

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Senator Richard Manning, on February 19, 1991,
at 3:25 p.m.

ROLL CALL

Members Present:

Richard Manning, Chairman (D)
Thomas Towe, Vice Chairman (D)
Gary Aklestad (R)
Chet Blaylock (D)
Gerry Devlin (R)
Thomas Keating (R)
J.D. Lynch (D)
Dennis Nathe (R)
Bob Pipinich (D)

Members Excused: NONE.

Staff Present: Tom Gomez (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: NONE.

HEARING ON SENATE BILL 343

Presentation and Opening Statement by Sponsor:

Senator David Rye told the Committee Senate Bill 343 is at the request of the Department of Labor and Industry. This bill would allow the department more flexibility in dealing with the uninsured employers fund.

Proponents' Testimony:

Mike Micone, Commissioner of the Department of Labor and Industry explained the present law states the department shall require a penalty; double the premium amount the employer failed to pay for workers' compensation insurance or \$200 whichever is greater. He explained a number of instances in which the level of penalty is contested by the employer. This requires a contested case hearing, causes delay, and may involve the department in a court case. He explained the more flexibility the department has in working with the employers, the greater opportunity in resolving the cases. An example he cited involved

an employer who purchased a business and thought there was workers' compensation coverage. Thirty days after he took over operation of the business he discovered he was not covered. He immediately applied for coverage. The application triggered the department to conduct an audit which determined a period of approximately 60 days of non-coverage. In this instance the premium was \$21.00. According to present law a \$200 penalty was imposed. He explained the department wishes to have the flexibility to negotiate penalties and avoid contested case hearings.

Don Judge, Executive Secretary of the Montana State AFL-CIO spoke in support of Senate Bill 343. He explained the onus on the department to apply penalties in appropriate places, otherwise the burden of paying payroll tax falls on good employers paying the tax.

Opponents' Testimony:

NONE.

Questions From Committee Members:

NONE.

Closing by Sponsor:

Senator Rye closed on Senate Bill 343.

EXECUTIVE ACTION ON SENATE BILL 343

Motion:

Senator Towe moved Senate Bill 343 DO PASS.

Discussion:

NONE.

Amendments, Discussion, and Votes:

NONE.

Recommendation and Vote:

Motion to DO PASS CARRIED UNANIMOUS.

HEARING ON SENATE BILL 365

Presentation and Opening Statement by Sponsor:

Senator Tom Keating explained the purpose of Senate Bill 365

is to address a serious problem before the legislature perennially; to amend the Workers' Compensation Act. He presented an analogy. About ten years ago Poland was controlled entirely by the state. Everyone was told where they would work, how long they would work, what they would get paid; then where they would spend their money, etc. The government of Poland recognized the country was running out of food, and even though there were laws directing the agriculture communes to deliver certain quantities of food. In spite of the laws and the weight of government, the people and the government were unable to deliver that food. An idea coming outside was tried. The government decreed every farmer who wanted to, could set aside 10 acres of land. The farmer could grow anything of his choice on the 10 acre tract, in addition to the work being done for the government. The government left the choice of product up to the farmer. The farmer was allowed to sell the surplus. A free enterprise, profit-motivated situation was created. Within a short while there was food in the marketplace. Statistics revealed the 10 acre plots amounted to 4% of the agricultural land on which crops and food are grown; and yet, the 4% was producing 60% of the food stuffs in the marketplace. The plan was a success because individuals were making choices for themselves. What was good for individuals in the freedom of choice was good for the whole of society.

Senator Keating commented with all the government control in the workers' compensation law, trying to do what is best for everyone, "we have satisfied no one". He pointed out an unfunded liability exists, premiums are too high, general fund money is being spent to keep the system going, and taxes are being imposed on people not using the system. He submitted the failure is due to the state dictating to individuals what is best for them. He stated a single law cannot meet all the individual needs of all the people in the workplace, nor does it address the unique situations of each employer or employee. He told the Committee there are 27,000 employers in the plan. There are 400 different categories with premiums too high for some and too low for others. As a consequence there is political manipulations of premiums in an attempt to satisfy one group or another.

Senator Keating told the Committee the personnel with the state plan are industrious, hard-working, honest individuals. They apply the law correctly. The law does not work. His proposal is to "let people take care of themselves, let each of them do for themselves what they think is best in their situation; instead of the state trying to control thousands of daily decisions with a single law".

Senator Keating stated the best way to correct the situation is to let the participants correct it themselves.

He told the Committee Senate Bill 365 would repeal the entire workers' compensation and occupational disease act, except, the requirement every employer provide workers'

compensation and occupational disease insurance coverage for each firm. The law will define employers and employees and independent contractors. It will define the duties of the Department of Labor and Industry which will receive certificates of insurance from all employers, as well as unemployment payroll statements. There would be an assigned risk pool. Any private carrier operating in the state would take a fair share of the high-risk uninsurable employers. In order to address the unfunded liability, the insurance commissioner would be allowed to adjust and settle benefits and claims by contracting with private adjusters. A provision would allow the state auditor to borrow money from the economic development fund at 7.5% interest, using the existing .28% payroll tax as collateral, and buy down the unfunded liability. He requested Senate Bill 365 be amended to reinstate the self-insured (which had been deleted) except, with the benefits currently in law. The self-insurers would file a schedule of benefits with the insurance commissioner or the DOLI.

Proponents' Testimony:

Susan Witty, Chief Legal Counsel for State Auditor and Commissioner of Insurance, Andrea Bennett, told the Committee she was neither a proponent nor an opponent. She explained Senate Bill 365 would cause staffing problems for the Department of Insurance in the assigned risk plan and in the contracting with private insurers. She commented it would require at least additional staff. (Ms. Witty did not sign the Visitor's Register but her comments are entered here.)

Jack Traxler representing the Montana School Transportation Association Private Contractors spoke in support of Senate Bill 365 from prepared testimony. (Exhibit 1(a) and 1(b))

Riley Johnson representing the National Federation of Independent Businesses presented written testimony provided by an NFIB member, Roger Koopman. Mr. Koopman is the manager/owner of Career Concepts in Bozeman. (Exhibit #2)

Mr. Johnson told the Committee NFIB could not take a position on legislation unless it has a specific ballot position. He explained NFIB does not have a ballot position on "selling the fund". He explained NFIB does have a position in privatization which is greatly favored; their members are displeased with the present program; and displeased with the taxation and surtaxes put on small employers to solve the problem. He commented Senate Bill 365 is a step toward solving the problem.

