

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**SELECT COMMITTEE ON WORKERS' COMPENSATION**

**Call to Order:** By Senator Tom Towe, on April 6, 1993, at 3:05 PM

**ROLL CALL**

**Members Present:**

Sen. Tom Towe, Chair (D)  
Sen. Gary Forrester, Vice Chair (D)  
Sen. Gary Aklestad (R)  
Sen. Sue Bartlett (D)  
Sen. Jim Burnett (R)  
Sen. Harry Fritz (D)  
Sen. John Harp (R)  
Sen. John Hertel (R)  
Sen. Bob Hockett (D)  
Sen. Tom Keating (R)  
Sen. J.D. Lynch (D)  
Sen. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Susan Fox, Legislative Council  
Kelsey Chapman, Committee Secretary

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

**Committee Business Summary:**

Hearing: None.  
Executive Action: HB 361, HB 13, HB 622, HB 504

**EXECUTIVE ACTION ON HB 361**

**Motion:**

Senator Lynch Moved HB 361 BE NOT CONCURRED IN.

**Discussion:**

Senator Harp spoke against the motion, saying he would like to preserve the portion of HB 361 that dealt with objective medical findings. He said that almost 68 percent of minor injuries including sprains and back pain, are unverifiable injuries. He

stated there was testimony offered to the Committee that there needed to be the ability to deny claims that are frivolous. He said under HB 361, the treating physician would make sure, by accepted diagnostic procedures, that there were demonstratable and verifiable injuries. He said it was important to keep pages 4 and 5 of HB 361 intact, but said he would be willing to examine proposed amendments. Senator Harp said HB 361 was clear in its intent, but it had been amended severely in the House. He noted there was the need to look at the Bill as a whole. He said he knew Senator Towe had problems with denying claims through the alcohol provisions on page 13. He said this was already in statute in 39-71-407(4), MCA, and read the section. 39-71-407(4), MCA states that an employee is not eligible for benefits payable if the employee's use of alcohol and non-prescription drugs is the "sole and exclusive" cause of injury or death. Senator Harp said there were games played with this statute, as it would be difficult to determine the use of alcohol or drugs was the exclusive cause of injury or death. He stated HB 361, by striking "sole and exclusive" from the codes, and inserting "major contributing" would reinforce the fact that employees drunk at the time of injury should not receive benefits. He said he thought this was reasonable, and that rather than kill or table HB 361, he would like to improve the Bill by working with those concepts.

Senator Towe said he was suggesting an amendment to HB 622 that would amend page 52, lines 13 and 14, to change alcohol and non-prescription drug use from "sole and exclusive" to "major contributing" cause of injury or death, and would define "major contributing", which was what HB 361 did to the same provision (39-71-407(4)). He said this would take one main part of HB 361 and amend it into HB 622.

Senator Harp asked what would happen with the portion on objective medical findings. Senator Towe answered he did not favor this portion of HB 361, because some people have pain that cannot be found to be a verifiable injury through objective medical findings. He said there may be abuse of the workers' compensation system to the extent that pain can be encouraged because of the benefits paid on it, encouraging people to go to a doctor again and again for treatment of a nonverifiable injury. Senator Towe noted, however, that a number of people have legitimate pain that is not verifiable. For these people, their pain is legitimate, real, and severe enough to preclude them from working. Requiring objective medical findings would eliminate not only medical benefits, but work-loss benefits to these people.

Senator Aklestad said he would be reluctant to amend these options into HB 622, because HB 622 had problems that could keep it from passing.

Senator Towe said it might be appropriate to act on HB 622 first. He stated if HB 622 failed to be concurred in, the Committee might want to consider HB 361 in a different light.

Motion\Vote:

Senator Lynch made a substitute motion that HB 361 Be Tabled. The Motion CARRIED by roll call vote with Senators Lynch, Towe, Bartlett, Fritz, Hockett, Wilson, and Forrester voting YES. Senators Harp, Aklestad, Keating, Hertel, and Burnett voted NO.

