

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
51st LEGISLATURE - 2nd SPECIAL SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS COMMITTEE

Call to Order: By Chair Russell, on May 22, 1990, at 9:40 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure, Attorney, Legislative Council  
John MacMaster, Attorney, Legislative Council  
Terri Dore, Secretary

Announcements/Discussion: This meeting is a continuation of executive action on House Bill 2. The bill was heard and some executive action was taken on May 21, 1990.

DISPOSITION OF HOUSE BILL 2

The bill has already been moved **DO PASS** at this committee's meeting on May 21, 1990. Some amendments were added and more are being considered at this meeting.

Amendments, Discussion, and Votes: Chairman Russell stated that the committee did not take action on the State Insurance Commissioner's Amendment #4 of Exhibit 1.

Mr. MacMaster stated that Legislative Council staff and Susan Witte, representing the State Insurance Commissioner's office, discussed the use of "reserve" and have decided that it is the proper term to be used on page 10, line 13 of HB 2. The committee should decide whether or not to subject the state fund to one or more types of reserve requirements. This provision of the bill exempts the state fund from the insurance reserve requirements. Current state law provides (39-71-2311) that the state fund must have "adequate reserves". Another section of Title 39, Ch. 71, part 23, says that the state fund cannot declare dividends unless they have necessary reserves and reasonable surplus. Current law would have to be amended to change the reserve or surplus requirements.

- Rep. Simpkins asked if the effect of changing reserve requirements would be that the state fund would not be required to put money in reserves to satisfy pending claims. Mr. MacMaster responded that current law in part 23 mandates the state fund to charge whatever premium is necessary in each year to cover the cost of the claim, the administrative cost of the claim and reserves for the claims that arise in that year.
- Rep. Glaser asked if the capital reserve exemption is already in law. Mr. MacMaster replied that part 23 exempts the state fund is exempt from the requirement that a new company must have an initial reserve. Lines 13 and 14 of the bill exempt the state fund from other reserve requirements but other sections of law mandate adequate reserves.
- Rep. Thomas asked if any claim reserves were involved in this section. Mr. MacMaster said claim reserves are involved. Ms. Witte said this section refers only to claim reserves. Rep. Thomas stated that it appeared that the state fund would be exempt from claim reserving practices and asked Ms. Witte to explain the purpose of this amendment. Ms. Witte said a mistake was made when asking that "reserve" be changed to "surplus" on line 13, page 8. After closer examination of the section, it is the Insurance Commissioner's recommendation that if the state fund is exempt from reserve requirements, a determination cannot be made of the financial condition of the fund. The fund will have assets but there will be no reserves to pay liabilities.
- Rep. Driscoll stated that the bill as presently written on page 10, line 13 and 14, requires reserves for claims that have been reported and still owing, reserves for claims that have occurred but not yet been reported, and another type of reserve is required for underestimating the number of accidents in the year. If the state fund was exempt from these requirements, another unfunded liability would be created. Ms. Witte agreed.
- Rep. Driscoll said that if the state fund is exempt from surplus requirements in law, it will not meet the criteria recommended by the NCCI. The bill prevents the Insurance Commissioner from closing the fund before July 1, 1992. After that time, Insurance Commissioner would be able to shut the fund down if the fund did not meet the NCCI criteria.
- Randy Nordquist, actuary, Insurance Commissioners' Office, stated that the surplus recommended by the NCCI is only one of ten benchmark criteria used to identify companies that may have upcoming financial problems. If the company drops below that figure, the Commissioner may consider a rehabilitation program, but liquidation would not occur until surplus was negative.

- Rep. Driscoll said that the bill, as written, does not require the state fund to have any surplus. Mr. Nordquist added that he understands the bill to exempt the state fund from reserve requirements, not surplus requirements. That means that the state fund would not have to establish loss liabilities, unearned premiums liabilities and statutory requirements under NCCI guidelines. The bill does not address surplus requirements.
- Rep. Glaser remarked that staff has said that the surplus capital reserve requirement is already in law. He moved that page 10, line 13: "reserve requirements set forth in Title 33, chapter 2, part 5, and the" be deleted from the bill.
- Rep. Simpkins asked Mr. MacMaster if the provision was removed from the bill, a conflict in law would be created with certain sections of Sen. Thayer's bill from the last legislative session. Mr. MacMaster did not think a conflict would be created nor did he think that it was needed.
- Rep. Driscoll stated that he did not think reserve requirements referred only to cash flow but also to reserves for payment of unanticipated claims. By exempting the fund from such reserves, the system would not be changed and the problem of the unfunded liability would not be solved.
- Rep. Thomas said that Rep. Glaser's motion was correct in removing the language from the bill. There is still provision in law that says the fund is subject to claim reserves.
- Mr. Nordquist commented that a case reserve is created by the claims examiner but there is no reserve if the examiner errs in his assessment of the cost of the claim, unreported claims or reopened claims.
- Rep. Glaser's motion **CARRIED** unanimously.
- Rep. Driscoll asked Jim Murphy if the state fund could meet the reserve requirements set forth by this bill and present law. Mr. Murphy replied that the claims reserves requirement can probably be met but the surplus requirements cannot be met especially if the unfunded liability has to be paid.
- Rep. Driscoll asked Mr. Nordquist if the state fund could meet the Insurance Commissioner's rules on reserves by July 1, 1992. Mr. Nordquist responded that he had not evaluated it enough yet to establish a firm conclusion. However, based on his evaluation to date, he did not think the fund could meet the requirements by that time.
- Rep. Simpkins asked Mr. Nordquist if the unfunded liability was included in his evaluation. Mr. Nordquist replied that he was assuming that this bill would pass and the present unfunded liability would be separated from the state fund.

He is also assuming the fiscal note comment that if this bill passes the rate increase will be 7%.

Mr. MacMaster explained Rep. Driscoll's amendments (Exhibit 2). He suggested that the committee consider the first 31 amendments together, with the exception of #27.

According to Mr. MacMaster, there is an occupational disease law in addition to the workers' compensation law and it is administered in much the same manner. The first 31 amendments (except #27) refer to the occupational disease law. He suggested that the committee add a new section 17, entitled "Coordination with Occupational Disease Act of Montana" that would read: "For purposes of this act, and the administration of the Occupational Disease Act, a reference in this act to an injury or claim for injury resulting from an accident, includes a disablement as that word is defined in 39-72-102(d)".

Amendment #27 inserts a definition for "administer and pay". The amendment is placed in the wrong section. It should be at the beginning of the workers' compensation law. He suggested amending 39-71-116 (general definitions section for the entire workers' compensation act) by including Amendment #27 in that section. He also suggested rewording to remove redundancy.

Rep. Lee moved Rep. Driscoll's first thirty-one amendments with the exception of Amendment #27 and adding the new section 17 **DO PASS**. The motion **CARRIED** unanimously.

Mr. MacMaster suggested that Amendment #27 be changed to read: "(1) "Administer and Pay" includes all actions by the state fund under the Workers' Compensation and Occupational Disease Acts necessary to the investigation, review, and settlement of claims, payment of benefits, setting reserves, furnishing of appropriate services and facilities, and utilization of actuarial, audit, accounting, vocational rehabilitation, and legal services." The amendment would be inserted in the general definition section of the workers' compensation law.