Opponents' Testimony:

Mike Sherwood, lobbyist for the Montana Trial Lawyers Association told the Committee if Senate Bill 365 were a bill to abolish workers' compensation in Montana he would support it. He

explained the bill is not. In 1987 a compromise was struck in good faith by injured workers and the counsel representing them with the business interest in Montana. He commented labor and the individuals he represented lived up to the compromise. There have been no class action suits to label Senate Bill 315 as an inadequate remedy. An attempt has been made to make SB 315 work. Senate Bill 365 further restricts rights and remedies of injured workers drastically reduced in SB 315. He explained it does not allow a job preference, there is no lump sum except by agreement, and there is no guarantee of workers' compensation. There are no minimum benefits required. It requires a private employer to have a workers' compensation plan, but there are no requirements as to remedies or benefits allowed. He commented SB 315 is working. The actuaries say it is sound.

Don Judge, Executive Secretary of the Montana State AFL-CIO spoke in opposition to Senate Bill 365. He explained they share the same concerns about the workers' compensation system and benefit levels; the "so-called compromise" in 1985; and the further compromise in 1987. He commented this was not necessarily a compromise. The Montana State AFL-CIO was opposing some of those bills and some of the provisions of those bills. He told the Committee "workers have been the ones to take the heat on that". He cited an example of the repetitive injury, carpal tunnel syndrome, which is not covered as a workers' disease. He explained with the more frequent use of computers people are using repetitive motion. He told the Committee they (labor) are not satisfied with the workers' compensation system as it is, and appreciate any effort to correct the problems. Senate Bill 365 does not straighten out that system. There would be no guarantee of return to work and no guarantees for a safe workplace, both of which have been stricken. He commented there is a positive effect of the bill, it appears to eliminate the exclusive remedy provisions of the Montana law. An employee can sue an employer in the event of a workplace injury. He told the Committee it appears to be the "most progressive thing in the bill". Mr. Judge commented in about 1985 and again in 1987, independent contractors in the construction industry were arguing they wanted out of the system. It was an unfair system and a burden on them. Those same independent contractors have demanded this session they be placed back into the workers' compensation system. They are finding problems in their industry, particularly with sub-contractors, because they will not obtain insurance to cover their workers. Under the current law the general contractor becomes responsible when a sub-contractor does not provide those benefits. He told the Committee nothing in Senate Bill 365 covers those workers. Mr. Judge commented the social costs and costs to workers as result of eliminating the state compensation system far out-weight any advantages in eliminating it.

Bob Heiser of the United Food and Commercial Workers International Union urged DO NOT PASS on Senate Bill 365.

George Wood, Executive Secretary of the Montana Self Insurers Association told the Committee Senate Bill 365 would do away with a system with many faults, but the system provides benefits for both employer and employee and has provided a service to the state. He stated his appreciation for returning self-insurers to the bill but the insurance commissioner will find there may be 44 separate plans filed. Employers who would be in competition with the self-insurers may have different plans with benefits from unreasonable to reasonable. The employer would make the decision. The exclusive remedy would cause problems as a "give away, not an equal position for both sides". He told the Committee he sees "nothing but chaos" if a system is administered to provide benefits to injured workers without a benefit schedule or administrative procedures or in which disputes will be decided at district court.

Gene Fenderson of the Montana State Building and Construction Trades asked to go on record in opposition to Senate Bill 365.

Dan Edwards representing the Oil, Chemical and Atomic Workers International Union spoke in opposition to Senate Bill 365.

Questions From Committee Members:

Senator Towe asked Senator Keating if it were true he wishes to repeal all minimum benefits. Senator Keating explained if the benefits are put in the law, a minimum is established, the temptation to use the minimum would work against the employee. If the benefits are set high, the premiums are high. The employers will say they cannot afford the premium. The state would be an intermediary. The concept is to get the state out of the business. If the benefits are put into law they are subject "to tampering by every legislature". He commented the responsibility of insurance coverage should be in the private sector and into the hands of those it affects.

Senator Towe asked if Senator Keating intended to repeal the exclusivity; with employers being subject to suit by their employees. Senator Keating pointed to Exhibit #3 (a copy of the Constitution Article II Section 16) in which it states "no person shall be deprived of this full legal redress for injury incurred in employment for which another person may be liable, except as to fellow employees and his immediate employer who hired him, if such immediate employer provides coverage under the workers' compensation laws of the state.". He explained the exclusive remedy is written into the constitution. If the employer provides workers' compensation as required by the act he is not subject to liability.

Senator Towe asked if the worker were provided with \$1 damage if it would authorize full immunity to employers from suit. Senator Keating explained this would be an extreme

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

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workers could not sue the employer if they were injured. Senator Keating explained that was correct. The workers could sue if the benefits are not adequate. If the workers feels the benefits are not adequate they can sue on that basis; they cannot sue "just because they are injured".

Senator Devlin asked an new unfunded liability is being started, after the other unfunded bad debt is set aside. Senator Keating referred the question to Patrick Sweeney. Mr. Sweeney told the Committee the actuarial numbers indicate the new fund is solvent.

Senator Devlin asked Mr. Sweeney the date the last independent audit was performed. Mr. Sweeney explained the fund is currently undergoing actuarial review. There is preliminary information. He told the Committee it is an ongoing review. The actuary, to date, has found nothing in the review to bring to the attention of the state fund.

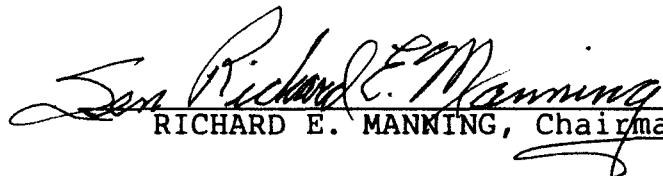
Senator Devlin asked Mr. Sweeney if there were a sign of a surplus. Mr. Sweeney told the Committee he "thinks they might make a dollar this year".

