 rates, maturing at times, not later than June 30, 2020,  
6 subject to redemption at earlier times and prices and upon  
7 notice, and payable at the office of a fiscal agency of the  
8 state, as determined by the board of investments. Any action  
9 taken by the board of investments under [section 1] and this  
10 section must be approved by at least a majority vote of its  
11 members.

12 (3) In all other respects the board of investments is  
13 authorized to prescribe the form and terms of the bonds and  
14 shall do whatever is lawful and necessary for their issuance  
15 and payment.

16 (4) Bonds and any interest coupons appurtenant thereto  
17 must be signed by the members of the board of investments,  
18 and the bonds must be issued under the great seal of the  
19 state of Montana. The bonds and coupons may be executed with  
20 facsimile signatures and seal in the manner and subject to  
21 the limitations prescribed by law. The state treasurer shall  
22 keep a record of all bonds issued and sold.

23 (5) All loan and bond proceeds given to the state fund  
24 must be deposited to the credit of the account required by  
25 39-71-2321 for claims for injuries resulting from accidents

1 that occurred before July 1, 1990, and may be used only for  
2 the administration and payment of those claims and for the  
3 costs of giving the loan proceeds and issuing the bonds.

4 NEW SECTION. SECTION 3. MUTUALLY AGREEABLE LUMP-SUM  
5 SETTLEMENTS. DURING THE PERIOD BEGINNING OCTOBER 1, 1991,  
6 AND ENDING SEPTEMBER 30, 1992, A WORKERS' COMPENSATION  
7 CLAIMANT AND THE STATE FUND MAY, REGARDLESS OF THE LUMP-SUM  
8 LAW IN EFFECT ON THE DATE OF THE INJURY, MUTUALLY AGREE TO A  
9 LUMP-SUM SETTLEMENT OF A CLAIM. IF A MUTUAL AGREEMENT IS NOT  
10 REACHED, THE LUMP-SUM LAW IN EFFECT ON THE DATE OF THE  
11 INJURY APPLIES.

12 **Section 4.** Section 39-71-2321, MCA, is amended to read:

13 "39-71-2321. What to be deposited in state fund. (1)  
14 All premiums, penalties, recoveries by subrogation, interest  
15 earned upon money belonging to the state fund, and  
16 securities acquired by or through use of money must be  
17 deposited in the state fund. They must be separated into two  
18 accounts based upon whether they relate to claims for  
19 injuries resulting from accidents that occurred before July  
20 1, 1990, or claims for injuries resulting from accidents  
21 that occur on or after that date.

22 (2) The loan proceeds of bonds issued and loans given  
23 to the state fund under 39-71-2353 [sections 1 and 2] must  
24 be deposited in the account for claims for injuries  
25 resulting from accidents that occurred before July 1, 1990."

1 **Section 5.** Section 39-71-2351, MCA, is amended to read:

2 "39-71-2351. Purpose of separation of state fund  
3 liability as of July 1, 1990, and of separate funding of  
4 claims before and on or after that date. (1) An unfunded  
5 liability exists in the state fund. It has existed since at  
6 least the mid-1980s and has grown each year. There have been  
7 numerous attempts to solve the problem by legislation and  
8 other methods. These attempts have alleviated the problem  
9 somewhat, but the problem has not been solved.

10 (2) The legislature has determined that it is necessary  
11 to the public welfare to make workers' compensation  
12 insurance available to all employers through the state fund  
13 as the insurer of last resort. In making this insurance  
14 available, the state fund has incurred the unfunded  
15 liability. The legislature has determined that the most  
16 cost-effective and efficient way to provide a source of  
17 funding for and to ensure payment of the unfunded liability  
18 and the best way to administer the unfunded liability is to:

19 (a) separate the liability of the state fund on the  
20 basis of whether a claim is for an injury resulting from an  
21 accident that occurred before July 1, 1990, or an accident  
22 that occurs on or after that date;

23 (b) extend the payroll tax imposed by 39-71-2503 and  
24 dedicate the tax money first to the repayment of loans-given  
25 bonds issued under 39-71-2353 [sections 1 and 2] and then to

1 the repayment of loans given under [sections 1 and 2] and  
 2 the direct payment of the costs of administering and paying  
 3 claims for injuries from accidents that occurred before July  
 4 1, 1990.

5 (3) The legislature further determines that in order to  
 6 prevent the creation of a new unfunded liability with  
 7 respect to claims for injuries for accidents that occur on  
 8 or after July 1, 1990, certain duties of the state fund  
 9 should be clarified and legislative oversight of the state  
 10 fund should be increased."

11 **Section 6.** Section 39-71-2352, MCA, is amended to read:

12 "39-71-2352. **Separate payment structure and sources for**  
 13 **claims for injuries resulting from accidents that occurred**  
 14 **before July 1, 1990, and on or after July 1, 1990 --**  
 15 **spending limit.** (1) Premiums paid to the state fund based  
 16 upon wages payable before July 1, 1990, may be used only to  
 17 administer and pay claims for injuries resulting from  
 18 accidents that occurred before July 1, 1990. Except as  
 19 provided in 39-71-2316(9) and ~~39-71-2353~~ [section 1],  
 20 premiums paid to the state fund based upon wages payable on  
 21 or after July 1, 1990, may be used only to administer and  
 22 pay claims for injuries resulting from accidents that occur  
 23 on or after July 1, 1990.

24 (2) The state fund shall:

25 (a) determine the cost of administering and paying

1 claims for injuries resulting from accidents that occurred  
 2 before July 1, 1990, and separately determine the cost of  
 3 administering and paying claims for injuries resulting from  
 4 accidents that occur on or after July 1, 1990;

5 (b) keep adequate and separate accounts of the costs  
 6 determined under subsection (2)(a); and

7 (c) fund administrative expenses and benefit payments  
 8 for claims for injuries resulting from accidents that  
 9 occurred before July 1, 1990, and claims for injuries  
 10 resulting from accidents that occur on or after July 1,  
 11 1990, separately from the sources provided by law.

12 (3) The state fund may not spend more than \$3 million a  
 13 year to administer claims for injuries resulting from  
 14 accidents that occurred before July 1, 1990."

15 **Section 7.** Section 39-71-2503, MCA, is amended to read:

16 "39-71-2503. **Workers' compensation payroll tax.** (1) (a)  
 17 There is imposed on each employer a workers' compensation  
 18 payroll tax in an amount equal to 0.28% of the employer's  
 19 payroll in the preceding calendar quarter for all  
 20 employments covered under 39-71-401, except that if an  
 21 employer is subject to 15-30-204(2), the tax is an amount  
 22 equal to 0.28% of the employer's payroll in the preceding  
 23 week. This payroll tax must be used to reduce the unfunded  
 24 liability in the state fund incurred for claims for injuries  
 25 resulting from accidents that occurred before July 1, 1990.