Rep. Lee moved that Amendment #27 changed according to Mr. MacMaster's suggestion **DO PASS**. The motion **CARRIED** unanimously.

Mr. McMaster explained the effect of Rep. Driscoll's second set of Amendments 1 through 10.

Rep. Squires asked if this committee passed amendments dealing with the Legislative Auditor and MAPA at the May 21, 1990, meeting of this committee. Rep. Driscoll replied that the committee considered an amendment to exempt the state fund from MAPA requirements and the effort failed. Rep. Squires then asked if some of these amendments (Exhibit 2) would

have the same effect. Rep. Driscoll responded that some of them would have that effect. The effect of Amendments 6-10 would be to remove the state fund from MAPA.

Rep. Driscoll moved Amendments 1 through 10 **DO PASS**.

Rep. Thomas asked if the effects of MAPA on the state fund could be explained. With no objection from the committee, Rick Bach, counsel for State Compensation Mutual Insurance Fund, testified that the fund has had difficulty with the promulgation of rules if it is expected to act as a mutual insurance company as intended of 1989. The state fund has taken the position, after considering the statutes, that it cannot effectively promulgate rules. He asked to distribute copies of a recent court decision. Rep. Glaser objected. Mr. Bach did not distribute his material.

Rep. Driscoll withdrew his **DO PASS** motion for Amendments 1-10.

Rep. Glaser moved Amendment #1, 2, and 5 **DO PASS** with Mr. MacMaster's suggested language change on #5 (after "from", insert "claims for injuries resulting from accidents that occur before July 1, 1990").

Rep. Driscoll asked if the amendments passed earlier would include industrial disease in this portion also. Mr. MacMaster responded affirmatively.

The motion **CARRIED** unanimously.

Rep. Whalen suggested that some changes be made that would remove the state fund from MAPA, make it clear that it is not a state agency and still give the legislature oversight over its activities.

Rep. Whalen asked Rep. Glaser if he would agree to exempting the state fund from MAPA when setting rates. Rep. Glaser replied that MAPA allows public input into the process. He wants the state fund subjected to MAPA when determining the process to set rates but not on rates themselves. If the state fund is not a state agency, then it would not be necessary for the Legislature to meet to solve the problem.

Rep. Driscoll asked Rep. Whalen if page 8, new section 6 gives the Legislative Auditor enough authority to perform the audits required, or would Amendment #6 still be necessary? Rep. Whalen asked for staff's opinion. Mr. MacMaster stated that the Legislative Auditor will still perform the audits. In addition, Title 5, Chapter 13 would still be in effect and requires that the Legislative Auditor shall audit every state agency. The Legislature cannot create an entity that is so far removed from state government that it is not a state agency. Whatever the Legislature creates will be a state agency and a private corporation cannot be created.

- Rep. Whalen asked Mr. MacMaster if it was his position that if an amendment were offered that deleted reference to MAPA with the exception for the purpose of making changes in the rate setting process, that the elimination of the paragraph on page 11, would not handicap the Legislative Auditor's function. Mr. MacMaster agreed.
- Rep. Whalen moved that Amendments #6, 7, 8 and 10 DO PASS. The effect would be that MAPA is still required for the purpose of setting rates.
- Rep. Lee asked Mr. MacMaster if Title 2, Chapters 2, 4, and 6 and Title 5, Chapter 13 dealt with other issues besides MAPA. If the applicability of MAPA was removed, what would be excluded? Mr. MacMaster stated that there are five chapters: MAPA, Legislative Audit Act, state government employee conduct, public records, and that the public has a right to participate in state government.
- Rep. Simpkins asked Mr. MacMaster if "rulemaking" was changed to "by-laws", would the state fund be able to adopt procedures to use under by-laws. Mr. MacMaster stated that, in his opinion, and that of Greg Petesch, the state fund is a state agency, and any rules or by-laws adopted will become administrative law in Montana. It is unconstitutional to impose such laws on the public without allowing the public certain minimal due process rights.
- Rep. Simpkins stated that the issue is whether the Legislature is to have any authority to counteract anything this fund does without going to court. Under MAPA, there is an administrative review by the Code Committee.
- Rep. Glaser remarked that the issue is basic. The workers' compensation unfunded liability puts a cost per person on every person in Montana of \$400 and interest of \$400. If Rep. Whalen's motion prevails, the public will be asked to give \$800 per person without any chance of input.
- Rep. Thomas said that the issue is not Legislative input. There are numerous other places in the bill where there is legislative oversight. The question is whether there should be more restrictions on the state fund conducting its business.
- Rep. Lee understood that there is also an issue that the state fund has made rules without going through the MAPA process. Mr. MacMaster agreed.
- Rep. Simpkins commented that a similar provision should be put into laws governing the Board of Public Education. It would settle the issue that the Board is a state agency and must comply with state laws.

Rep. Whalen asked Mr. MacMaster to explain why staff always tries to insure that the rulemaking provision is included in all proposed legislation. It seems that it is a grant from the Legislature and does not have to be given. Mr. MacMaster replied that without that authority, rules cannot be adopted. All rules would have to be written into statute.

Rep. Driscoll asked Rep. Whalen if the effect of his motion would be that the state fund would not be a state agency but would have to comply with MAPA. Rep. Whalen responded that the state fund would only have to comply with MAPA when making rate changes. It would have the attributes of a state agency but is not.

Roll call vote was taken. The motion **FAILED** on a tie vote.

Rep. Thomas distributed suggested amendments (Exhibit 3). The concept of the first new section would be a window of opportunity that would allow an offer of a lump sum settlement. It does not require that it be accepted and is intended to accelerate the settlement of the claims.

The second new section would allow the state fund to privately contract the settlement of some of the old claims.

Rep. Thomas moved his amendments **DO PASS**.

Rep. Pavlovich suggested that someone could get rich from the new section 19. Rep. Thomas replied that the contracting firm would not be able to take a part of the settlement. Rep. Driscoll added that the new section 19 states that the state fund shall look for private claims examiners, determine the costs and return to the next Legislature for approval. It cannot change unless the Legislature specifically approves the plan. The section will only allow the state fund to obtain proposals before the next legislative session.

Rep. Driscoll remarked that present law states that lump sum settlements are not in the best interests of the worker. He did not think the state fund had a moral obligation to protect the worker from himself. If the worker wants the money and will sign a release with a good faith offer, then the worker should be able to receive a lump sum settlement. The offer must be at least 80% of what the claim is determined to be worth. The provision only enables the state fund to make an offer to the injured worker.

Rep. Whalen commented that there may be complications with offering lump sum settlements to retroactive cases. Rep. Simpkins stated that the offer would be an out of court settlement and voluntary. Rep. Whalen replied that the state fund would also have to approve the settlement according to certain criteria. Rep. Simpkins stated that retroactivity is not the issue because it is an ongoing case.

Rep. Driscoll stated that lump sum settlements are legal on accidents prior to 1987 but they must show how much the claim is worth. This amendment allows the state fund to make an offer.