Closing by Sponsor:

Senator Keating closed on Senate Bill 365. He told the Committee there has been attempts to repair the system for quite some time. He explained it has not been done in the past, and will not be done in the future. He commented the state must make the decision, whether to be in the business or out of it. He stated "the state of Montana will not and cannot straighten the system just because government cannot inherently cannot solve all of the problems in the world." He explained the only way we can "straighten out this plan" is to get out of it.

ADJOURNMENT

Adjournment At: 4:15 p.m.


RICHARD E. MANNING, Chairman

LINDA CASEY, Secretary

REM/11c

LA021991.SM1

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 2/19/91

LEGISLATIVE SESSION

| NAME | PRESENT | ABSENT | EXCUSED |
|------------------|---------|--------|---------|
| SENATOR AKLESTAD | P | | |
| SENATOR BLAYLOCK | P | | |
| SENATOR DEVLIN | P | | |
| SENATOR KEATING | P | | |
| SENATOR LYNCH | P | | |
| SENATOR MANNING | P | | |
| SENATOR NATHE | P | | |
| SENATOR PIPINICH | P | | |
| SENATOR TOWE | P | | |
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Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 19, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 343 (first reading copy -- white), respectfully report that Senate Bill No. 343 do pass.

Signed: _____
Richard E. Hanning, Chairman

EB
Amd. Coord.

SB 220-91 4:45
Sec. of Senate

SENATOR SPINNING: ~~Home~~ Gentleman
OF LABOR & EMPLOYMENT RELATIONS COMMITTEE
GOOD AFTERNOON, MY NAME IS JUCK TRAXLER
AND I REPRESENT THE MICHIGAN SCHOOL
TRANSPORTATION ASSOCIATION, PRIVATE
CONTRACTORS.

OUR ASSOCIATION SUPPORTS, SENATE BILL,
365, WE ARE MADE UP OF NEARLY 50
CONTRACTORS STATE WIDE WITH THE NUMBER
OF EMPLOYEES RANGING FROM 3024 ~~TO~~
~~RE OVER 100~~ ON THE LOW SIDE TO 123
IN THE URBAN AREA.

THE FEELING IS THAT OBTAINING OUR
INSURANCE FROM THE PRIVATE SECTOR
WOULD NOT ONLY BENEFIT THE INSURANCE
INDUSTRY BUT FROM STUDIES WE HAVE
VIEWED IT WOULD BE MUCH BETTER FOR
THE STATE, FOR THE EMPLOYEES AND
IN THE LONG TERM THE CONTRACTORS.

I THANK YOU AND ASK FOR YOUR
CONSIDERATION FOR A YES VOTE ON THIS
BILL.

Juck Traxler

SENATE LABOR & EMPLOYMENT

EXHIBIT NO.

1(a)

DATE

2/19/91

BILL NO.

SB365

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 1st day of FEB, 1991.

Name: NICK E. TRAYLER

Address: 4403 Gharrett Rd.
Missoula, MT. 59803

Telephone Number: 1-251-2763

Representing whom?

Representing whom? *PRIVATE CONTRACTORS*
MONTANA SCHOOL TRANSPORTATION ASSOCIATION

Appearing on which proposal?

Genetic B. 11 365

Do you: Support? Yes Amend? _____ Oppose? _____

Comments:

SENATE LABOR & EMPLOYMENT

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1 (b)

EXHIBIT NO. 2119/91
DATE 2-1-92

DATE _____
BILL NO. SB 365

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



2304 West Main St.
Bozeman, Montana 59715
586-0231
586-0235



MEMORANDUM

February 19, 1991

TO: Sen. Richard Manning, Chm., Senate Labor Comm.

FROM: Roger Koopman, Mgr./Owner

RE: SB 365

Although previous commitments made it impossible for me to testify before your committee today, nevertheless, I wanted to submit this brief testimony as an enthusiastic endorsement of SB 365.

As you know, Mr. Chairman, the Legislature has been struggling with the Worker's Compensation State Fund for at least ten years, and seems no closer now than ever to genuine solutions. The Fund continues to run an enormous deficit, and is beset by inequity and inefficiency at every turn. Every effort at improving things has been band-aid surgery at best, and no long term cure of the patient is in sight.

Senator Keating's bill is most encouraging to me because it both identifies the fundamental problem and at the same time, points to the only legitimate long term solution. It addresses a basic truth that we have all been missing -- i.e., that there are many functions in our society that are best handled by government, and many more that are best handled by private enterprise. If there is anything that the State Fund has proven to us beyond the shadow of a doubt, it is that government does a lousy job of trying to be an insurance company.

This is no reflection on the integrity or sincerity of state workers, most of whom have doubtlessly worked long and hard at trying to make the current arrangement work. But I would respectfully suggest that the current system will never work, because the problems it faces are problems that are inherent in any state fund. The almost scandalous inefficiencies that are deeply rooted into our current system simply would not exist, to any major degree, if Worker's Compensation insurance was provided exclusively by the private sector.

This is a classic example of where the profit motive and related dynamics of private business would force a level of efficiency that governmental institutions are not similarly motivated to require. Competing companies would provide excellent, cost-effective coverages because, to do otherwise, they would lose business. Unlike the State Fund, which knows it can get bailed out by the legislature, private insurance companies would have to stand on their own, with operations finely tuned by the rigors of the marketplace. Such a system inevitably serves everyone's best interests.

Last year I had 216 employees on my payroll; this year I anticipate at least a 50% increase from that. Worker's Compensation has been a major concern to me for the 11 years I have been in business. SB 365 is the first bright light I have seen on the horizon in all this time, and to be, it represents a very bold and progressive step forward for employers and employees alike, and it is certainly in keeping with the national trend toward privatization and away from state funds. Please pass this excellent, forward-looking legislation. Thank you.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 2

DATE 2/19/91

BILL NO. SB 365

Section 11. Searches and seizures. The people shall be secure in their persons, papers, homes and effects from unreasonable searches and seizures. No warrant to search any place, or seize any person or thing shall issue without describing the place to be searched or the person or thing to be seized, or without probable cause, supported by oath or affirmation reduced to writing.