1 ~~The department must report past and projected future tax~~  
 2 ~~proceeds to the legislature, which shall consider the report~~  
 3 ~~and determine the tax rate necessary for repayment of loans~~  
 4 ~~with interest. If one or more loans or bonds are~~  
 5 ~~outstanding, the tax must be continued at the 0.28% rate and~~  
 6 ~~the legislature may not modify the tax rate, the use of the~~  
 7 ~~tax proceeds, or this section in a manner that reduces the~~  
 8 ~~security for repayment of the outstanding loans or bonds,~~  
 9 ~~except that the legislature may forgive payment of the tax~~  
 10 ~~or reduce the tax rate for any 12-month period if the~~  
 11 ~~workers' compensation bond repayment account contains on the~~  
 12 ~~first day of that period an amount, REGARDLESS OF THE~~  
 13 ~~SOURCE, that is in excess of the reserve maintained in the~~  
 14 ~~account and that is equal to the amount needed to pay and~~  
 15 ~~dedicated to the payment of the principal, premium, and~~  
 16 ~~interest that must be paid during that period on the~~  
 17 ~~outstanding loans or bonds. THE LEGISLATURE MAY NOT INCREASE~~  
 18 ~~THE TAX RATE EXCEPT UPON A TWO-THIRDS VOTE OF EACH HOUSE.~~

19 (b) Each employer shall maintain the records the  
 20 department requires concerning the employer's payroll. The  
 21 records are subject to inspection by the department and its  
 22 employees and agents during regular business hours.

23 (2) All collections of the tax are appropriated to and  
 24 must be deposited as received in the tax account. The tax is  
 25 in addition to any other tax or fee assessed against

1 employers subject to the tax.

2 (3) (a) On or before the 20th day of May, August,  
 3 November, and February, each employer subject to the tax  
 4 shall file a return in the form and containing the  
 5 information required by the department and, except as  
 6 provided in subsection (3)(b), pay the amount of tax  
 7 required by this section to be paid on the employer's  
 8 payroll for the preceding calendar quarter.

9 (b) An employer subject to 15-30-204(2) shall remit to  
 10 the department a weekly payment with its weekly withholding  
 11 tax payment in the amount required by subsection (1)(a).

12 (c) A tax payment required by subsection (1)(a) must be  
 13 made with the return filed pursuant to 15-30-204. The  
 14 department shall first credit a payment to the liability  
 15 under 15-30-202 and credit any remainder to the workers'  
 16 compensation tax account provided in 39-71-2504.

17 (4) An employer's officer or employee with the duty to  
 18 collect, account for, and pay to the department the amounts  
 19 due under this section who willfully fails to pay an amount  
 20 is liable to the state for the unpaid amount and any penalty  
 21 and interest relating to that amount.

22 (5) Returns and remittances under subsection (3) and  
 23 any information obtained by the department during an audit  
 24 are subject to the provisions of 15-30-303, but the  
 25 department may disclose the information to the department of

1 labor and industry under circumstances and conditions that  
2 ensure the continued confidentiality of the information.

3 (6) The department of labor and industry and the state  
4 fund shall, on July 1, 1991, or as soon after that date as  
5 possible, give the department a list of all employers having  
6 coverage under any plan administered or regulated by the  
7 department of labor and industry and the state fund. After  
8 the lists have been given to the department, the department  
9 of labor and industry and the state fund shall update the  
10 lists weekly. The department of labor and industry and the  
11 state fund shall provide the department with access to their  
12 computer data bases and paper files and records for the  
13 purpose of the department's administration of the tax  
14 imposed by this section.

15 (7) The provisions of Title 15, chapter 30, not in  
16 conflict with the provisions of this part regarding  
17 administration, remedies, enforcement, collections,  
18 hearings, interest, deficiency assessments, credits for  
19 overpayment, statute of limitations, penalties, and  
20 department rulemaking authority apply to the tax, to  
21 employers, and to the department."

22 **Section 8.** Section 39-71-2504, MCA, is amended to read:

23 "39-71-2504. **Workers' compensation tax account.** (1)  
24 There is a workers' compensation tax account in the state  
25 special revenue fund. The workers' compensation tax account

1 consists of a tax account and a workers' compensation loan  
2 bond repayment account.

3 (2) All collections of the tax, interest and penalties  
4 on the tax, and revenue appropriated to the workers'  
5 compensation tax account under section 11, Chapter 9,  
6 Special Laws of June 1989, must be deposited in the workers'  
7 compensation tax account. All such money deposited in the  
8 workers' compensation tax account must be credited to the  
9 workers' compensation loan bond repayment account to the  
10 extent necessary to pay the principal of and redemption  
11 premium and interest due on workers' compensation loans  
12 bonds issued under 39-71-2353 [sections 1 and 2] and to  
13 establish and maintain a reserve for the bonds equal to the  
14 maximum annual principal of and interest on the bonds in any  
15 future year. The balance in the workers' compensation loan  
16 bond repayment account must be credited to the tax account  
17 within the workers' compensation tax account and is  
18 statutorily appropriated, as provided in 17-7-502, to the  
19 state fund to be used to reduce the unfunded liability in  
20 the state fund incurred for claims for injuries resulting  
21 from accidents that occurred before July 1, 1990."

22 NEW SECTION. **Section 9. Repealer.** Section 39-71-2353,  
23 MCA, is repealed.

24 NEW SECTION. **Section 10. Saving clause.** [This act]  
25 does not affect rights and duties that matured, penalties

1 that were incurred, or proceedings that were begun before  
2 [the effective date of this act].

3 NEW SECTION. **Section 11. Severability.** If a part of  
4 [this act] is invalid, all valid parts that are severable  
5 from the invalid part remain in effect. If a part of [this  
6 act] is invalid in one or more of its applications, the part  
7 remains in effect in all valid applications that are  
8 severable from the invalid applications.

9 NEW SECTION. **Section 12. Codification instruction.**  
10 [Sections 1 and-2 THROUGH 3] are intended to be codified as  
11 an integral part of Title 39, chapter 71, part 23, and the  
12 provisions of Title 39, chapter 71, part 23, apply to  
13 [sections 1 and-2 THROUGH 3].