Rep. Whalen asked Rep. Thomas if he would object to inserting "in good faith prior to offer". The sentence would now read: "The state fund shall in good faith prior to offer, offer.." Rep. Thomas pointed out that further into the section, it is specified that the offer shall be at least 80% of the liability assumed by the state fund. He asked that the vote be taken on the amendment as it is.

Rep. Rice asked Mr. MacMaster if lump sum settlements should be specifically exempt from justification as required by present statues. Mr. MacMaster replied that that is the intent of the new section 18. It could be amended to make it clearer that this section applies to all claims prior to July 1.

Rep. Thomas agreed to add Mr. MacMaster's suggestion to his amendment with Mr. MacMaster inserting the appropriate language.

The motion **CARRIED** unanimously.

Rep. Cocchiarella distributed an amendment (Exhibit 4) and moved that the amendment **DO PASS**. She asked that an effective date of July 1, 1991, be added to the amendment.

This amendment provides a general fund appropriation to help pay the payroll tax being imposed on school districts and local governments by the passage of this bill. The schools and local governments are still subject to I-105. If this amendment is passed, an appropriation to pay for it can be made in the next legislative session.

Rep. Whalen stated that school districts were exempt from I-105 in the last special session. Rep. Cocchiarella remarked that school spending has been capped and they are still limited on the amount of money that can be generated. Rep. Driscoll pointed out that the schools and local governments are now paying a .3% tax that will decrease to .28% on July 1. Therefore, the money is already in the budgets.

Roll call vote was taken. The motion **FAILED** 7 to 9.

Rep. Driscoll introduced Exhibit 5 which is an amendment suggested by Rep. Cobb. The amendment would not allow the state fund to use the same actuary for more than 3 successive years.

Rep. Glaser stated that this particular provision was in the bill when it was originally drafted but it was removed.



Rep. Simpkins said that he was in favor of this motion because of recent events concerning the WANG computer maintenance contract at the state fund and the state fund deciding they would like sole contracting even though WANG wanted \$44,000 per year more than others to maintain their computer. This provision would prevent the bonding to one actuary.

Rep. Smith commented that the best work is not always the cheapest. There may be circumstances where it would be better to keep the actuary for another year.

Roll call vote was taken. The motion **FAILED** 6 to 9.

Rep. Lee introduced two sets of amendments (Exhibit 6 and 7) requested by Rep. Boharski.

Rep. Lee asked that Rep. Boharski be allowed to explain the amendments. Rep. Boharski asked that the committee consider Exhibit 6 which clarifies that the state fund use a rating organization and set rates in a manner to protect the state fund. This amendment provides that any private carrier in the state can belong to only one rating organization, set their rates and receive approval from the Insurance Commissioner. State fund rates do not conform to recommended rates from rating organization. There is a suspicion that schedule rating is being used.

Exhibit 7 is an amendment that attempts to keep private carriers in check. There is a section of statute that prevents rates for one occupation from being changed by a different percentage than other occupations.

Rep. Lee moved Exhibit 6 **DO PASS**.

Rep. Driscoll stated that it appears that this amendment will tell the state fund exactly how to set their rates. He did not understand how the state fund could comply with MAPA and with this amendment.

The motion **FAILED** on a voice vote.

Rep. Lee moved **DO PASS** on Exhibit 7.

Rep. Smith requested that Mr. Nordquist be allowed to explain how rates are set. Mr. Nordquist explained that on the average nationally, for every \$100 collected in premiums, \$65 is losses and \$35 is expenses. The state fund's proposed rates would bring in only \$65 or the amount for losses. There is no provision for expenses and some of the \$65 is expected to be used to retire the unfunded liability. The rate level is presently at \$52.25 in loss premium whereas the NCCI or a private carrier would collect \$100 in premium. Even with the predicted 7% increase the loss component would still be less than the national average of \$65. Rep. Boharski's amendment deals with rate level equity and the amendment

would allow for a bigger data base than simply the Montana data base when setting rates. NCCI is a national rating organization that gathers statistics, analyzes them and creates a schedule of rates. They also use other factors to determine experience ratings for occupations as well as for individuals employers.

- Rep. Rice asked Mr. Nordquist if rates would have to be raised 100% if this bill passes. Mr. Nordquist responded negatively and added that the state fund's rates would not have to go up to the full \$100. According to his preliminary analysis, the state fund's expense component is lower than private carriers.
- Rep. Driscoll asked Mr. Nordquist if Montana was a "file and use" state. Mr. Nordquist responded that when it is identified that a carrier is doing something inappropriately, the Insurance Commissioner still has the authority to mandate that they stop doing it. The statute requires that the rate be filed with supporting data. The filing can be rejected if the data is not supportive.
- Rep. Thomas expressed concern that "must be a percentage" was too restrictive and would not allow for discounting, modifications, retro-plans, etc. Mr. Nordquist responded that the amendment would still allow for discounting, etc. because of the difference between the rate and the premium. The rate is the amount that applies per unit of exposure (per \$100 of payroll). The rate is what is being considered in that amendment. The amount of payroll for each class multiplied by the individual rate for each occupational class to arrive at the manual premium. The rating plans would now apply to the premium. The rate has already been applied before any of the rating plans come into play.
- Rep. Lee asked Mr. Nordquist if the amendment was workable since it requires that the percentage for each classification would be the same. Mr. Nordquist replied affirmatively.
- Roll call vote was taken. The motion FAILED 5 to 10.
- Recommendation and Vote: Rep. Driscoll moved that HB 2 DO PASS AS AMENDED.
- Rep. Whalen asked for further clarification of the amendment dealing with lump sum settlements. Rep. Thomas said that this amendment applies to those with claims that are not allowed to receive lump sum settlements under current law. It does not affect claims that are presently allowed lump sum settlements. Rep. Rice added that presently the claimant must prove his need for a lump sum and justify it. Those claimants would not have to go through that process.
- The motion CARRIED with three members opposing.

ADJOURNMENT

Adjournment At: 12:50 p.m.

*Angela Russell, by JA*  
\_\_\_\_\_  
REP. ANGELA RUSSELL, Chairman

AR/td

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STANDING COMMITTEE REPORT

*Jeri*

May 22, 1990

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Mr. Speaker: We, the committee on Labor report that HB0002  
(first reading copy -- white) do pass as amended .

Signed: \_\_\_\_\_  
Angela Russell, Chairman

And, that such amendments read:

1. Title, line 17.

Following: line 16

Insert: "PROVIDING THAT THE COMMISSIONER OF INSURANCE SHALL  
OVERSEE THE STATE FUND AND EXAMINE IT BIENNIALLY;"

2. Title, line 21.

Following: "2020;"

Insert: "PROVIDING A SPECIAL METHOD OF OFFERING LUMP-SUM  
SETTLEMENTS FOR CLAIMS ARISING PRIOR TO JULY 1, 1990;  
REQUIRING THE STATE FUND TO REQUEST PROPOSALS FOR THE  
SETTLEMENT OF CLAIMS ARISING PRIOR TO JULY 1, 1990, BY  
PRIVATE CLAIMS ADJUSTERS;"

3. Title, line 22.

Following: "SECTIONS"

Insert: "39-71-116,"

4. Page 2, line 18.

Following: "cost-effective"

Strike: ", most"

Insert: "and"

Following: "most efficient"

Strike: ", and surest"

5. Page 3, line 25.

Following: "1990."