EXECUTIVE ACTION ON HB 13

Discussion:

Senator Towe explained the amendments (hb001311.asf) to HB 13. He said on page 24 there was added language that said it was the policy of the State not to pay or reimburse stress claims, or the mental-mental, mental-physical, and repetitive injury claims. He explained the language to strike was that between lines 2 and 17 on page 24. Section 1 would be stricken in its entirety because there would be no need of it in the Bill if the amendment was adopted. He noted the amendments would make substantive changes to HB 13. Senator Towe said the argument was that stress claims were only allowed in a narrow decision by the workers' compensation court. He expressed his concern that with a policy statement that said there should be no reimbursement of stress claims, there would be some possibility that it would open the door to further stress claims. He said the other possibility was that the Supreme Court may reverse the decision about one compensable stress claim. He stated the policy statement could give guidance to the Supreme Court. He called attention to the fact that the language added on lines 2 through 17 on page 24 would not appear in the codes, but rather as a statement of intent. He said it meant that it was the intent of the Legislature to not compensate stress claims. He stated if the Legislature did not want these claims to have a benefit, the benefit section should be amended. To add a policy of intent without following up with specific language in the codes is questionable policy. Senator Towe said there may be stress claims that deserve the attention of the workers' compensation system.

Senator Aklestad said he was against the amendment because if language was put in the Bill that made the intent understood it might give direction as to the intent of the Legislature.

Senator Harp told the Committee that there was a policy statement in 1987 with SB 315 that stress claims were not compensable. He said in HB 13 that intent was reaffirmed, as Judge Reardon had overturned the intent of SB 315. He continued that if the definition of stress that was compensable was to be expanded, the effect would be a 27 percent increase in cost to the State Fund to pay for the added stress claims. Senator Harp said

Representative Benedict was trying to send a message to the court what the intent of the Legislature was, even though the intent was made clear in SB 315. He urged the Committee against the amendment.

Senator Lynch spoke in favor of the amendment, as the intent of the Legislature was in the codes. He asked what the purpose was of adding a statement of intent in the middle of the Bill.

Senator Towe said the key part of Judge Reardon's decision was that by the clear language of the statute, a physical condition that arises from emotion, mental stresses, or non-physical stimulus is not compensable. Judge Reardon said this section violated Article 2, Section 4 of the Montana Constitution, because it was contrary to public policy. He said the policy challenge was premised on the argument that all employees, injured or disabled because of their jobs, should be compensated under the Workers' Compensation Act. Senator Towe said he understood the argument of Senator Harp to be that by putting a policy decision in the statutes, the Legislature could impact the Supreme Court decision by saying that this was the policy of the state.

**Motion:**

Senator Lynch moved HB 13 be amended (hb001311.asf). A roll call vote was taken. The motion FAILED with Senators Hertel, Hockett, Burnett, Harp, Keating, and Aklestad voted NO. Senators Bartlett, Wilson, Lynch, Towe, and Forrester voted YES.

**Motion:**

Senator Bartlett moved HB 13 Be Amended (hb001310.asf).

**Discussion:**

Senator Bartlett explained the amendment (hb001310.asf) would strike the provisions pertaining to the board and the executive director serving at the pleasure of the Governor. She said the amendment would retain the status quo, in that the board is appointed by the Governor to fixed terms of four years, and the board hires the executive director, who then serves at the pleasure of the board. She said she did not like the provisions in the Bill because they were a convoluted, administrative, management structure. She stated the lines of authority needed to be clear. She reiterated the amendment would leave the law as it is.

Senator Harp argued against the amendment, saying that Representative Benedict had asked for accountability. He stated that the public was seeing a workers' compensation program that was not working, which was not a reflection on the State Fund itself, or the administration. He said some people thought this provision was an overreaction to those concerns, but the

provision was meant to send a message that there needed to be accountability if there were problems with the board and the executive director. He said the Governor should have the ability to remove these people. Senator Harp stated he understood it was the intertwining of rate settings and politics that had caused the problems. He asked to have either the board or the director serve at the pleasure of the Governor. The amendment would allow for neither to do so.

Senator Towe asked Senator Harp what he would like to do. Senator Harp answered he thought that the Committee could split the amendment.

Senator Lynch said the amendment would give the board a set term.

Senator Towe told Senator Harp there was merit in telling the Governor he was his responsibility to get the job done, and in holding him accountable. He said it did not make sense to hold the Governor accountable when a board provided insulation between the Governor and the executive director. He asked to either remove board and hold the Governor responsible, or retain the board as the accountable party. He said the amendment would put the executive director appointment back under the board. He stated it could be argued that the current situation had not worked very well, but he added that the previous system had not worked very well, either.

Senator Bartlett noted that under executive reorganization, which occurred prior to the adoption of the new constitution policy-making or quasi-judicial boards were established with terms that were set up in a way that a new governor would be able to appoint a majority of the board. Within the first three years the new governor held office, the entire board would have to be reappointed, so a new governor would not be locked into the predecessor's board selection. She said this executive reorganization method had served Montana well. She continued there had not been time to give the administrative structure a fair try; it should be in place longer than four years to see how it worked.