Convention Notes

Identical to 1889 constitution [Art. III, sec. 7].

Cross-References
Motion to suppress evidence illegally seized, sec. 95-1806.
Search and seizure, procedural requirements, sec. 95-701 et seq.

Section 12. Right to bear arms. The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

Convention Notes

Identical to 1889 constitution [Art. III, sec. 13].

Section 13. Right of suffrage. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Convention Notes

Identical to 1889 constitution [Art. III, sec. 5].

Section 14. Adult rights. A person 18 years of age or older is adult for all purposes.

Convention Notes

Section 3 of the Transition Schedule provides that "rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive."
Cross-References
New provision. Self explanatory.
Minor and adults defined, sec. 64-111.

Section 15. Rights of persons not adults. The rights of persons under 18 years of age shall include, but not be limited to, all the fundamental rights of this Article unless specifically precluded by laws which enhance the protection of such persons.

Convention Notes

Section 3 of the Transition Schedule provides that "rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive."
Cross-References
New provision giving children all of the rights that adults have unless a law meant to protect children prohibits their enjoyment of the right.

Section 16. The administration of justice. Courts of justice shall be open to every person, and speedy remedy afforded for every injury of person, property, or character. No person shall be deprived of this full legal redress for injury incurred in employment for which another person

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 3
DATE 2/19/91
BILL NO. SB 365

may be liable except as to fellow employees and his immediate employer who hired him if such immediate employer provides coverage under the Workers' Compensation Laws of this state. Right and justice shall be administered without sale, denial, or delay.

Compiler's Notes

Section 3 of the Transition Schedule provides that "rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive."

Convention Notes

Adds to 1889 constitution [Art. III, sec. 6] by specifically granting to a person injured in employment the right to sue a

third party causing the injury, except his employer or fellow employee when his employer provides coverage under workers' compensation laws.

Cross-References

Workers' compensation, election of employer and employee to come under act, action against third party causing injury, sec. 92-204.

Section 17. Due process of law. No person shall be deprived of life, liberty, or property without due process of law.

Convention Notes

Identical to 1889 constitution [Art. III, sec. 27].

Section 18. State subject to suit. The state, counties, cities, towns, and all other local governmental entities shall have no immunity from suit for injury to a person or property. This provision shall apply only to causes of action arising after July 1, 1973.

Compiler's Notes

Section 3 of the Transition Schedule provides that "rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive."

Convention Notes

New provision abolishing the doctrine of sovereign immunity ("the King can do no wrong") and allowing any person to sue the state and local governments for injuries caused by officials and employees thereof.

Cross-References

Sovereign immunity defense prohibited when liability of political subdivision insured, sec. 40-4402.

Section 19. Habeas corpus. The privilege of the writ of habeas corpus shall never be suspended.

Compiler's Notes

Section 3 of the Transition Schedule provides that "rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive."

Convention Notes

Revises 1889 constitution [Art. III, sec. 21] which allowed the writ of habeas corpus to be suspended in case of rebellion

or invasion. Revision provides that the writ (the right to test the lawfulness of a person's being detained) may never be suspended.

Cross-References

Habeas corpus, scope and procedure, sec. 95-2701 et seq.
Supreme court jurisdiction, Const. Art. VII, sec. 2.

Section 20. Initiation of proceedings. (1) Criminal offenses within the jurisdiction of any court inferior to the district court shall be prosecuted by complaint. All criminal actions in district court, except those on appeal, shall be prosecuted either by information, after examination and

SB 365

person, every prime contractor, and every firm, voluntary association, and private corporation, including any public service corporation and including an independent contractor who has any person in service under any appointment or contract of hire, expressed or implied, oral or written, and the legal representative of any deceased employer or the receiver or trustee thereof, and

(2) any association, corporation, or organization that seeks permission and meets the requirements set by the department by rule for a group of individual employers to operate as self-insured under plan No. 1 of this chapter.

History: En. 92-410.1 by Sec. 1, Ch. 154, L. 1973; R.C.M. 1947, 92-410.1(part); and Sec. 1, Ch. 480, L. 1985; and Sec. 64, Ch. 613, L. 1989.

Compiler's Comments
Name Change — Code Commissioner's "division", and "workers' compensation division" are changed to "department of labor and industry" or "department", meaning the "department of labor and industry". Code Annotated, the terms "division of workers" Such change was made in this section.

39-71-118. Employee, worker, and workman defined. (1) The terms "employee", "workman", or "worker" mean:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay. Casual employees as defined by 39-71-116 are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic service is excluded.

(b) a recipient of general relief who is performing work for a county of this state under the provisions of 53-3-303 through 53-3-305 and any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer as defined in this chapter and whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs as outlined above while they are on the premises of a public school or community college.

(d) students enrolled and in attendance in programs of vocational-technical education at designated vocational-technical centers; or

(e) an airman or other person employed as a volunteer under 67-2-105.

(2) (a) If the employer is a partnership or sole proprietorship, such employer may elect to include as an employee within the provisions of this chapter any member of such partnership or the owner of the sole proprietorship devoting full time to the partnership or proprietorship business.

(b) In the event of such election, the employer must serve upon the employer's insurer written notice naming the partners or sole proprietor to be covered and stating the level of compensation coverage desired by electing the

amount of wages to be reported, subject to the limitations in subsection (2)(d). A partner or sole proprietor is not considered an employee within this chapter until such notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of weekly wage for weekly compensation benefits, the electing employer may elect not less than \$900 a month and not more than 1 1/4 times the average weekly wage as defined in this chapter.

History: En. Sec. 6, Ch. 96, L. 1915; re-en. Sec. 2863, R.C.M. 1921; and Sec. 3, Ch. 121, L. 1925; and Sec. 1, Ch. 139, L. 1931; re-en. Sec. 2863, R.C.M. 1935; and Sec. 3, Ch. 88, L. 1945; and Sec. 1, Ch. 153, L. 1963; and Sec. 1, Ch. 308, L. 1971; and Sec. 1, Ch. 44, L. 1975; and Sec. 1, Ch. 281, L. 1977; R.C.M. 1947, 92-411; and Sec. 1, Ch. 21, L. 1981; and Sec. 2, Ch. 336, L. 1985; and Sec. 20, Ch. 670, L. 1985; and Sec. 96, Ch. 370, L. 1987; and Sec. 67, Ch. 464, L. 1987; and Sec. 25, Ch. 658, L. 1987; and Sec. 11, Ch. 333, L. 1989.