Strike: "Premiums"

Insert: "Except as provided in 39-71-2316(9), premiums"

6. Page 4, line 24.

Strike: "each"

Insert: "the total"

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7. Page 8, line 23.

Following: "5-13-305."

Insert: "In addition, the commissioner of insurance shall biennially conduct or have conducted a financial examination of the state fund pursuant to 33-1-401."

8. Page 9, line 4.

Following: line 3

Insert: "Section 7. Section 39-71-116, MCA, is amended to read:

"39-71-116. Definitions. Unless the context otherwise requires, words and phrases employed in this chapter have the following meanings:

(1) "Administer and pay" includes all actions by the state fund under the Workers' Compensation Act and the Occupational Disease Act of Montana necessary to the investigation, review, the settlement of claims, payment of benefits, setting reserves, furnishing services and facilities, and utilization of actuarial, audit, accounting, vocational rehabilitation, and legal services.

~~(1)~~ (2) "Average weekly wage" means the mean weekly earnings of all employees under covered employment, as defined and established annually by the Montana department of labor and industry. It is established at the nearest whole dollar number and must be adopted by the department prior to July 1 of each year.

~~(2)~~ (3) "Beneficiary" means:

(a) a surviving spouse living with or legally entitled to be supported by the deceased at the time of injury;

(b) an unmarried child under the age of 18 years;

(c) an unmarried child under the age of 22 years who is a full-time student in an accredited school or is enrolled in an accredited apprenticeship program;

(d) an invalid child over the age of 18 years who is dependent upon the decedent for support at the time of injury;

(e) a parent who is dependent upon the decedent for support at the time of the injury (however, such a parent is a beneficiary only when no beneficiary, as defined in subsections ~~(2)~~(a) (3) (a) through ~~(2)~~(d) (3) (d) of this section, exists); and

(f) a brother or sister under the age of 18 years if dependent upon the decedent for support at the time of the injury (however, such a brother or sister is a beneficiary only until the age of 18 years and only when no beneficiary, as defined in subsections ~~(2)~~(a) (3) (a) through ~~(2)~~(e) (3) (e) of this section, exists).

~~(3)~~ (4) "Casual employment" means employment not in the usual course of trade, business, profession, or occupation of the employer.

~~(4)~~ (5) "Child" includes a posthumous child, a dependent stepchild, and a child legally adopted prior to the injury.

~~(5)~~ (6) "Days" means calendar days, unless otherwise specified.

~~(6)~~ (7) "Department" means the department of labor and industry.

~~(7)~~ (8) "Fiscal year" means the period of time between July 1 and the succeeding June 30.

~~(8)~~ (9) "Insurer" means an employer bound by compensation plan No. 1, an insurance company transacting business under compensation plan No. 2, the state fund under compensation plan No. 3, or the uninsured employers' fund provided for in part 5 of this chapter.

~~(9)~~ (10) "Invalid" means one who is physically or mentally incapacitated.

~~(10)~~ (11) "Maximum healing" means the status reached when a worker is as far restored medically as the permanent character of the work-related injury will permit.

~~(11)~~ (12) "Order" means any decision, rule, direction, requirement, or standard of the department or any other determination arrived at or decision made by the department.

~~(12)~~ (13) "Payroll", "annual payroll", or "annual payroll for the preceding year" means the average annual payroll of the employer for the preceding calendar year or, if the employer shall not have operated a sufficient or any length of time during such calendar year, 12 times the average monthly payroll for the current year. However, an estimate may be made by the department for any employer starting in business if no average payrolls are available. This estimate is to be adjusted by additional payment by the employer or refund by the department, as the case may actually be, on December 31 of such current year. An employer's payroll must be computed by calculating all wages, as defined in 39-71-123, that are paid by an employer.

~~(13)~~ (14) "Permanent partial disability" means a condition, after a worker has reached maximum healing, in which a worker:

(a) has a medically determined physical restriction as a result of an injury as defined in 39-71-119; and

(b) is able to return to work in the worker's job pool pursuant to one of the options set forth in 39-71-1012 but suffers impairment or partial wage loss, or both.

~~(14)~~ (15) "Permanent total disability" means a condition resulting from injury as defined in this chapter, after a worker reaches maximum healing, in which a worker is unable to return to work in the worker's job pool after exhausting all options set forth in 39-71-1012.

~~(15)~~ (16) The term "physician" includes "surgeon" and in either case means one authorized by law to practice his profession in this state.

~~(16)~~ (17) The "plant of the employer" includes the place of business of a third person while the employer has access to or control over such place of business for the purpose of carrying on his usual trade, business, or occupation.

~~(17)~~ (18) "Public corporation" means the state or any county, municipal corporation, school district, city, city under commission form of government or special charter, town, or village.

~~(18)~~ (19) "Reasonably safe place to work" means that the place of employment has been made as free from danger to the life or safety of the employee as the nature of the employment will reasonably permit.

~~(19)~~ (20) "Reasonably safe tools and appliances" are such tools and appliances as are adapted to and are reasonably safe for use for the particular purpose for which they are furnished.

~~(20)~~ (21) "Temporary total disability" means a condition resulting from an injury as defined in this chapter that results in total loss of wages and exists until the injured worker reaches maximum healing.

~~(21)~~ (22) "Year", unless otherwise specified, means calendar year."

Renumber: subsequent sections

9. Page 10, lines 13 and 14.

Following: ", the"

Strike: the remainder of line 13 through "and the" on line 14

10. Page 10, line 20.

Following: line 19

Insert: "(2) On or before September 1 of each year, the state fund shall file with the commissioner of insurance a complete statement of its financial condition, transactions, and affairs as of the preceding June 30. The statement must be in the general form and context required by 33-2-701. The executive director shall verify the statement under oath. The commissioner of insurance may, in his discretion, waive any such verification under oath.

(3) The commissioner of insurance may refuse to accept the fee for continuance of the state fund's certificate of authority, as provided in 33-2-117, or may in his discretion suspend or revoke the certificate of authority of the state fund if it fails to file its annual statement when due.



(4) If the commissioner of insurance finds that the executive director, a director, or an employee of the state fund subscribed to, made, or concurred in making or publishing any annual statement or any other statement required by law knowing the same to contain any material statement that was false, the commissioner of insurance shall impose a civil penalty of not more than \$1,000.

(5) At the time of filing, the state fund shall pay the filing fee for the annual statement to the commissioner of insurance as prescribed in 33-2-708.

(6) The commissioner of insurance may impose a civil penalty not to exceed \$100 a day for each day after September 1 that the state fund fails to file the annual statement required by subsection (2). The civil penalty may not exceed a maximum of \$1,000."

Renumber: subsequent subsections

11. Page 10, line 23.

Strike: "existed on"

Insert: "arises from claims for injuries resulting from accidents that occurred before"

12. Page 17, lines 13 and 14.

Strike: "-- penalty"

13. Page 17, line 17.

Following: "39-71-401"

Insert: ", except that if an employer is subject to 15-30-204(2), the tax is an amount equal to 0.28% of the employer's payroll in the preceding week"

14. Page 18, lines 9 through 15.

Strike: subsections (1)(b) and (1)(c) in their entirety

Renumber: subsequent sections

15. Page 18, lines 20 through 22.

Strike: subsection (1)(e) in its entirety

16. Page 19, line 2.

Following: line 1

Insert: "(3) (a) On or before the last day of April, July, October, and January, each employer subject to the tax shall file a return in the form and containing the information required by the department and, except as provided in subsection (3) (b), pay the amount of tax required by this section to be paid on the employer's payroll for the preceding calendar quarter.