14 NEW SECTION. **Section 13. Requirements for approval of**  
15 **state debt.** Because [this act] authorizes the creation of a  
16 state debt, a vote of two-thirds of the members of each  
17 house of the legislature is required for enactment of [this  
18 act]. If [this act] is not approved by the required vote,  
19 [this act] is void.

20 NEW SECTION. **Section 14. Effective date.** [This act] is  
21 effective July 1, 1991.

-End-



## 1 HOUSE BILL NO. 995

2 INTRODUCED BY HARPER, MAZUREK, DRISCOLL, THOMAS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD  
 5 OF INVESTMENTS TO ISSUE BONDS PAYABLE BY THE EMPLOYER'S  
 6 PAYROLL TAX TO PAY OFF THE UNFUNDED LIABILITY IN THE STATE'S  
 7 WORKERS' COMPENSATION INSURANCE PROGRAM; CREATING A STATE  
 8 DEBT; ALLOWING--MUTUALLY--AGREEABLE--LUMP-SUM--SETTLEMENTS;  
 9 AMENDING SECTIONS 39-71-2321, 39-71-2351, 39-71-2352,  
 10 39-71-2503, AND 39-71-2504, MCA; REPEALING SECTION  
 11 39-71-2353, MCA; AND PROVIDING AN EFFECTIVE DATE."

12

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

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 15 loans -- bonds. (1) Taxes collected under 39-71-2503 may be  
 16 used only to administer and pay claims for injuries  
 17 resulting from accidents that occurred before July 1, 1990,  
 18 including the cost of repaying bonds issued and loan  
 19 proceeds given under [section 2] and this section. If the  
 20 state fund determines that, for the next 1 or more years  
 21 following the date of the determination, the tax revenue,  
 22 together with funds in the account required by 39-71-2321  
 23 for claims for injuries resulting from accidents that  
 24 occurred before July 1, 1990, will be insufficient to  
 25 administer and pay those claims, the state fund may, through

1 its board of directors, request the budget director to  
 2 certify to the board of investments that additional funding  
 3 is necessary. If the budget director agrees with the state  
 4 fund's board of directors that additional funding is  
 5 necessary, the budget director shall certify to the board of  
 6 investments the amount that the budget director determines  
 7 is necessary to administer and pay claims for injuries  
 8 resulting from accidents that occurred before July 1, 1990.  
 9 Except as provided in subsection (2), the board of  
 10 investments shall, at times and in amounts it considers  
 11 necessary or advisable, finance the amount certified by the  
 12 budget director by giving the state fund the proceeds of a  
 13 loan or a bond issue to administer and pay claims for  
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 15 1, 1990. Loans must be from reserves accumulated from  
 16 premiums paid to the state fund based upon wages payable on  
 17 or after July 1, 1990. The board of investments shall choose  
 18 the method of financing that is most cost-effective for the  
 19 state fund. A loan must bear interest at the rate the money  
 20 would earn in the pooled investment fund required by  
 21 17-6-203. The board of investments may also, upon request of  
 22 the board of directors of the state fund, give the state  
 23 fund the proceeds of a bond issue, to be used to pay off  
 24 loans made under [section 2] and this section. Bonds for the  
 25 state fund must be workers' compensation bonds issued under

1 [section 2].

2 (2) The total amount of loan proceeds given to the  
3 state fund plus workers' compensation bonds issued under  
4 [section 2], except bonds issued to repay loans as provided  
5 for in subsection (1), may not exceed \$220 million. All loan  
6 and bond proceeds given to the state fund must be repaid to  
7 the board of investments before July 1, 2020.

8 **NEW SECTION. Section 2. Workers' compensation bonds --**  
9 **loans -- form -- principal and interest.** (1) Subject to the  
10 \$220 million limit contained in [section 1(2)], the board of  
11 investments may not give the state fund loan proceeds or  
12 issue workers' compensation bonds unless the aggregate  
13 amount of outstanding and proposed loans and bonds can be  
14 serviced with no more than 90% of the amount of tax revenue  
15 that the department of revenue estimates will be raised by  
16 the tax imposed under 39-71-2503 during the remainder of the  
17 then current fiscal year and during each succeeding fiscal  
18 year through the end of the fiscal year in which the last  
19 then outstanding or proposed loan or bond will be repaid or  
20 retired.

21 (2) Bonds are limited obligations payable solely from  
22 and secured by the money deposited in the workers'  
23 compensation bond repayment account created by 39-71-2504.  
24 Each series of bonds may be issued by the board of  
25 investments at public or private sale, in denominations and

1 form, whether payable to bearer or registered as to  
2 principal or both principal and interest, with such  
3 provisions for the conversion or exchange, bearing interest  
4 at a rate or rates or the method of determining the rate or  
5 rates, maturing at times, not later than June 30, 2020,  
6 subject to redemption at earlier times and prices and upon  
7 notice, and payable at the office of a fiscal agency of the  
8 state, as determined by the board of investments. Any action  
9 taken by the board of investments under [section 1] and this  
10 section must be approved by at least a majority vote of its  
11 members.

12 (3) In all other respects the board of investments is  
13 authorized to prescribe the form and terms of the bonds and  
14 shall do whatever is lawful and necessary for their issuance  
15 and payment.

16 (4) Bonds and any interest coupons appurtenant thereto  
17 must be signed by the members of the board of investments,  
18 and the bonds must be issued under the great seal of the  
19 state of Montana. The bonds and coupons may be executed with  
20 facsimile signatures and seal in the manner and subject to  
21 the limitations prescribed by law. The state treasurer shall  
22 keep a record of all bonds issued and sold.

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24 must be deposited to the credit of the account required by  
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1 that occurred before July 1, 1990, and may be used only for  
2 the administration and payment of those claims and for the  
3 costs of giving the loan proceeds and issuing the bonds.