Compiler's Comments

1989 Amendment: In (2)(b), at end of first sentence, inserted "and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (2)(d)", inserted (2)(c) requiring change in elected wages to be in writing and effective at start of next quarter following notification; in (2)(d) inserted first sentence requiring weekly benefits to be based on amount of elected wages, subject to minimum and maximum limitations of this subsection and near middle of second sentence substituted "the electing employer may elect not less than" for "the insurance carrier shall assume a salary or wage of such electing employee to be not less than"; and made minor changes in form and phraseology. Amendment effective July 1, 1989.

Cross-References

"Independent contractor" defined, 39-71-120.

39-71-119. Injury and accident defined. (1) "Injury" or "injured" means:

(a) internal or external physical harm to the body;

(b) damage to prosthetic devices or appliances, except for damage to eyeglasses, contact lenses, dentures, or hearing aids; or

(c) death.

(2) An injury is caused by an accident. An accident is:

(a) an unexpected traumatic incident or unusual strain;

(b) identifiable by time and place of occurrence;

(c) identifiable by member or part of the body affected; and

(d) caused by a specific event on a single day or during a single work shift.

(3) "Injury" or "injured" does not mean a physical or mental condition arising from:

(a) emotional or mental stress; or

(b) a nonphysical stimulus or activity.

(4) "Injury" or "injured" does not include a disease that is not caused by an accident.

(5) A cardiovascular, pulmonary, respiratory, or other disease, cerebrovascular accident, or myocardial infarction suffered by a worker is an injury only if the accident is the primary cause of the physical harm in relation to other factors contributing to the physical harm.

History: Ap. P. Sec. 6, Ch. 96, L. 1915; re-en. Sec. 2870, R.C.M. 1921; re-en. Sec. 2870, R.C.M. 1935; and Sec. 6, Ch. 162, L. 1961; and Sec. 6, Ch. 149, L. 1965; and Sec. 1, Ch. 270, L. 1967; and Sec. 1, Ch. 488, L. 1973; Sec. 92-418, R.C.M. 1947; Ap. P. Sec. 2, Ch. 488, L. 1973; Sec. 92-418.1, R.C.M. 1947; (3) En. Sec. 6, Ch. 96, L. 1915; re-en. Sec. 2864, R.C.M.

1971: re-en. Sec. 2864, R.C.M. 1935; Sec. 92-412, R.C.M. 1947; R.C.M. 1947, 92-412, 92-418, 92-418.1; and Sec. 3, Ch. 464, L. 1987.

39-71-120. Independent contractor defined. (1) An "independent contractor" is one who renders service in the course of an occupation and:

- (a) has been and will continue to be free from control or direction over the performance of the services, both under his contract and in fact; and
- (b) is engaged in an independently established trade, occupation, profession, or business.

(2) An individual performing services for remuneration is considered to be an employee under this chapter unless the requirements of subsection (1) are met.

History: En. 92-438.1 by Sec. 1, Ch. 251, L. 1973; R.C.M. 1947, 92-438.1; and Sec. 5, Ch. 314, L. 1987.

39-71-121. Repealed. Sec. 68, Ch. 464, L. 1987.

History: En. Sec. 2, Ch. 47, L. 1981.

39-71-122. Repealed. Sec. 68, Ch. 464, L. 1987.

History: En. Sec. 3, Ch. 47, L. 1981.

39-71-123. Wages defined. (1) "Wages" means the gross remuneration paid in money, or in a substitute for money, for services rendered by an employee. Wages include but are not limited to:

- (a) commissions, bonuses, and remuneration at the regular hourly rate for overtime work, holidays, vacations, and sickness periods;
- (b) board, lodging, rent, or housing if it constitutes a part of the employee's remuneration and is based on its actual value; and
- (c) payments made to an employee on any basis other than time worked, including but not limited to piecework, an incentive plan, or profit-sharing arrangement.

(2) Wages do not include:

- (a) employee travel expense reimbursements or allowances for meals, lodging, travel, and subsistence;
- (b) special rewards for individual invention or discovery;
- (c) tips and other gratuities received by the employee in excess of those documented to the employer for tax purposes;
- (d) contributions made by the employer to a group insurance or pension plan; or
- (e) vacation or sick leave benefits accrued but not paid.

(3) For compensation benefit purposes, the average actual earnings for the four pay periods immediately preceding the injury are the employee's wages, except if:

- (a) the term of employment for the same employer is less than four pay periods, in which case the employee's wages are the hourly rate times the number of hours in a week for which the employee was hired to work; or
- (b) for good cause shown by the claimant, the use of the four pay periods does not accurately reflect the claimant's employment history with the employer, in which case the insurer may use additional pay periods.

(4) (a) For the purpose of calculating compensation benefits for an employee working concurrent employments, the average actual wages must be calculated as provided in subsection (3).

WORKMANS' COMPENSATION - NO CHANGE OR AMENDMENT

PART 1 GENERAL PROVISIONS

| | | |
|-----------|-----------|--|
| 39-71-101 | No change | Short title. |
| 39-71-116 | Amendment | Definitions. |
| 39-71-117 | Amendment | Employer defined. |
| 39-71-118 | No change | Employee, worker, and workman defined. |
| 39-71-120 | No change | Independent contractor defined |

PART 2 ADMINISTRATIVE PROVISIONS

| | | |
|-----------|-----------|-------------------------------|
| 39-71-203 | No change | Powers of department - rules. |
|-----------|-----------|-------------------------------|

PART 3 MISCELLANEOUS PROVISIONS

| | | |
|-----------|-----------|---|
| 39-71-304 | No change | Books, records, and payrolls to be open to inspection - penalty for refusal. |
| 39-71-317 | Amendment | Employer not to terminate worker for filing claim - preference - jurisdiction over dispute. |