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

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

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

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

(6) The department of labor and industry, including the workers' compensation division, and the state fund shall, on [the effective date of this act] or as soon after that date as possible, give the department a list of all employers having coverage under any plan administered or regulated by the department of labor and industry and the state fund. After the lists have been given to the department, the department of labor and industry and the state fund shall update the lists weekly. The department of labor and industry, including the workers' compensation division, and the state fund, shall provide the department with access to their computer data bases and paper files and records for the purpose of the department's administration of the tax imposed by this section."

Renumber: subsequent subsections

HB0002-1 (KT)  
021858SC.HRT

17. Page 19, lines 2 and 3.

Strike: "Sections" through "15-35-122" on line 3

Insert: "The provisions of Title 15, chapter 30, not in conflict with the provisions of this part"

18. Page 19, line 3.

Following: "regarding"

Insert: "administration, remedies, enforcement, collections, hearings, interest,"

19. Page 20, line 10.

Following: line 9

Insert: "NEW SECTION. Section 18. Coordination with Occupational Disease Act of Montana. For purposes of [this act] and the administration of Title 39, chapter 72, a reference in [this act] to an injury resulting from an accident or to a claim for an injury resulting from an accident includes a disablement as defined in 39-72-102(4).

NEW SECTION. Section 19. Transfer of accounts receivable. The department of revenue is not responsible for the collection of an account receivable it takes over from the department of labor and industry on [the effective date of this section] if the account is more than 720 days past due or is an account of an employer that is no longer in business. Such accounts must be transferred to the attorney general for collection.

NEW SECTION. Section 20. Settlement of fixed benefit claims that arose prior to July 1, 1990. (1) The state fund shall offer a lump-sum settlement to each person who has a claim that arose before July 1, 1990, for which the state fund has accepted liability and has fixed benefits. The lump-sum settlement must be 80% of the amount of liability accepted by the state fund, discounted to present value. Each settlement offer must contain a provision granting the state fund a full and unconditional release of liability in exchange for accepting the lump-sum settlement. The claimant shall accept a lump-sum settlement in writing before November 1, 1990, or the settlement offer is void.

(2) If the lump-sum settlement offer made pursuant to subsection (1) is not accepted, the lump-sum law in effect on the date of the injury applies.

NEW SECTION. Section 21. Request for proposals for claims settlement. The state fund shall prepare a request for proposals for contracting with private claims adjusters for settling the claims of persons whose benefits have not been determined under a claim that arose before July 1, 1990. The request for proposals may be based upon a dollar amount of unsettled claims or upon a percentage of claims for which benefits have not been determined. The state fund may not enter into a contract based upon a proposal until it has reported the results of the proposals to the 52nd legislature and has received legislative authorization to enter into a contract based upon a proposal."

Renumber: subsequent sections

20. Page 21, line 11.

Strike: "14 and 16"

Insert: "13, 15, 17, 18, and 20"

Strike: "23"

Insert: "28"

21. Page 21, line 13.

Strike: "[Section 15] is"

Insert: "The change in the tax rate in 39-71-2503(1) (a) and the amendment inserted at the end of the first sentence of 39-71-2503(1) (a) by [section 16] are"

22. Page 21, line 14.

Strike: "applies"

Insert: "apply"

1160002.1  
021858SC.HRT

May 22, 1990

Page 9

23. Page 21, line 15.

Following: line 14.

Insert: "(3) [Sections 14 and 19] and all other amendments to  
39-71-2503 contained in [section 16] are effective July 1,  
1991."

24. Page 21, line 16.

Strike: "11"

Insert: "12"

Strike: "13"

Insert: "14"

Strike: "16"

Insert: "17"

1160002.1 (RT)

021858SC.HRT

Amendments to House Bill No. 2  
Introduced Bill Copy  
Prepared by the Commissioner of Insurance  
May 21, 1990

EXHIBIT 1  
DATE 5/22/90  
HB 2

1. Page 3, line 24.

Following: "[section 3]"

Insert: "and 39-71-2316(9)"

2. Page 8, line 17.

Following: "a"

Strike: "financial and"

3. Page 8, line 23.

Following: "."

Insert: "In addition, the commissioner of insurance shall biennially conduct or have conducted a financial examination of the state fund, pursuant to 33-1-401."

4. Page 10, line 13.

Strike: "reserve"

Insert: "surplus"

5. Page 10, line 19.

Following: "(2)"

Insert: "The state fund shall annually on or before September 1 file with the commissioner of insurance a full and true statement of its financial condition, transactions, and affairs as of the June 30 preceding. The statement shall be in such general form and context as ~~is~~ required or not disapproved by the commissioner of insurance, as is in current use for similar reports to states in general with respect to the type of insurer and kinds of insurance to be reported upon, and as supplemented for additional information required by the commissioner of insurance. The statement shall be verified by the oath of state fund's president or vice-president and secretary. The commissioner of insurance may, in his discretion, waive any such verification under oath."

(3) The commissioner of insurance may refuse to accept the fee for continuance of the state fund's certificate of authority, as provided in 33-2-117, or may in his discretion suspend or revoke the certificate of authority of the state fund if it fails to file its annual statement when due.

(4) Any director, officer, or employee of the state fund who subscribes to, makes, or concurs in making or publishing any annual statement or any other statement required by law knowing the same to contain any material statement which is false shall be punished by a fine of not more than \$1,000.

(5) At time of filing, the state fund shall pay to the commissioner the fee for filing its statement as prescribed in 33-2-708.

(6) The commissioner of insurance may impose a fine not to exceed \$100 a day for each day after September 1 that the state fund fails to file the annual statement referred to in subsection (1). Such fine may not exceed a maximum of \$1,000.  
Renumber: subsequent subsections.

Exhibit # 1  
5/22/90 am HB

6. Page 13, line 1.

Following: "."

Strike: "Classifications and premium rates may only be adopted and changed using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4."

7. Page 13, line 8.

Following: "."

Insert: "The commissioner of insurance shall have the authority to enforce the provisions of this subsection."