4 ~~NEW SECTION,--SECTION 3,--MUTUALLY--AGREABLE--LUMP-SUM~~  
5 ~~SETTLEMENTS,--DURING-THE-PERIOD-BEGINNING--OCTOBER--1,--1991,~~  
6 ~~AND--ENDING--SEPTEMBER--30,--1992,--A--WORKERS'-COMPENSATION~~  
7 ~~CLAIMANT-AND-THE-STATE-FUND-MAY,--REGARDLESS-OF-THE--LUMP-SUM~~  
8 ~~LAW-IN-EFFECT-ON-THE-DATE-OF-THE-INJURY,--MUTUALLY-AGREE-TO-A~~  
9 ~~LUMP-SUM-SETTLEMENT-OF-A-CLAIM,--IF-A-MUTUAL-AGREEMENT-IS-NOT~~  
10 ~~REACHED,--THE--LUMP-SUM--LAW--IN--EFFECT--ON-THE-DATE-OF-THE~~  
11 ~~INJURY-APPLIES.~~

12 **Section 3.** Section 39-71-2321, MCA, is amended to read:

13 "39-71-2321. What to be deposited in state fund. (1)  
14 All premiums, penalties, recoveries by subrogation, interest  
15 earned upon money belonging to the state fund, and  
16 securities acquired by or through use of money must be  
17 deposited in the state fund. They must be separated into two  
18 accounts based upon whether they relate to claims for  
19 injuries resulting from accidents that occurred before July  
20 1, 1990, or claims for injuries resulting from accidents  
21 that occur on or after that date.

22 (2) The loan proceeds of bonds issued and loans given  
23 to the state fund under 39-71-2353 [sections 1 and 2] must  
24 be deposited in the account for claims for injuries  
25 resulting from accidents that occurred before July 1, 1990."

1 **Section 4.** Section 39-71-2351, MCA, is amended to read:

2 "39-71-2351. Purpose of separation of state fund  
3 liability as of July 1, 1990, and of separate funding of  
4 claims before and on or after that date. (1) An unfunded  
5 liability exists in the state fund. It has existed since at  
6 least the mid-1980s and has grown each year. There have been  
7 numerous attempts to solve the problem by legislation and  
8 other methods. These attempts have alleviated the problem  
9 somewhat, but the problem has not been solved.

10 (2) The legislature has determined that it is necessary  
11 to the public welfare to make workers' compensation  
12 insurance available to all employers through the state fund  
13 as the insurer of last resort. In making this insurance  
14 available, the state fund has incurred the unfunded  
15 liability. The legislature has determined that the most  
16 cost-effective and efficient way to provide a source of  
17 funding for and to ensure payment of the unfunded liability  
18 and the best way to administer the unfunded liability is to:

19 (a) separate the liability of the state fund on the  
20 basis of whether a claim is for an injury resulting from an  
21 accident that occurred before July 1, 1990, or an accident  
22 that occurs on or after that date;

23 (b) extend the payroll tax imposed by 39-71-2503 and  
24 dedicate the tax money first to the repayment of loans given  
25 bonds issued under 39-71-2353 [sections 1 and 2] and then to

1 the repayment of loans given under [sections 1 and 2] and  
 2 the direct payment of the costs of administering and paying  
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5 (3) The legislature further determines that in order to  
 6 prevent the creation of a new unfunded liability with  
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 8 or after July 1, 1990, certain duties of the state fund  
 9 should be clarified and legislative oversight of the state  
 10 fund should be increased."

11 **Section 5.** Section 39-71-2352, MCA, is amended to read:

12 "39-71-2352. Separate payment structure and sources for  
 13 claims for injuries resulting from accidents that occurred  
 14 before July 1, 1990, and on or after July 1, 1990 --  
 15 spending limit. (1) Premiums paid to the state fund based  
 16 upon wages payable before July 1, 1990, may be used only to  
 17 administer and pay claims for injuries resulting from  
 18 accidents that occurred before July 1, 1990. Except as  
 19 provided in 39-71-2316(9) and 39-71-2353 [section 1],  
 20 premiums paid to the state fund based upon wages payable on  
 21 or after July 1, 1990, may be used only to administer and  
 22 pay claims for injuries resulting from accidents that occur  
 23 on or after July 1, 1990.

24 (2) The state fund shall:

25 (a) determine the cost of administering and paying

1 claims for injuries resulting from accidents that occurred  
 2 before July 1, 1990, and separately determine the cost of  
 3 administering and paying claims for injuries resulting from  
 4 accidents that occur on or after July 1, 1990;

5 (b) keep adequate and separate accounts of the costs  
 6 determined under subsection (2)(a); and

7 (c) fund administrative expenses and benefit payments  
 8 for claims for injuries resulting from accidents that  
 9 occurred before July 1, 1990, and claims for injuries  
 10 resulting from accidents that occur on or after July 1,  
 11 1990, separately from the sources provided by law.

12 (3) The state fund may not spend more than \$3 million a  
 13 year to administer claims for injuries resulting from  
 14 accidents that occurred before July 1, 1990."

15 **Section 6.** Section 39-71-2503, MCA, is amended to read:

16 "39-71-2503. Workers' compensation payroll tax. (1) (a)  
 17 There is imposed on each employer a workers' compensation  
 18 payroll tax in an amount equal to 0.28% of the employer's  
 19 payroll in the preceding calendar quarter for all  
 20 employments covered under 39-71-401, except that if an  
 21 employer is subject to 15-30-204(2), the tax is an amount  
 22 equal to 0.28% of the employer's payroll in the preceding  
 23 week. This payroll tax must be used to reduce the unfunded  
 24 liability in the state fund incurred for claims for injuries  
 25 resulting from accidents that occurred before July 1, 1990.

1 ~~The department must report past and projected future tax~~  
 2 ~~proceeds to the legislature, which shall consider the report~~  
 3 ~~and determine the tax rate necessary for repayment of loans~~  
 4 ~~with interest. If one or more loans or bonds are~~  
 5 ~~outstanding, the tax must be continued at the 0.28% rate and~~  
 6 ~~the legislature may not modify the tax rate, the use of the~~  
 7 ~~tax proceeds, or this section in a manner that reduces the~~  
 8 ~~security for repayment of the outstanding loans or bonds,~~  
 9 ~~except that the legislature may forgive payment of the tax~~  
 10 ~~or reduce the tax rate for any 12-month period if the~~  
 11 ~~workers' compensation bond repayment account contains on the~~  
 12 ~~first day of that period an amount, REGARDLESS OF THE~~  
 13 ~~SOURCE, that is in excess of the reserve maintained in the~~  
 14 ~~account and that is equal to the amount needed to pay and~~  
 15 ~~dedicated to the payment of the principal, premium, and~~  
 16 ~~interest that must be paid during that period on the~~  
 17 ~~outstanding loans or bonds. THE LEGISLATURE MAY NOT INCREASE~~  
 18 ~~THE TAX RATE EXCEPT UPON A TWO-THIRDS VOTE OF EACH HOUSE.~~

19 (b) Each employer shall maintain the records the  
 20 department requires concerning the employer's payroll. The  
 21 records are subject to inspection by the department and its  
 22 employees and agents during regular business hours.