PART 4 COVERAGE, LIABILITY AND SUBROGATION

| | | |
|-----------|-----------|---|
| 39-71-401 | Amendment | Employments covered and employments exempted. |
| 39-71-431 | Amendment | Assigned risk plan. |

PART 21 COMPENSATION PLAN NUMBER ONE

| | | |
|-------------|---------|---|
| 39-71-2101. | Amended | General Requirements for Electing Coverage |
| 39-71-2103. | Amended | Employer permitted to carry on business and settle directly with employee - individual liability. |
| 39-71-2104. | Amended | Renewal of application. |
| 39-71-2105. | Amended | Additional proof of solvency - revocation of order. |
| 39-71-2106. | Amended | Requiring security of employer. |

| | | |
|-------------|---------|---|
| 39-71-2107. | Amended | When employer to make deposit or security to guarantee payment of compensation. |
| 39-71-2108. | Amended | Failure of employer to pay compensation - duty of department. |
| 39-71-2109. | Amended | When employer may be relieved from liability. |

PART 22
COMPENSATION PLAN NUMBER TWO

| | | |
|-------------|-----------|--|
| 39-71-2204. | Amendment | Insurer to submit notice of coverage within thirty days - penalty for failure. |
|-------------|-----------|--|

PART 25
EMPLOYER'S PAYROLL TAX

| | | |
|-------------|---------|--|
| 39-71-2501. | Amended | Definitions. |
| 39-71-2502. | Amended | Findings and purpose. |
| 39-71-2503. | Amended | Workers' Compensation payroll tax - penalty. |
| 39-71-2504. | Amended | Workers' compensation tax account. |

PART 26
SELF-INSURERS GUARANTY FUND

| | | |
|-------------|---------|--|
| 39-71-2601. | Amended | Short Title |
| 39-71-2602. | Amended | Purpose - construction. |
| 39-71-2603. | Amended | Definitions. |
| 39-71-2604. | Amended | Board of directors of fund. |
| 39-71-2609. | Amended | Establishment of fund - employer participation required. |
| 39-71-2610. | Amended | Rulemaking - powers of fund. |
| 39-71-2611. | Amended | Duties, liabilities, and rights of fund. |
| 39-71-2615. | Amended | Initial fee - assessment. |
| 39-71-2616. | Amended | Reimbursement for obligations paid and assumed. |
| 39-71-2617. | Amended | Tax exemption. |
| 39-71-2618. | Amended | Immunity. |
| 39-71-2619. | Amended | Notification of insolvency by private self-insurer. |
| 39-71-2620. | Amended | Audit requirement. |

WORKMANS' COMPENSATION - REPEALING SECTIONS

GOVERNMENT STRUCTURE AND ADMINISTRATION

2-15-1014. Office of workers' compensation judge - allocation
- appointment - salary.

PART 1

GENERAL PROVISIONS

39-71-102. Reference to plans.
39-71-103. Compensation provisions.
39-71-105. Declaration of public policy.
39-71-119. Injury and accident defined.
39-71-123. Wages defined.

PART 2

ADMINISTRATIVE PROVISIONS

39-71-201. Administration fund.
39-71-202. Office of department.
39-71-204. Rescission, alteration, or amendment by department
or its orders, decisions, or
awards...effect...appeal.
39-71-205. Department authorized to charge certain fees
39-71-206. Legal advisers of department and state fund.
39-71-208. Blank forms, minutes, and records.
39-71-209. Publication or reports and bulletins authorized.
39-71-221. Public records of department - right to inspect.
39-71-222. Duties of department regarding inspection and
examination of records.
39-71-223. Certified copies of public records - fees.
39-71-224. Records exempt from disclosure - separation of
exempt material from nonexempt.

PART 3

MISCELLANEOUS PROVISIONS

39-71-301. Certificates and certified copies as evidence.
39-71-302. What included in computing payroll.
39-71-303. Work paid for in property other than money - wages
to be determined by department.
39-71-306. Insurers to file summary reports of benefits paid
for injuries and statements of medical
expenditures.
39-71-307. Employers and insurers to file reports of
accidents - penalty.
39-71-308. Neglect or refusal of public corporation to file
payroll reports - arbitrary assessment by
department.
39-71-316. Filing true claim - obtaining benefits through
deception or other fraudulent means
39-71-402. Extraterritorial application and reciprocity.

- 39-71-403. Plan three exclusive for state agencies - election of plan by other public corporations - finance of self-insurance fund.
- 39-71-405. Liability of employer who contracts work out.
- 39-71-406. Deduction from wages of any part of premium a misdemeanor.
- 39-71-407. Liability of insurers - limitations.
- 39-71-408. Liability as first lien in case of bankruptcy or failure.
- 39-71-409. Waivers by employee invalid.
- 39-71-411. Provisions of chapter exclusive remedy - nonliability of insured employer.
- 39-71-412. Liability of third party other than employer or fellow employee - additional cause of action.
- 39-71-413. Liability of fellow employee for intentional and malicious acts or omissions - additional cause of action.
- 39-71-414. Subrogation.
- 39-71-415. Procedure for resolving disputes regarding independent contractor status.
- 39-71-421. Financial incentives to institute safety programs.
- 39-71-426. Reciprocal agreements with Canadian provinces.
- 39-71-427. Conditions for reciprocal agreements.
- 39-71-428. Denial of reciprocity.
- 39-71-434. Deductible option for medical benefits.

PART 5

UNINSURED EMPLOYERS

- 39-71-501. Definition of uninsured employer.
- 39-71-502. Creation and purpose of uninsured employers' fund.
- 39-71-503. Administration of fund.
- 39-71-504. Funding of fund - option for agreement between department and injured employee.
- 39-71-505. Applicability of other provisions of chapter to fund.
- 39-71-506. Collection of payments from uninsured employer by suit.
- 39-71-507. Department to order uninsured employer to cease operations - noncompliance with order a misdemeanor - coordination of remedies.
- 39-71-508. Coordination of remedies.
- 39-71-509. Action against uninsured employer - limitation of employer's defenses.
- 39-71-510. Limitation on benefit entitlement under fund.
- 39-71-511. Setoffs to claim against fund.
- 39-71-515. Independent cause of action.
- 39-71-516. District court venue and jurisdiction for independent cause of action.
- 39-71-517. Requirement to serve papers.
- 39-71-518. Setoffs against remaining liability.
- 39-71-519. Settlement.