AMENDMENTS TO HOUSE BILL 2  
Introduced by Jerry Driscoll  
By Request of \_\_\_\_\_

1. Title, lines 7 through 9.  
Following "FROM"  
Strike: "CLAIMS" on lines 7 through "DATE";" on line 9.  
Insert: "PRE-JULY 1, 1990 CLAIMS OR POST-JULY 1, 1990 CLAIMS".
2. Statement of Intent, page 2, line 6.  
Following: "of"  
Strike: "claims before and on or after that date."  
Insert: "pre-July 1, 1990 claims and post-July 1, 1990 claims."
3. Statement of Intent, page 2, lines 23 through 25.  
Following: "claim" on line 23  
Strike: remainder of lines 23 through 25 in their entirety  
Insert: "is a pre-July 1, 1990 or post-July 1, 1990 claim."
4. Statement of Intent, page 3, lines 4 through 6.  
Following: "pay" on line 4  
Strike: remainder of line 4 through "1990;" on line 6  
Insert: "pre-July 1, 1990 claims;"
5. Statement of Intent, page 3, lines 10 and 11.  
Following: "costs" on line 10  
Strike: Remainder of lines 10 and 11 in their entirety  
Insert: "to administer and pay pre-July 1, 1990 claims."
6. Page 3, lines 19 through 21.  
Following: "sources for" on line 19  
Strike: remainder of lines 19 through "1990." on line 21  
Insert: "pre-July 1, 1990 claims and post-July 1, 1990 claims."
7. Page 3, lines 23 through 25.  
Following: "pay" on line 23  
Strike: remainder of lines 23 through "1990." on line 25  
Insert: "pre-July 1, 1990 claims."
8. Page 4, line 2 and 3.  
Strike: "claims" on line 2 through "1990." on line 3  
Insert: "post-July 1, 1990 claims."
9. Page 4, lines 6 through 9.  
Following: line 5  
Strike: lines 6 though 9 in their entirety  
Insert: "pre-July 1, 1990 claims, and separately determine the cost to administer and pay post-July 1, 1990 claims."



10. Page 4, lines 13 through 16.  
Following: "for" on line 13  
Strike: remainder of line 13 through "1990," on line 16  
Insert: "pre and post-July 1, 1990 claims,"
11. Page 4, lines 18 and 19.  
Strike: "claims" on line 18 through "1990." on line 19  
Insert: "post-July 1, 1990 claims"
12. Page 4, lines 22 through 24.  
Following: "pay" on line 22  
Strike: remainder of lines 22 through "1990." on line 24  
Insert: "post-July 1, 1990 claims."
13. Page 5, lines 5 and 6.  
Strike: "claims" on page 5 through the end of line 6 in  
its entirety  
Insert: "pre-July 1, 1990 claims."
14. Page 5, lines 9 and 10.  
Following: "pay" on line 9  
Strike: remainder of lines 9 and 10 in their entirety  
Insert: "pre-July 1, 1990 claims,"
15. Page 5, lines 15 through 17.  
Strike: "claims" on line 15 through "1990." on line 17  
Insert: "pre-July 1, 1990 claims."
16. Page 5, line 25 through page 6, line 1.  
Following: "pay" on line 25  
Strike: the remainder of line 25 through "1990." on page  
6, line 1  
Insert: "pre-July 1, 1990 claims."
17. Page 6, lines 6 and 7.  
Strike: "claims" on line 6 through "1990." on line 7  
Insert: "pre-July 1, 1990 claims."
18. Page 8, lines 11 and 12.  
Strike: "claims" on line 11 through "1990," on line 12  
Insert: "pre-July 1, 1990 claims,"
19. Page 8, lines 12 and 13.  
Following: "only" on line 12  
Strike: remainder of line 12 through "of" on line 13  
Insert: "to administer and pay"
20. Page 8, lines 18 through 20.  
Strike: "claims" on line 18 through "1990." on line 20  
Insert: "pre-July 1, 1990 claims."

21. Page 8, line 25 through page 9, line 3.  
Following: "between"  
Strike: remainder of line 25 through page 9, line 3 in  
their entirety  
Insert: "pre-July 1, 1990 claims and post-July 1, 1990  
claims."

22. Page 11, lines 1 through 3.  
Following: "[Section 3]."  
Strike: the remainder of lines 1 through 3 in their  
entirety  
Insert: "the operations of the State Fund based on  
insolvency due to post-July 1, 1990 claims."

23. Page 13, lines 18 and 19.  
Strike: "claims" on line 18 through "1990." on line 19  
Insert: "pre-July 1, 1990 claims,"

24. Page 14, lines 8 through 11.  
Following: "to" on line 8  
Strike: the remainder of lines 8 through 11 in their  
entirety  
Insert: "pre-July 1, 1990 or post-July 1, 1990 claims."

25. Page 14, lines 14 and 15.  
Strike: "claims" on line 14 through "1990." on line 15  
Insert: "pre-July 1, 1990 claims."

26. Page 14, lines 21 through 23.  
Strike: "claims" on line 21 through "1990." on line 23  
Insert: "post-July 1, 1990 claims,"

27. Page 15, line 15.  
Insert: "(1) "Administer and pay" <sup>includes</sup> ~~means~~ all actions  
necessary by the State Fund to investigate, review and  
pay medical, wage loss and other benefits to persons  
filing claims, under the Workers' Compensation and  
Occupational Disease Acts. Such actions include but  
are not limited to the investigation, review, and  
settlement of claims, payment of benefits, setting  
reserves, furnishing of appropriate services and  
facilities, and utilization of actuarial, audit,  
accounting, vocational rehabilitation, and legal  
services, ~~as appropriate.~~"

Renumber: subsequent sections through line 21.

28. Page 15, line 22.  
Insert: "(5) "Post-July 1, 1990 claims" means those  
claims for benefits under the Workers' Compensation  
Act for injuries resulting from accidents that occur  
on or after July 1, 1990, or claims for benefits under  
the Occupational Disease Act for diseases resulting  
from occupational exposure that last occurred on or  
after July 1, 1990.

necessary  
to

(6) "Pre-July 1, 1990 claims" means those claims for benefits under the Workers' Compensation Act for injuries resulting from accidents that occur before July 1, 1990, or claims for benefits under the Occupational Disease Act from diseases resulting from occupational exposure that last occurred before July 1, 1990."

Renumber: subsequent sections.

29. Page 16, lines 7 through 9.

Strike: "claims" on line 7 through "1990." on line 9

Insert: "pre-July 1, 1990 claims,"

30. Page 17, lines 19 and 20.

Strike: "claims" on line 19 through "1990." on line 20

Insert: "pre-July 1, 1990 claims."

31. Page 20, lines 5 and 6.

Strike: "claims" on line 5 through "1990." on line 6

Insert: "pre-July 1, 1990 claims."

AMENDMENTS TO HOUSE BILL 2  
Introduced by Jerry Driscoll  
By Request of \_\_\_\_\_

1. Statement of Intent, page 2, line 18.  
Following: "cost-effective"  
Strike: ", most"  
Insert: "and"

Following: "most efficient"  
Strike: ", and surest"

2. Page 4, line 24.  
Strike: "each"  
Insert: "the total"

3. Page 9, line 14.  
Strike: "at least annually"

4. Page 9, line 17 through page 10, line 4.  
Following: "reserves"  
Strike: ", during" on line 17 through "part" on page 10,  
line 4

5. Page 10, line 23.  
Strike: "existed on July 1, 1990."  
Insert: "arises from pre-July 1, 1990 claims."

6. Page 11, lines 9 through 15.  
Strike: subsection(4) in its entirety

*claims for injuries resulting from accidents  
that occur before 7/1/90*

7. Page 12, line 8.  
Strike: "rule making"  
Insert: "by-laws"

8. Page 12, line 18.  
Strike: "rules"  
Insert: "by-laws"

9. Page 13, lines 1 through 4.  
Strike: "Classifications" on line 1 through "4." on  
line 4

10. Page 15, line 2.  
Strike: "rules"  
Insert: "by-laws"

From Pat Sweeney

1. The first set of amendments clarifies the language in the bill without changing its substantive character.

The title of the bill has been amended initially at line 7 of page 1 to reflect the terms "pre-July 1, 1990 claims" and "post-July 1, 1990 claims". Both terms are then defined under Section 13, Definitions, to encompass both occupational disease as well as workers' compensation claims for which the State Fund is liable under its policies. In the present format of the introduced bill, "claims" are limited only to "claims for injuries from accidents", excluding from consideration occupational disease claims. The amended language is meant to not only clarify and include occupational disease benefits, but also to reduce surplus words in the body of the bill by use of the Definition section, Section 13. In the Definition section, there is also an additional term, "administer and pay" which is defined to encompass all functions of the State Fund pertaining to its daily operations.