**Vote:**

The motion to amend HB 13 (hb001310.asf) CARRIED by a roll call vote, with Senators Forrester, Lynch, Bartlett, Towe, Hockett, Fritz, and Wilson voting YES. Senators Keating, Aklestad, Harp, Hertel, and Burnett, voted NO.

**Discussion:**

Senator Towe explained the amendment (hb001312.asf). He said he was proposing to strike "amass and maintain" on page 33, line 3, which would mandate the State Fund to attain a 25 percent surplus by the year 2003. He said by inserting "in addition to set as a goal", the State Fund would not be mandated to do so.

**Motion:**

Senator Towe moved HB 13 be amended (hb001312.asf).

**Discussion:**

Senator Lynch asked for the reasoning of the amendment. Senator Towe answered he suggested the amendment because he thought it would be difficult to maintain a surplus of \$36 million, or 25 percent of the annual premium.

Senator Lynch asked Senator Towe if he thought it would be better to suggest a goal, rather than requiring the State Fund to maintain the 25 percent surplus, as this might prevent some sharp increases at the end of the time period. Senator Lynch said rates might have to be raised sharply near the time the goal was required to be met, so the Fund could reach the mandated goal of 25 percent surplus.

Senator Towe said this was proper as a goal, but added that erratic rate making should not be imposed. He said the State Fund could be taken to court and forced to reach the surplus if it was mandated.

Senator Harp asked Senator Towe if he would consider dropping the surplus from 25 percent to 15 percent. He asked if Senator Towe thought the amendment would allow the State Fund flexibility if they did not meet the goal. Senator Towe said he thought his amendment would allow for flexibility so the State Fund could not be charged in court with not following a mandate. He said he thought 25 percent was a good goal, and would rather keep it as a goal than have it mandated at 15 percent.

Senator Lynch suggested that the amendment read "to amass and maintain 15 percent and in addition to set a goal of 25 percent", so the State Fund was forced to start moving in the right direction, and yet was not forced to maintain a surplus of 25 percent.

Senator Towe said this was a good compromise.

Senator Bartlett asked what kind of surplus would meet "a reasonable surplus in accordance with insurance industry standards", language the House had stricken. Jim Murphy, State Fund, told the Committee this would be 30 percent to 40 percent.

Senator Keating expressed that he did not like the structure of the amendment, because it sounded to him as if the goal was to be set, rather than attained, by 2003. Senator Towe said this was true, and the wording should be "to set a goal of 25 percent surplus by July 1, 1993."

Senator Lynch said if the standards were 30 percent - 40 percent, the State Fund was in trouble. He said he did not know how

effective setting a goal would be.

Senator Keating said that the language without the amendment required that the State Fund have the surplus of 25 percent by 2003. He said the amendment would establish the surplus as a goal, but would not require achievement of the goal.

Senator Lynch purposed leaving the language as it was, and if by 2001 the State Fund was not close to meeting the goal, the Legislature could repeal the mandate.

Senator Towe said this was a good way to handle the situation, and said he did not feel strongly about the amendment, though there was a problem with HB 13 in this regard.

**Motion:**

Senator Towe withdrew his motion to amend (hb001312.asf).

**Discussion:**

Senator Towe said the amendments (hb001313.asf) would authorize the Legislative Auditor to review rate function. He said this section, Section 10, provided that the Legislative Auditor should be examining the State Fund and reporting to the Legislature. He continued there was an appropriation on page 37 for this function, but it was not a continuing appropriation. His suggestion was the Legislature shall appropriate necessary funds to the Legislative Auditor to perform this function. He noted that without that language added to line 23 on page 33 there would be no additional money appropriated after the current fiscal year.

Senator Lynch said the Legislative Auditor went before the Appropriations Committee every year, and defended the appropriations needed with success. He said this should be a normal appropriations process, and not clutter the Bill.

Senator Towe said this would be a normal appropriations process.

Senator Lynch argued that the amendment would appropriate the necessary fund statutorily. He asked why the special language was needed when the Legislative Auditor would get the money through the normal process anyway.

Senator Aklestad said if the money was not appropriated, the Legislature would be going against the statute. He claimed this requirement to appropriate the money would "put the Legislature in a box".

Senator Towe asked if the Committee thought this should be handled by a regular appropriations bill. Senator Aklestad answered yes. No motion was made on the amendment.