PART 6
CLAIMS FOR BENEFITS

- 39-71-601. Statute of limitation on presentment of claim - waiver.
- 39-71-602. Statute of limitation not to apply during minority or mental incompetency unless guardian appointed.
- 39-71-603. Notice of injuries other than death to be submitted within thirty days.
- 39-81-604. Application for compensation.
- 39-71-605. Examination of employee by physician - effect of refusal to submit to examination - report and testimony of physician - cost.
- 39-71-606. Insurer to accept or deny claim within thirty days of receipt - notice of denial - notice to employer.
- 39-71-607. Suspension of payments by insurer up to thirty days pending receipt of medical information.
- 39-71-608. Payments within thirty days by insurer without admission of liability or waiver of defense authorized - notice.
- 39-71-609. Denial of claim after payments made or termination of all benefits or reduction to partial benefits by insurer - fourteen days' notice required.
- 39-71-610. Termination of benefits by insurer - department order to pay disputed benefits prior to hearing - limitation on order - right of reimbursement.
- 39-71-611. Costs and attorneys' fees payable on denial of claim or termination of benefits later found compensable.
- 39-71-612. Costs and attorneys' fees that may be assessed against an insurer by workers' compensation judge.
- 39-71-613. Regulation of attorneys' fees - forfeiture of fee for noncompliance.
- 39-71-614. Calculation of attorney fees - limitation.

PART 7
COMPENSATION AND BENEFITS GENERALLY

- 39-71-701. Compensation for temporary total disability.
- 39-71-702. Compensation for permanent total disability.
- 39-71-703. Compensation for permanent partial disability - impairment awards and wage supplements.
- 39-71-704. Payment of medical, hospital, and related services - fee schedules and hospital rates.
- 39-71-708. Compensation for disfigurement.
- 39-71-710. Termination of benefits upon retirement.
- 39-71-711. Impairment evaluation - ratings.
- 39-71-721. Compensation for injury causing death - limitation.
- 39-71-722. Who constitutes beneficiary to be determined as of date of accident.
- 39-71-723. How compensation to be divided among beneficiaries.

- 39-71-724. Payment of compensation to beneficiary not a resident of United States.
- 39-71-725. Payment of burial expense.
- 39-71-726. No compensation after death where death not result of injury.
- 39-71-736. Compensation - from what date paid.
- 39-71-737. Compensation to run consecutively - exception.
- 39-71-739. Compensation in case of changes in degree of injury.
- 39-71-740. Payments - how made in most cases.
- 39-71-741. Compromise settlements, lump-sum payments, and lump-sum advance payments.
- 39-71-742. Who may receive payment.
- 39-71-743. Assignment or attachment of payments.
- 39-71-744. Benefits not due while claimant is incarcerated.

PART 8

COMPENSATION FOR OCCUPATIONAL DEAFNESS

- 39-71-801. Occupational deafness compensated as provided in part.
- 39-71-802. Definitions.
- 39-71-803. Occupational deafness distinguished from traumatic loss of hearing.
- 39-71-804. Compensable loss of hearing confined to certain frequencies.
- 39-71-805. Determining percent of hearing loss.
- 39-71-806. Disability payments not payable for temporary hearing loss due to prolonged exposure to noise.
- 39-71-807. Compensation for wage loss where employee transferred due to occupational deafness.
- 39-71-808. Compensation for occupational deafness.
- 39-71-809. Liability of employer for occupational deafness.
- 39-71-810. Employee to have worked ninety days for employer from whom compensation claimed.
- 39-71-811. Minimum exposure and noise intensity level required.
- 39-71-812. Limitation on amount of compensation payable to employee under part.
- 39-71-813. Limitation provisions applicable - when provisions begin to run.

PART 9

SUBSEQUENT INJURY RECEIVED BY VOCATIONALLY HANDICAPPED

- 39-71-901. Definitions.
- 39-71-902. Fund to receive payment from insurer for each death under chapter - assessment of insurers.
- 39-71-903. Procedure and practice.
- 39-71-904. Rules for certification.
- 39-71-905. Certification as vocationally handicapped.
- 39-71-906. Employer hiring or retaining certified vocationally handicapped person to file information with department- effect of failure to file.

- 39-71-907. Certified vocationally handicapped person to be compensated for injury as provided by chapter - insurer liability for compensation limited.
- 39-71-908. Notification of fund of its potential liability under part - review by fund.
- 39-71-909. Effect of fund's failure to give notification of its intent to dispute liability - subsequent notification by fund authorized.
- 39-71-910. Procedure for resolving disputes as to liability under part.
- 39-71-911. Obligation to make payments on behalf of fund not an independent liability.
- 39-71-912. Reimbursement to be promptly made.
- 39-71-913. Payments by fund directly to persons entitled.

PART 10

REFERRAL OF DISABLED WORKERS
FOR VOCATIONAL REHABILITATION

- 39-71-1003. Eligibility for vocational rehabilitation expenses.
- 39-71-1004. Industrial accident rehabilitation account.
- 39-71-1011. Definitions.
- 39-71-1012. Rehabilitation goal and options.
- 39-71-1013. Agreement between worker and insurer regarding option.
- 39-71-1014. Rehabilitation services - required and provided by insurers and the department of social and rehabilitation services.
- 39-71-1015. Designated rehabilitation provider - evaluation and report.
- 39-71-1016. Rehabilitation panels.
- 39-71-1017. Rehabilitation panel report.
- 39-71-1018. Department's order of determination - exception - hearing.
- 39-71-1019. Referral to department of social and rehabilitation services for retraining - benefits - appeals.
- 39-71-1023. Total rehabilitation benefits during period of rehabilitation services - limitation - termination.
- 39-71-1024. Wage supplement and partial rehabilitation benefits.
- 39-71-1025. Auxiliary rehabilitation benefits.
- 39-71-1026. Self-employment - criteria.
- 39-71-1031. Exchange of information.
- 39-71-1032. Termination of benefits for noncooperation with rehabilitation provider or the department of social and rehabilitation services - department hearing and appeal.
- 39-71-1033. Department jurisdiction over rehabilitation disputes - appeals.