23 (2) All collections of the tax are appropriated to and  
 24 must be deposited as received in the tax account. The tax is  
 25 in addition to any other tax or fee assessed against

1 employers subject to the tax.

2 (3) (a) On or before the 20th day of May, August,  
 3 November, and February, each employer subject to the tax  
 4 shall file a return in the form and containing the  
 5 information required by the department and, except as  
 6 provided in subsection (3)(b), pay the amount of tax  
 7 required by this section to be paid on the employer's  
 8 payroll for the preceding calendar quarter.

9 (b) An employer subject to 15-30-204(2) shall remit to  
 10 the department a weekly payment with its weekly withholding  
 11 tax payment in the amount required by subsection (1)(a).

12 (c) A tax payment required by subsection (1)(a) must be  
 13 made with the return filed pursuant to 15-30-204. The  
 14 department shall first credit a payment to the liability  
 15 under 15-30-202 and credit any remainder to the workers'  
 16 compensation tax account provided in 39-71-2504.

17 (4) An employer's officer or employee with the duty to  
 18 collect, account for, and pay to the department the amounts  
 19 due under this section who willfully fails to pay an amount  
 20 is liable to the state for the unpaid amount and any penalty  
 21 and interest relating to that amount.

22 (5) Returns and remittances under subsection (3) and  
 23 any information obtained by the department during an audit  
 24 are subject to the provisions of 15-30-303, but the  
 25 department may disclose the information to the department of

1 labor and industry under circumstances and conditions that  
2 ensure the continued confidentiality of the information.

3 (6) The department of labor and industry and the state  
4 fund shall, on July 1, 1991, or as soon after that date as  
5 possible, give the department a list of all employers having  
6 coverage under any plan administered or regulated by the  
7 department of labor and industry and the state fund. After  
8 the lists have been given to the department, the department  
9 of labor and industry and the state fund shall update the  
10 lists weekly. The department of labor and industry and the  
11 state fund shall provide the department with access to their  
12 computer data bases and paper files and records for the  
13 purpose of the department's administration of the tax  
14 imposed by this section.

15 (7) The provisions of Title 15, chapter 30, not in  
16 conflict with the provisions of this part regarding  
17 administration, remedies, enforcement, collections,  
18 hearings, interest, deficiency assessments, credits for  
19 overpayment, statute of limitations, penalties, and  
20 department rulemaking authority apply to the tax, to  
21 employers, and to the department."

22 **Section 7.** Section 39-71-2504, MCA, is amended to read:

23 "39-71-2504. **Workers' compensation tax account.** (1)  
24 There is a workers' compensation tax account in the state  
25 special revenue fund. The workers' compensation tax account

1 consists of a tax account and a workers' compensation ~~loan~~  
2 bond repayment account.

3 (2) All collections of the tax, interest and penalties  
4 on the tax, and revenue appropriated to the workers'  
5 compensation tax account under section 11, Chapter 9,  
6 Special Laws of June 1989, must be deposited in the workers'  
7 compensation tax account. All such money deposited in the  
8 workers' compensation tax account must be credited to the  
9 workers' compensation ~~loan~~ bond repayment account to the  
10 extent necessary to pay the principal of and redemption  
11 premium and interest due on workers' compensation ~~loans~~  
12 bonds issued under 39-71-2353 [sections 1 and 2] and to  
13 establish and maintain a reserve for the bonds equal to the  
14 maximum annual principal of and interest on the bonds in any  
15 future year. The balance in the workers' compensation ~~loan~~  
16 bond repayment account must be credited to the tax account  
17 within the workers' compensation tax account and is  
18 statutorily appropriated, as provided in 17-7-502, to the  
19 state fund to be used to reduce the unfunded liability in  
20 the state fund incurred for claims for injuries resulting  
21 from accidents that occurred before July 1, 1990."

22 NEW SECTION. Section 8. Repealer. Section 39-71-2353,  
23 MCA, is repealed.

24 NEW SECTION. Section 9. Saving clause. [This act] does  
25 not affect rights and duties that matured, penalties that

1 were incurred, or proceedings that were begun before [the  
2 effective date of this act].

3 NEW SECTION. **Section 10. Severability.** If a part of  
4 [this act] is invalid, all valid parts that are severable  
5 from the invalid part remain in effect. If a part of [this  
6 act] is invalid in one or more of its applications, the part  
7 remains in effect in all valid applications that are  
8 severable from the invalid applications.

9 NEW SECTION. **Section 11. Codification instruction.**  
10 [Sections 1 and-2 ~~THROUGH--3~~ AND 2] are intended to be  
11 codified as an integral part of Title 39, chapter 71, part  
12 23, and the provisions of Title 39, chapter 71, part 23,  
13 apply to [sections 1 and-2 ~~THROUGH-3~~ AND 2].

14 NEW SECTION. **Section 12. Requirements for approval of**  
15 **state debt.** Because [this act] authorizes the creation of a  
16 state debt, a vote of two-thirds of the members of each  
17 house of the legislature is required for enactment of [this  
18 act]. If [this act] is not approved by the required vote,  
19 [this act] is void.

20 NEW SECTION. **Section 13. Effective date.** [This act] is  
21 effective July 1, 1991.

-End-

Conference Committee  
on House Bill 995  
Report No. 1, April 23, 1991

4/25/91  
8:20 am  
POT

Mr. Speaker and Mr. President:

We, your Conference Committee on House Bill 995 met and considered the Sen. Harp Committee of the Whole amendment, dated April 17, 1991, and recommend that House Bill 995 (reference copy -- salmon) be amended as follows:

1. Title, line 8.

Following: "SETTLEMENTS,"

Insert: "ALLOWING MUTUALLY AGREEABLE LUMP-SUM SETTLEMENTS;"

2. Page 5, line 12.

Following: line 11

Insert: "NEW SECTION. Section 3. Mutually agreeable lump-sum settlements. During the period beginning October 1, 1991, and ending September 30, 1992, a workers' compensation claimant and the state fund may, regardless of the lump-sum law in effect on the date of the injury, mutually agree to a lump-sum settlement of a claim. If a mutual agreement is not reached, the lump-sum law in effect on the date of the injury applies."

Renumber: subsequent sections

3. Page 13, lines 10 and 13.

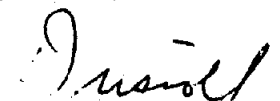
Strike: "AND 2"


Insert: "through 3"

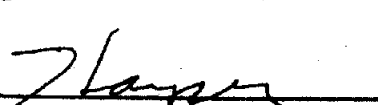
And this Conference Committee report be adopted.