Another amendment (hb001309.asf) was discussed.

Senator Towe said HB 13 on page 34 provided that the State Fund is subject to state laws applying to state agencies, except as for otherwise provided by law, and is exempt from the provisions of the Legislative Finance Act in Title 5, chapter 12. He said the amendment would exempt the State Fund from the budget amendment process. Senator Towe stated the amendment would also exempt the State Fund from the provisions of Title 17, chapter 7, parts 1 through 4. He said this would exclude and exempt the State Fund from the budgeting process of the Legislature.

**Motion:**

Senator Lynch moved HB 13 be amended (hb001309.asf).

**Discussion:**

Senator Aklestad clarified that the amendment was dealing with the State Fund.

Senator Towe said the intent of the Bill as he understood it was to exempt the State Fund's budget from the Legislative scrutiny and Legislative micro-management. He said HB 13 would give greater budgetary discretion to the State Fund.

Senator Aklestad asked if Senator Towe was talking about the budget amendment. Senator Towe answered the budget amendment was contained in Title 5, chapter 12, and the provision for submitting the budget to the budget office and the Governor for submission to the Legislature for approval was in Title 17, chapter 7.

Senator Harp asked if this review would still take place. Senator Towe answered this was what was being amended out.

Senator Harp asked if the amendment was working outside of the Montana Administrative Procedures Act (MAPA). Senator Towe answered MAPA was a different subject, but that he thought the amendment was outside of the provisions.

Senator Bartlett said this amendment would make the State Fund budget exempt from the budget process.

Senator Towe said the Legislature would not be able to tell the State Fund how many claims managers it would require. He stated the State Fund would set a budget, then be bound by that budget.

**Vote:**

The Motion CARRIED UNANIMOUSLY.

**Motion\Vote:**



Senator Lynch moved HB 13 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

Senator Harp was assigned to carry HB 13 on the Floor.

#### EXECUTIVE ACTION ON HB 622

##### Discussion:

The amendments (hb062225.asf) were discussed. Senator Towe told the Committee the amendment dealt with the question of the injured worker not keeping a medical appointment, and thus losing benefits. He said it seemed there might be a confusion on page 15, lines 17 through 21 which states "if after medical examination the injured worker is released to return to work, the worker forfeits the right to any suspended benefits." Senator Towe asked what would happen if a worker, who did not comply with an initial request to see a doctor, went in for such an appointment and was determined to be fit to work. Under HB 622, the benefits were suspended. Senator Towe gave another example where a worker did not show up for an initial medical appointment, but goes some days later, and is found to be unfit to return to work. The worker would still lose benefits, because of the original suspension. Senator Towe said he thought the worker was released from receiving benefits on the day the worker failed to keep the medical appointment. He noted that if a worker does go to an appointment after this and is found to be unfit for work, the worker should not be penalized for that period of time between the missed and the attended appointments.

Senator Harp said the amendment was a "what-if" amendment, and added the language was clear in the Bill. He said he was confused as to what the amendment would do, and would vote against it.

Senator Towe reiterated his explanation of the amendment (hb062225.asf).

Senator Harp expressed that the phrase used was "unreasonably fails to keep a scheduled appointment". He said the person would have to miss an appointment without a valid excuse to have the benefits suspended.

Senator Keating said if a worker missed an appointment and was later found to be able to return to work, those benefits would be suspended. He stated this was clear language that did not need changing.

Senator Towe said the issue was if a worker missed a medical appointment, and is given another notice to come, and makes that appointment a month later whereupon the worker is not able to go back to work, the benefits have been suspended. Senator Towe said during the time the worker was not fit to work, the worker

should be able to claim benefits. The amendment said if after the medical examination the injured worker is released to return to work, the worker forfeits the right to any suspended benefits. If found unfit to work, the benefits are received.

Senator Harp said if an injured worker has been suspended for a year and then decides the benefits are needed, that claim should be questioned.

Senator Towe said HB 622 without the amendment says that if the worker fails to make the examination, the worker is presumed to have been ready to be released to go back to work. He said this protected the fund, but not the injured worker who may have a problem at a future time.

Senator Hockett said he did not see what was wrong with what HB 622 already provided for, and that "unreasonably" describes what the law should say.

Senator Keating stated if a person unreasonably fails to keep a scheduled medical appointment, it would generally be because the worker thinks that the doctor would release the worker to go back to work. He said this was the presumption in the Bill. If the worker did not show up, benefits were suspended. He noted that if the worker is examined at a later date and found fit to return to work, then the benefits remain suspended. Senator Keating said Senator Towe was trying to turn two ideas into one, which distorted the whole section.