2. The second set of amendments, except for the first two, do change the substantive character of the introduced bill.

a. The first two amendments further clean up the language in the bill. The first will result in the language which reads "the most cost-effective and efficient", striking "surest", since there are never guarantees as to the efficacy of the bill. The second amendment also cleans up the language pertaining to a loan or loans for initial operating expenses, substituting "a total" for "each" amount borrowed during the fiscal year beginning July 1, 1990.

b. The second amendment strikes the language "at least annually" from page 9, line 14, since it potentially conflicts with the insurance code pertaining to promulgation of rates by an insurance company, and it effectively ties the hand of the State Fund from biennially setting rates for state agencies which has previously been suggested for the benefit of the State of Montana. The language in our introduced bill as it is presently worded, appears to require the State Fund to

May 21, 1990  
Page 2

adjust premiums more often than once a year, and would arguably allow insureds by statutory authority to question the operation of the State Fund if premiums are not adjusted more than once a year. This language should therefore be stricken.

c. The fourth amendment on the page strikes the new language as contained in the introduced bill at page 9, line 17 through page 10, line 4. Again, this language arguably intrudes upon Sec. 33-16-201, MCA of the insurance code, which requires that rates be neither excessive nor inadequate.

d. The fifth amendment listed applies to the Insurance Commission's authority to declare the State Fund insolvent for a deficiency in assets as it existed on July 1, 1990. In order to maintain clarity and integrity on the issue of separation of pre- and post-July 1, 1990 claims, this language was inserted.

e. Amendment six strikes Subsection 4 at page 11, lines 9-15 in its entirety, which would specifically apply the Montana Administrative Procedures Act for all procedural and substantive operations of the State Fund.

In order for the State Fund to operate as a domestic mutual insurer, it is senseless to require promulgation of rules which necessitate publication of proposed rules, opted for public comment, the possibility of public hearings required because of the large volume of interested persons and the requirements that the State Fund hold contested case hearing pertinent to its own rules.

With oversight of the Montana Insurance Commissioner's Office as with any other insurer in the state, and the concomitant requirement of compliance with the Montana Insurance Code with opportunity under those statutes for administrative hearings, the application of the Administrative Procedures Act specifically to the State Fund as a mutual insurer is not only duplicative in most instances, but unduly burdensome. A brief explanation of the burden placed on the State Fund if it were answerable to the Montana Administrative Procedures Act, is that every time it is required to change rates, whether to increase them or decrease them, it must provide notice to its 27,000 policyholders of such a rate change, with an opportunity for public comment. Obviously because of the number of interested persons who would be concerned about any rate increase, the ability of the State Fund to implement needed rate changes in a timely fashion would effectively grind to a standstill.

May 21, 1990  
Page 3

Since the State Fund is expected to operate as a mutual insurance company under the Montana Insurance Code, the State Fund ought to be given a chance to succeed without the unnecessary and unduly burdensome additional procedures under MAPA, which would surely tie its hands from operating like an efficient private insurer.

f. Amendment 6, page 12, line 8, inserts "bylaws" for "rulemaking", tying back to the idea that the State Fund should be run as a mutual insurance company under the auspices of the State Insurance Commissioner's Office.

The previous section, Section 9 citing Section 39-71-2315, MCA, already gives the State Fund's Board of Directors authority to exercise any power and authority "as fully and completely as the governing body of a private mutual insurance carrier." Amendment to Section 10 simply clarifies the duties of the Board, to encompass promulgation of by-laws rather than rule making, which would again saddle it with the requirements of the Montana Administrative Procedures Act.

g. Similarly, at page 12, line 18 of the introduced bill, the term "bylaws" is substituted for "rules".

h. On page 13, lines 1-4, the underlined passage is deleted since this would tie in again the Montana Administrative Procedures Act. Since the State Fund must comply with the insurance code already, as well as those rules of the Insurance Commissioner's Office pertaining to rates and classifications, this passage would be duplicative, would be a constraint upon the insurance code and the Insurance Commissioner Office's authority, and is certainly unnecessary.

i. Finally, the amendment on page 15, line 2, once again inserts the term "bylaws" for "rules".

RB/df/1897

EXHIBIT 3  
DATE 5/22/90  
HB 2

Amendments to House Bill No. 2  
Second Reading Copy

For the Committee of the whole

Prepared by Greg Petesch  
May 21, 1990

1. Title, line 21.

Following: "2020;"

Insert: "REQUIRING THE STATE FUND TO OFFER PERSONS WHOSE BENEFITS HAVE BEEN DETERMINED UNDER A CLAIM BASED UPON AN ACCIDENT OCCURRING BEFORE JULY 1, 1990, A DISCOUNTED LUMP-SUM SETTLEMENT IN EXCHANGE FOR A RELEASE OF FUTURE LIABILITY; REQUIRING THE STATE FUND TO SOLICIT PROPOSALS FOR CONTRACTING WITH PRIVATE CLAIMS ADJUSTERS FOR SETTLING THE CLAIMS OF PERSONS WHOSE BENEFITS HAVE NOT BEEN DETERMINED UNDER A CLAIM BASED UPON AN ACCIDENT OCCURRING BEFORE JULY 1, 1990;"

2. Page 20, line 15.

Following: section 17

Insert: "NEW SECTION. Section 18. Settlement of fixed benefit claims for injuries resulting from accidents occurring prior to July 1, 1990. The state fund shall offer a lump-sum settlement to each person who has a claim for which the state fund has accepted liability and fixed benefits for an injury resulting from an accident that occurred before July 1, 1990. The lump-sum settlement must be 80% of the amount of liability accepted by the state fund, discounted to present value. Each settlement offer must contain a provision granting the state fund a full and unconditional release of liability in exchange for accepting the lump-sum settlement. The claimant must accept a lump-sum settlement in writing before November 1, 1990, or the settlement offer is void.

NEW SECTION. Section 19. Request for proposals for claims settlement. The state fund shall prepare a request for proposals for contracting with private claims adjusters for settling the claims of persons whose benefits have not been determined under a claim based upon an accident occurring before July 1, 1990. The request for proposals may be based upon a dollar amount of unsettled claims or upon a percentage of claims that for which benefits have not been determined. The state fund may not enter into a contract based upon a proposal until it has reported the results of the proposals to the 52nd legislature and has received legislative authorization to enter into a contract based upon a proposal."