PART 22
COMPENSATION PLAN NUMBER TWO

- 39-71-2201. Election to be bound by plan.
- 39-71-2202. Policies made subject to chapter.
- 39-71-2203. Content of policies - policies subject to approval, change, or revision by department.
- 39-71-2205. Policy in effect until canceled or replaced - twenty-day notification of cancellation required - penalty.
- 39-71-2206. Deposits by insurer with department to guarantee payment of liability.
- 39-71-2207. How insurer relieved from liability.

PART 23
COMPENSATION PLAN NUMBER THREE

- 39-71-2311. Intent and purpose of plan.
- 39-71-2312. Definitions.
- 39-71-2313. State compensation mutual insurance fund created.
- 39-71-2314. State fund a mutual insurance carrier.
- 39-71-2315. Management of state fund - powers and duties of the board.
- 39-71-2316. Powers of the state fund - rulemaking.
- 39-71-2317. Appointment of executive director - management staff.
- 39-71-2318. Personal liability excluded.
- 39-71-2319. Assets and liabilities of prior state fund.
- 39-71-2320. Property of the state fund - investment required.
- 39-71-2321. What to be deposited in state fund.
- 39-71-2322. Money in state fund held in trust - disposition of funds upon repeal of chapter.
- 39-71-2323. Surplus in state fund - payment of dividends.
- 39-71-2325. State fund to keep accounts of segregations.
- 39-71-2327. Earnings of state fund to be credited to fund - improper use a felony.
- 39-71-2336. Manner of electing - contract or policy of insurance - payment of premium.
- 39-71-2337. State fund to submit notice of coverage within thirty days - penalty for failure.
- 39-71-2338. Policy remains in effect until canceled or replaced-twenty day notification of cancellation required.
- 39-71-2339. Cancellation of coverage - thirty days' notice required.
- 39-71-2340. Collection in case of default.

PART 24
MEDIATION

- 39-71-2401. Disputes - jurisdiction - evidence- settlement requirements - mediation.
- 39-71-2351. Purpose of separation of state fund liability as of July 1, 1990, and of separate funding of claims before and on or after that date.

- 39-71-2352. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990 and on or after July 1, 1990 - spending limit.
- 39-71-2353. Use of payroll tax proceeds - loans.
- 39-71-2361. Legislative Audit of state fund.
- 39-71-2406. Purpose.
- 39-71-2407. Department authority - rules.
- 39-71-2408. Mandatory, nonbinding mediation.
- 39-71-2409. Duties of mediator.
- 39-71-2410. Limitations on mediation proceedings.
- 39-71-2411. Mediation procedure.

PART 29

WORKERS' COMPENSATION JUDGE

- 39-71-2901. Location of office - court powers.
- 39-71-2902. Operating expenses.
- 39-71-2903. Administrative procedure act and rules of evidence applicable.
- 39-71-2904. Direct appeal to supreme court.
- 39-71-2905. Petition to workers' compensation judge.
- 39-71-2907. Increase in award for unreasonable delay or refusal to pay.
- 39-71-2909. Authority to review, diminish, or increase awards.
- 39-71-2910. Stay pending posttrial motions and appeal.
- 39-71-2914. Signing of petitions, pleadings, motions, and other papers - requirements - sanctions.

OCCUPATION DISEASE ACT OF MONTANA

PART 1

GENERAL PROVISIONS

- 39-72-102. Definitions.
- 39-72-103. No vested right to compensation.

PART 2

ADMINISTRATIVE PROVISIONS

- 39-72-201. Administration of chapter.
- 39-72-202. Powers of department.
- 39-72-203. Department to adopt rules.
- 39-72-204. Claim forms to be prescribed by department.
- 39-72-206. Legal action by department.

PART 3

COVERAGE AND LIABILITY

- 39-72-301. Who subject to chapter.
- 39-72-302. Employer liability.
- 39-72-303. Which employer liable.
- 39-72-304. Physical examination of applicant for employment - no liability for occupational diseases found - procedure and requirements - rules.
- 39-72-305. Right to compensation exclusive remedy - uninsured employers.

- 39-72-310. Occupational disease coverage under workers' compensation plans.

PART 4

PRESENTMENT AND PAYMENT OF CLAIMS GENERALLY

- 39-72-401. Payment of compensation subject to provisions of chapter.
39-72-402. Practice and procedure - applicability of Workers' Compensation Act.
39-72-403. Time when claims must be presented.
39-72-404. False representation by employee concerning previous occupational disease.
39-72-405. General limitations on payment of compensation.
39-72-408. Proximate causation

PART 5

STANDARDS FOR DETERMINING WHETHER
DEATH OR DISABILITY DUE TO PNEUMOCONIOSIS

- 39-72-509. Benefits for pneumoconiosis.

PART 6

MEDICAL EXAMINATIONS - DETERMINING
COMPENSABILITY OF CLAIMS

- 39-72-601. Medical panel.
39-72-602. Insurer may accept liability - procedure for medical examination when insurer has not accepted liability.
39-72-605. When occupational disease causes death.
39-72-606. Autopsy.
39-72-607. Periodic medical examinations.
39-72-608. Payment of medical examination, report, and autopsy expenses.
39-72-609. Report of medical panel prima facie evidence.
39-72-610. Report of an examinations conducted by medical panel.
39-72-611. Hearing on determination - when.
39-72-612. Hearing and appeal to workers' compensation judge.
39-72-613. Costs and attorney fees.

PART 7

COMPENSATION AND BENEFITS

- 39-72-701. Compensation for total disability or death due to occupational disease other than pneumoconiosis.
39-72-703. Medical and hospital expenses.
39-72-705. Burial expenses.
39-72-706. Aggravation.
39-72-707. Silicosis with complications.
39-72-708. Prohibiting supplementing of benefits.
39-72-709. Diminution of compensation.
39-72-711. Lump-sum and compromise settlements.
39-72-712. Methods of deducting attorney's fee from compensation.
39-72-714. Reduction or suspension of compensation for unsanitary or injurious practices or refusal to submit to medical or surgical treatment.

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(Please leave prepared statement with Secretary)