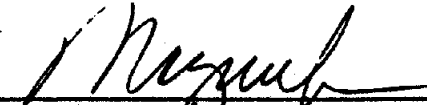
For the House:

For the Senate:


  
\_\_\_\_\_  
Rep. Driscoll, Chair

  
\_\_\_\_\_  
Sen. Svrcek, Chair

  
\_\_\_\_\_  
Rep. Harper

  
\_\_\_\_\_  
Sen. Mazurek

  
\_\_\_\_\_  
Rep. Thomas

  
\_\_\_\_\_  
Sen. Harp

ADOPT

REJECT

CCRB1  
HB 995  
871442CC.HSF



1 HOUSE BILL NO. 995  
 2 INTRODUCED BY HARPER, MAZUREK, DRISCOLL, THOMAS  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD  
 5 OF INVESTMENTS TO ISSUE BONDS PAYABLE BY THE EMPLOYER'S  
 6 PAYROLL TAX TO PAY OFF THE UNFUNDED LIABILITY IN THE STATE'S  
 7 WORKERS' COMPENSATION INSURANCE PROGRAM; CREATING A STATE  
 8 DEBT; ~~ALLOWING--MUTUALLY--AGREEABLE--LUMP-SUM--SETTLEMENTS;~~  
 9 ALLOWING MUTUALLY AGREEABLE LUMP-SUM SETTLEMENTS; AMENDING  
 10 SECTIONS 39-71-2321, 39-71-2351, 39-71-2352, 39-71-2503, AND  
 11 39-71-2504, MCA; REPEALING SECTION 39-71-2353, MCA; AND  
 12 PROVIDING AN EFFECTIVE DATE."

13  
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 15 NEW SECTION. Section 1. Use of payroll tax proceeds --  
 16 loans -- bonds. (1) Taxes collected under 39-71-2503 may be  
 17 used only to administer and pay claims for injuries  
 18 resulting from accidents that occurred before July 1, 1990,  
 19 including the cost of repaying bonds issued and loan  
 20 proceeds given under [section 2] and this section. If the  
 21 state fund determines that, for the next 1 or more years  
 22 following the date of the determination, the tax revenue,  
 23 together with funds in the account required by 39-71-2321  
 24 for claims for injuries resulting from accidents that  
 25 occurred before July 1, 1990, will be insufficient to

1 administer and pay those claims, the state fund may, through  
 2 its board of directors, request the budget director to  
 3 certify to the board of investments that additional funding  
 4 is necessary. If the budget director agrees with the state  
 5 fund's board of directors that additional funding is  
 6 necessary, the budget director shall certify to the board of  
 7 investments the amount that the budget director determines  
 8 is necessary to administer and pay claims for injuries  
 9 resulting from accidents that occurred before July 1, 1990.  
 10 Except as provided in subsection (2), the board of  
 11 investments shall, at times and in amounts it considers  
 12 necessary or advisable, finance the amount certified by the  
 13 budget director by giving the state fund the proceeds of a  
 14 loan or a bond issue to administer and pay claims for  
 15 injuries resulting from accidents that occurred before July  
 16 1, 1990. Loans must be from reserves accumulated from  
 17 premiums paid to the state fund based upon wages payable on  
 18 or after July 1, 1990. The board of investments shall choose  
 19 the method of financing that is most cost-effective for the  
 20 state fund. A loan must bear interest at the rate the money  
 21 would earn in the pooled investment fund required by  
 22 17-6-203. The board of investments may also, upon request of  
 23 the board of directors of the state fund, give the state  
 24 fund the proceeds of a bond issue, to be used to pay off  
 25 loans made under [section 2] and this section. Bonds for the



1 state fund must be workers' compensation bonds issued under  
2 [section 2].

3 (2) The total amount of loan proceeds given to the  
4 state fund plus workers' compensation bonds issued under  
5 [section 2], except bonds issued to repay loans as provided  
6 for in subsection (1), may not exceed \$220 million. All loan  
7 and bond proceeds given to the state fund must be repaid to  
8 the board of investments before July 1, 2020.

9 NEW SECTION. **Section 2. Workers' compensation bonds --**  
10 **loans -- form -- principal and interest.** (1) Subject to the  
11 \$220 million limit contained in [section 1(2)], the board of  
12 investments may not give the state fund loan proceeds or  
13 issue workers' compensation bonds unless the aggregate  
14 amount of outstanding and proposed loans and bonds can be  
15 serviced with no more than 90% of the amount of tax revenue  
16 that the department of revenue estimates will be raised by  
17 the tax imposed under 39-71-2503 during the remainder of the  
18 then current fiscal year and during each succeeding fiscal  
19 year through the end of the fiscal year in which the last  
20 then outstanding or proposed loan or bond will be repaid or  
21 retired.

22 (2) Bonds are limited obligations payable solely from  
23 and secured by the money deposited in the workers'  
24 compensation bond repayment account created by 39-71-2504.  
25 Each series of bonds may be issued by the board of

1 investments at public or private sale, in denominations and  
2 form, whether payable to bearer or registered as to  
3 principal or both principal and interest, with such  
4 provisions for the conversion or exchange, bearing interest  
5 at a rate or rates or the method of determining the rate or  
6 rates, maturing at times, not later than June 30, 2020,  
7 subject to redemption at earlier times and prices and upon  
8 notice, and payable at the office of a fiscal agency of the  
9 state, as determined by the board of investments. Any action  
10 taken by the board of investments under [section 1] and this  
11 section must be approved by at least a majority vote of its  
12 members.

13 (3) In all other respects the board of investments is  
14 authorized to prescribe the form and terms of the bonds and  
15 shall do whatever is lawful and necessary for their issuance  
16 and payment.

17 (4) Bonds and any interest coupons appurtenant thereto  
18 must be signed by the members of the board of investments,  
19 and the bonds must be issued under the great seal of the  
20 state of Montana. The bonds and coupons may be executed with  
21 facsimile signatures and seal in the manner and subject to  
22 the limitations prescribed by law. The state treasurer shall  
23 keep a record of all bonds issued and sold.

24 (5) All loan and bond proceeds given to the state fund  
25 must be deposited to the credit of the account required by

1 39-71-2321 for claims for injuries resulting from accidents  
 2 that occurred before July 1, 1990, and may be used only for  
 3 the administration and payment of those claims and for the  
 4 costs of giving the loan proceeds and issuing the bonds.