Renumber: subsequent sections

3. Page 21, line 11.



Strike: "23"  
Insert: "25"

EXHIBIT 4  
DATE 5/22/90  
HB 2

Amendments to House Bill No. 2  
First Reading Copy

Requested by Rep. Vicki Cocchiarella  
For the Committee on Labor

Prepared by Mary McCue  
May 22, 1990

1. Title, line 20.

Following: "SOLVENCY:"

Insert: "PROVIDING FOR A GENERAL FUND APPROPRIATION OF THE  
EMPLOYER'S PAYROLL TAX ASSESSED AGAINST SCHOOL DISTRICTS AND  
LOCAL GOVERNMENTS;"

2. Page 20, following line 9.

Insert: "(3) The tax amounts assessed against school districts  
and local governments under 39-71-2503 are statutorily  
appropriated, as provided in 17-7-502, from the general fund."

*effective 7-1-91*

EXHIBIT 5  
DATE 5/22/90  
HB 2

Amendments to House Bill No. 2  
First Reading Copy

Requested by Rep. Cobb  
For the Committee on Labor and Employment Relations

Prepared by John MacMaster  
May 21, 1990

1. Page 12, line 22.

Strike: "and"

Following: "payment"

Strike: ";"

Insert: ", and actuarial services. Actuarial services must be  
procured by competitive bidding, and the state fund may not  
use the same actuary for more than 3 successive years."

HB2AM4

EXHIBIT 6  
DATE 5/22/90  
HB 2

Amendments to HB 2, white copy  
Prepared for Rep. Boharski by John MacMaster

1. Title, line 20.

Following: "SOLVENCY;"

Insert: "PROVIDING A SPECIFIC METHOD OF DETERMINING PREMIUM RATES  
BUT ALLOWING THE STATE FUND TO USE ANY METHOD SUGGESTED BY  
THE NATIONAL COUNCIL ON COMPENSATION INSURANCE IN ADDITION  
TO OR INSTEAD OF THAT SPECIFIC METHOD;"

2. Page 10, lines 4 through 8.

Following: "part."

Strike: remainder of lines 4 through 8 in their entirety

3. Page 13, line 8.

Following: "rates."

Insert: "The state fund shall implement variable pricing levels  
within individual rate classifications to reward an employer  
with a good safety record and penalize an employer with a  
poor safety record. To ensure that employers are charged  
equitable rates, the state fund:

(a) shall use employer experience modification  
factors;

(b) shall allow volume discounts;

(c) shall use a retrospective rating plan for an  
employer that requests it;

(d) may use a retrospective rating plan for an  
employer that has shown an inability to control accidents;  
and

(e) may, in addition to or instead of the rating plan  
provided in subsections (6)(a) through (6)(d), adopt any  
rating plan suggested by the national council. The state  
fund may only use a rating plan referred to in this  
subsection (6)."

HB2AM3

EXHIBIT 7  
DATE 5/22/90  
HB 2

Amendments to HB 2, white copy  
Prepared for Rep. Boharski by John MacMaster

1. Title, line 20.

Following: "SOLVENCY;"

Insert: "REQUIRING THAT THE RATE FOR EACH CLASSIFICATION MUST BE A PERCENT OF THE NATIONAL COUNCIL ON COMPENSATION INSURANCE'S MONTANA SUGGESTED RATE FOR THAT CLASSIFICATION, UNLESS A DIFFERENT RATE IS APPROVED BY THE COMMISSIONER OF INSURANCE, AND THAT THE SAME PERCENT BE USED FOR EACH CLASSIFICATION;"

2. Page 13, line 8.

Following: "rates."

Insert: "To ensure that there is no discrimination between classifications, the rate for each classification must be a percent of the national council's Montana suggested rate for that classification, unless a different rate is approved by the commissioner of insurance. The percent must be the same for each classification."

HB2AM2

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 5/22/90 BILL NO. <sup>HB2</sup> Whalen amendment NUMBER 1

NAME	AYE	NAY
REP. COCCHIARELLA		✓
REP. COMPTON	✓	
REP. DRISCOLL	✓	
REP. GLASER		✓
REP. KILPATRICK		✓
REP. LEE		✓
REP. O'KEEFE		
REP. PAVLOVICH	✓	
REP. RICE	✓	
REP. SIMPKINS		✓
REP. SMITH		
REP. SQUIRES		✓
REP. THOMAS	✓	
REP. WHALEN	✓	
REP. MCCORMICK, VICE-CHAIR	✓	
REP. RUSSELL, CHAIR		✓

TALLY 7 7

Temi Rose  
SECRETARY

CHAIRMAN

MOTION: Driscoll (second set) 6,7,8,10

Roll Call - Motion Fails.

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 5/22/90 BILL NO. HB 2 NUMBER #2 Exhibit 4

NAME	AYE	NAY
REP. COCCHIARELLA	✓	
REP. COMPTON		✓
REP. DRISCOLL		✓
REP. GLASER		✓
REP. KILPATRICK	✓	
REP. LEE		✓
REP. O'KEEFE	✓	
REP. PAVLOVICH		✓
REP. RICE		✓
REP. SIMPKINS		✓
REP. SMITH		✓
REP. SQUIRES	✓	
REP. THOMAS		✓
REP. WHALEN	✓	
REP. McCORMICK, VICE-CHAIR	✓	
REP. RUSSELL, CHAIR	✓	
TALLY	<u>7</u>	<u>9</u>

Toni Dore  
SECRETARY

CHAIRMAN

MOTION: Cocchiarella - Exhibit 4  
motion fails

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

#3

DATE 5/22/90 BILL NO. HB 2 NUMBER Exhibit 5

NAME	AYE	NAY
REP. COCCHIARELLA		✓
REP. COMPTON		✓
REP. DRISCOLL		✓
REP. GLASER	✓	
REP. KILPATRICK	✓	
REP. LEE	✓	
REP. O'KEEFE		
REP. PAVLOVICH	✓	
REP. RICE		✓
REP. SIMPKINS	✓	
REP. SMITH		✓
REP. SQUIRES		✓
REP. THOMAS		✓
REP. WHALEN	✓	
REP. McCORMICK, VICE-CHAIR		✓
REP. RUSSELL, CHAIR		✓

TALLY 6 9

Tami Dore  
SECRETARY

CHAIRMAN

MOTION: Cobb Exhibit 5

motion failed



ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 5/22/90 BILL NO. HB 2 NUMBER #4 Exhibit 7

NAME	AYE	NAY
REP. COCCHIARELLA		✓
REP. COMPTON		✓
REP. DRISCOLL		✓
REP. GLASER		✓
REP. KILPATRICK		✓
REP. LEE	✓	
REP. O'KEEFE		
REP. PAVLOVICH		✓
REP. RICE	✓	
REP. SIMPKINS	✓	
REP. SMITH		✓
REP. SQUIRES		✓
REP. THOMAS	✓	
REP. WHALEN	✓	
REP. McCORMICK, VICE-CHAIR		✓
REP. RUSSELL, CHAIR		✓

TALLY 5 10

Tamara Dore  
SECRETARY

CHAIRMAN

MOTION: HB 2 AM 2 - Bohanski Exhibit 7  
motion failed