5 ~~NEW SECTION. SECTION 3. MUTUALLY AGREEABLE LUMP-SUM~~  
 6 ~~SETTLEMENTS. DURING THE PERIOD BEGINNING OCTOBER 1, 1991,~~  
 7 ~~AND ENDING SEPTEMBER 30, 1992, A WORKERS' COMPENSATION~~  
 8 ~~CLAIMANT AND THE STATE FUND MAY, REGARDLESS OF THE LUMP-SUM~~  
 9 ~~LAW IN EFFECT ON THE DATE OF THE INJURY, MUTUALLY AGREE TO A~~  
 10 ~~LUMP-SUM SETTLEMENT OF A CLAIM. IF A MUTUAL AGREEMENT IS NOT~~  
 11 ~~REACHED, THE LUMP-SUM LAW IN EFFECT ON THE DATE OF THE~~  
 12 ~~INJURY APPLIES.~~

13 NEW SECTION. SECTION 3. MUTUALLY AGREEABLE LUMP-SUM  
 14 SETTLEMENTS. DURING THE PERIOD BEGINNING OCTOBER 1, 1991,  
 15 AND ENDING SEPTEMBER 30, 1992, A WORKERS' COMPENSATION  
 16 CLAIMANT AND THE STATE FUND MAY, REGARDLESS OF THE LUMP-SUM  
 17 LAW IN EFFECT ON THE DATE OF THE INJURY, MUTUALLY AGREE TO A  
 18 LUMP-SUM SETTLEMENT OF A CLAIM. IF A MUTUAL AGREEMENT IS NOT  
 19 REACHED, THE LUMP-SUM LAW IN EFFECT ON THE DATE OF THE  
 20 INJURY APPLIES.

21 **Section 4.** Section 39-71-2321, MCA, is amended to read:

22 **"39-71-2321. What to be deposited in state fund.** (1)  
 23 All premiums, penalties, recoveries by subrogation, interest  
 24 earned upon money belonging to the state fund, and  
 25 securities acquired by or through use of money must be

1 deposited in the state fund. They must be separated into two  
 2 accounts based upon whether they relate to claims for  
 3 injuries resulting from accidents that occurred before July  
 4 1, 1990, or claims for injuries resulting from accidents  
 5 that occur on or after that date.

6 (2) The loan proceeds of bonds issued and loans given  
 7 to the state fund under 39-71-2353 [sections 1 and 2] must  
 8 be deposited in the account for claims for injuries  
 9 resulting from accidents that occurred before July 1, 1990."

10 **Section 5.** Section 39-71-2351, MCA, is amended to read:

11 "39-71-2351. Purpose of separation of state fund  
 12 liability as of July 1, 1990, and of separate funding of  
 13 claims before and on or after that date. (1) An unfunded  
 14 liability exists in the state fund. It has existed since at  
 15 least the mid-1980s and has grown each year. There have been  
 16 numerous attempts to solve the problem by legislation and  
 17 other methods. These attempts have alleviated the problem  
 18 somewhat, but the problem has not been solved.

19 (2) The legislature has determined that it is necessary  
 20 to the public welfare to make workers' compensation  
 21 insurance available to all employers through the state fund  
 22 as the insurer of last resort. In making this insurance  
 23 available, the state fund has incurred the unfunded  
 24 liability. The legislature has determined that the most  
 25 cost-effective and efficient way to provide a source of

1 funding for and to ensure payment of the unfunded liability  
2 and the best way to administer the unfunded liability is to:

3 (a) separate the liability of the state fund on the  
4 basis of whether a claim is for an injury resulting from an  
5 accident that occurred before July 1, 1990, or an accident  
6 that occurs on or after that date;

7 (b) extend the payroll tax imposed by 39-71-2503 and  
8 dedicate the tax money first to the repayment of ~~loans-given~~  
9 bonds issued under 39-71-2353 [sections 1 and 2] and then to  
10 the repayment of loans given under [sections 1 and 2] and  
11 the direct payment of the costs of administering and paying  
12 claims for injuries from accidents that occurred before July  
13 1, 1990.

14 (3) The legislature further determines that in order to  
15 prevent the creation of a new unfunded liability with  
16 respect to claims for injuries for accidents that occur on  
17 or after July 1, 1990, certain duties of the state fund  
18 should be clarified and legislative oversight of the state  
19 fund should be increased."

20 **Section 6.** Section 39-71-2352, MCA, is amended to read:

21 "39-71-2352. Separate payment structure and sources for  
22 claims for injuries resulting from accidents that occurred  
23 before July 1, 1990, and on or after July 1, 1990 --  
24 spending limit. (1) Premiums paid to the state fund based  
25 upon wages payable before July 1, 1990, may be used only to

1 administer and pay claims for injuries resulting from  
2 accidents that occurred before July 1, 1990. Except as  
3 provided in 39-71-2316(9) and 39-71-2353 [section 1],  
4 premiums paid to the state fund based upon wages payable on  
5 or after July 1, 1990, may be used only to administer and  
6 pay claims for injuries resulting from accidents that occur  
7 on or after July 1, 1990.

8 (2) The state fund shall:

9 (a) determine the cost of administering and paying  
10 claims for injuries resulting from accidents that occurred  
11 before July 1, 1990, and separately determine the cost of  
12 administering and paying claims for injuries resulting from  
13 accidents that occur on or after July 1, 1990;

14 (b) keep adequate and separate accounts of the costs  
15 determined under subsection (2)(a); and

16 (c) fund administrative expenses and benefit payments  
17 for claims for injuries resulting from accidents that  
18 occurred before July 1, 1990, and claims for injuries  
19 resulting from accidents that occur on or after July 1,  
20 1990, separately from the sources provided by law.

21 (3) The state fund may not spend more than \$3 million a  
22 year to administer claims for injuries resulting from  
23 accidents that occurred before July 1, 1990."

24 **Section 7.** Section 39-71-2503, MCA, is amended to read:

25 "39-71-2503. Workers' compensation payroll tax. (1) (a)

1 There is imposed on each employer a workers' compensation  
 2 payroll tax in an amount equal to 0.28% of the employer's  
 3 payroll in the preceding calendar quarter for all  
 4 employments covered under 39-71-401, except that if an  
 5 employer is subject to 15-30-204(2), the tax is an amount  
 6 equal to 0.28% of the employer's payroll in the preceding  
 7 week. This payroll tax must be used to reduce the unfunded  
 8 liability in the state fund incurred for claims for injuries  
 9 resulting from accidents that occurred before July 1, 1990.  
 10 ~~The--department--must--report--past--and--projected--future--tax~~  
 11 ~~proceeds--to--the--legislature,--which--shall--consider--the--report~~  
 12 ~~and--determine--the--tax--rate--necessary--for--repayment--of--loans~~  
 13 ~~with---interest. If one or more loans or bonds are~~  
 14 ~~outstanding, the tax must be continued at the 0.28% rate and~~  
 15 ~~the legislature may not modify the tax rate, the use of the~~  
 16 ~~tax proceeds, or this section in a manner that reduces the~~  
 17 ~~security for repayment of the outstanding loans or bonds,~~  
 18 ~~except that the legislature may forgive payment of the tax~~  
 19 ~~or reduce the tax rate for any 12-month period if the~~  
 20 ~~workers' compensation bond repayment account contains on the~~  
 21 ~~first day of that period an amount, REGARDLESS OF THE~~  
 22 ~~SOURCE, that is in excess of the reserve maintained in the~~  
 23 ~~account and that is equal to the amount needed to pay and~~  
 24 ~~dedicated to the payment of the principal, premium, and~~  
 25 ~~interest that must be paid during that period on the~~

1 outstanding loans or bonds. THE LEGISLATURE MAY NOT INCREASE  
 2 THE TAX RATE EXCEPT UPON A TWO-THIRDS VOTE OF EACH HOUSE.

3 (b) Each employer shall maintain the records the  
 4 department requires concerning the employer's payroll. The  
 5 records are subject to inspection by the department and its  
 6 employees and agents during regular business hours.

7 (2) All collections of the tax are appropriated to and  
 8 must be deposited as received in the tax account. The tax is  
 9 in addition to any other tax or fee assessed against  
 10 employers subject to the tax.

11 (3) (a) On or before the 20th day of May, August,  
 12 November, and February, each employer subject to the tax  
 13 shall file a return in the form and containing the  
 14 information required by the department and, except as  
 15 provided in subsection (3)(b), pay the amount of tax  
 16 required by this section to be paid on the employer's  
 17 payroll for the preceding calendar quarter.

18 (b) An employer subject to 15-30-204(2) shall remit to  
 19 the department a weekly payment with its weekly withholding  
 20 tax payment in the amount required by subsection (1)(a).

21 (c) A tax payment required by subsection (1)(a) must be  
 22 made with the return filed pursuant to 15-30-204. The  
 23 department shall first credit a payment to the liability  
 24 under 15-30-202 and credit any remainder to the workers'  
 25 compensation tax account provided in 39-71-2504.

1 (4) An employer's officer or employee with the duty to  
 2 collect, account for, and pay to the department the amounts  
 3 due under this section who willfully fails to pay an amount  
 4 is liable to the state for the unpaid amount and any penalty  
 5 and interest relating to that amount.

6 (5) Returns and remittances under subsection (3) and  
 7 any information obtained by the department during an audit  
 8 are subject to the provisions of 15-30-303, but the  
 9 department may disclose the information to the department of  
 10 labor and industry under circumstances and conditions that  
 11 ensure the continued confidentiality of the information.

12 (6) The department of labor and industry and the state  
 13 fund shall, on July 1, 1991, or as soon after that date as  
 14 possible, give the department a list of all employers having  
 15 coverage under any plan administered or regulated by the  
 16 department of labor and industry and the state fund. After  
 17 the lists have been given to the department, the department  
 18 of labor and industry and the state fund shall update the  
 19 lists weekly. The department of labor and industry and the  
 20 state fund shall provide the department with access to their  
 21 computer data bases and paper files and records for the  
 22 purpose of the department's administration of the tax  
 23 imposed by this section.

24 (7) The provisions of Title 15, chapter 30, not in  
 25 conflict with the provisions of this part regarding

1 administration, remedies, enforcement, collections,  
 2 hearings, interest, deficiency assessments, credits for  
 3 overpayment, statute of limitations, penalties, and  
 4 department rulemaking authority apply to the tax, to  
 5 employers, and to the department."

6 **Section 8.** Section 39-71-2504, MCA, is amended to read:

7 **"39-71-2504. Workers' compensation tax account.** (1)  
 8 There is a workers' compensation tax account in the state  
 9 special revenue fund. The workers' compensation tax account  
 10 consists of a tax account and a workers' compensation ~~loan~~  
 11 bond repayment account.

12 (2) All collections of the tax, interest and penalties  
 13 on the tax, and revenue appropriated to the workers'  
 14 compensation tax account under section 11, Chapter 9,  
 15 Special Laws of June 1989, must be deposited in the workers'  
 16 compensation tax account. All such money deposited in the  
 17 workers' compensation tax account must be credited to the  
 18 workers' compensation ~~loan~~ bond repayment account to the  
 19 extent necessary to pay the principal of and redemption  
 20 premium and interest due on workers' compensation ~~loans~~  
 21 bonds issued under 39-71-2353 [sections 1 and 2] and to  
 22 establish and maintain a reserve for the bonds equal to the  
 23 maximum annual principal of and interest on the bonds in any  
 24 future year. The balance in the workers' compensation ~~loan~~  
 25 bond repayment account must be credited to the tax account

1 within the workers' compensation tax account and is  
 2 statutorily appropriated, as provided in 17-7-502, to the  
 3 state fund to be used to reduce the unfunded liability in  
 4 the state fund incurred for claims for injuries resulting  
 5 from accidents that occurred before July 1, 1990."

6 NEW SECTION. **Section 9.** Repealer. Section 39-71-2353,  
 7 MCA, is repealed.

8 NEW SECTION. **Section 10.** Saving clause. [This act]  
 9 does not affect rights and duties that matured, penalties  
 10 that were incurred, or proceedings that were begun before  
 11 [the effective date of this act].

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

18 NEW SECTION. **Section 12.** Codification instruction.  
 19 [Sections 1 and-2 ~~THROUGH-3~~ AND-2 THROUGH 3] are intended to  
 20 be codified as an integral part of Title 39, chapter 71,  
 21 part 23, and the provisions of Title 39, chapter 71, part  
 22 23, apply to [sections 1 and-2 ~~THROUGH-3~~ AND-2 THROUGH 3].

23 NEW SECTION. **Section 13.** Requirements for approval of  
 24 state debt. Because [this act] authorizes the creation of a  
 25 state debt, a vote of two-thirds of the members of each

1 house of the legislature is required for enactment of [this  
 2 act]. If [this act] is not approved by the required vote,  
 3 [this act] is void.

4 NEW SECTION. **Section 14.** Effective date. [This act] is  
 5 effective July 1, 1991.

-End-