Senator Towe said the intent of the amendment was that if a worker missed the first appointment, the benefits were suspended. He noted HB 622 did not say if the worker went to the next appointment the benefits would be reinstated. The problem is that even if the worker makes the next appointment ten days later, the suspension would continue until the worker goes back to work. Senator Towe said at the time the first appointment is missed, the worker forfeits all benefits, which is wrong.

Senator Towe said all he was suggesting was that after the medical examination the injured worker is presumed to have been released of benefits on the day the worker failed to keep the medical appointment.

Senator Harp clarified the word was not "appointment", but instead "appointments", which was critical.

Senator Towe said the amendment allowed for suspension of the benefits, but added if an appointment was attended, the worker would not lose the benefits from that point forward as the present language provides for.

Motion/Vote:

Senator Towe moved HB 622 be amended (hb062225.asf). The motion FAILED by a roll call vote, with Senators Harp, Hockett, Burnett, Aklestad, Hertel, Forrester, and Keating voting NO. Senators Towe, Bartlett, Lynch, and Wilson voted YES. Senator Fritz voted YES by proxy.

**Discussion:**

Senator Harp asked if amendment (hb062222.asf) was about apportionment.

Susan Fox clarified the amendment was about lump summing medical benefits. She explained the only change in section 5 was on page 18, line 14, which included the right to lump sum future medical benefits. The amendment would strike Section 5 in its entirety.

Senator Towe said section 5 would be stricken in its entirety, and the only thing to focus on was the language on page 18, line 14, and whether or not that language should remain in HB 622.

Senator Wilson said he would like to strike line 14, "including the right to future medical benefits for lump sum payments", as that could possibly preclude a claimant from receiving future medical benefits.

Senator Lynch said that was the purpose of the amendment.

**Motion:**

Senator Wilson moved the amendment (hb062222.asf) be adopted.

**Discussion:**

Senator Harp stated his support of Senator Wilson's motion. He said problems occurred when medical benefits were lump summed, as there was no way to accurately predict future medical need. He said that the insurer and claimant should arrive at a reasonable settlement. He stated that medical never did stop under workers' compensation, which was a concern to the State Fund, PLAN 1's, and PLAN 2's. Senator Harp said he did not understand why these provisions had been put in the Bill.

Senator Hockett asked for clarification of the amendment. Senator Towe said Section 5 was being stricken because the only thing changed in the section from the regular codes was on page 18, line 14. The law would stay status quo with the amendment.

**Vote:**

The motion by Senator Wilson that HB 622 be amended (hb062222.asf) CARRIED UNANIMOUSLY, with Senator Fritz voting YES by proxy.

**Discussion:**

Senator Towe explained amendments (hb062224.asf). He said that Section 6 was stricken to coincide with the previous amendments.

Senator Bartlett said HB 622 prohibited lump sum payments on rehabilitation, and added that the amendment would allow lump sum on rehabilitation benefits.

Senator Towe said that this would return the language to the status quo.

Senator Bartlett read the section 39-71-741 MCA as unamended. She said the amendment would specify that rehabilitation benefits would not be subject to the lump sum provisions of 39-71-741, MCA.

Motion:

Senator Bartlett moved HB 622 be amended (hb062224.asf).

Discussion:

Senator Aklestad asked about the amendment to the Title, page 1, lines 8 and 9. Susan Fox said that this returned the law to the status quo. She read the title with the amendment.

Senator Towe clarified the amendment brought the Bill back to status quo.

Senator Keating asked if what the amendment said was that under the current statutes rehabilitation benefits were not subject to lump sum agreements. Senator Towe said they were subject to lump sum agreements.

Senator Keating asked if it was not good to lump sum medical benefits why it was good to lump sum rehabilitation benefits. Senator Towe answered that his understanding was that the amendment would return the law to status quo. He said he thought there was a two-year limitation on this. He asked Chuck Hunter, from DOLI to address this issue.

Senator Harp said the limitation was defined, and it was up to two years. He said there was a distinction between lump sums on medical and rehabilitation benefits.

Chuck Hunter, Montana Department of Labor and Industry (DOLI) told the Committee that currently medical benefits could be lump summed. HB 622 was written in such a manner that would prevent rehabilitation benefits from being lump summed. The amendment would return it to the status quo in which rehabilitation benefits can be lump summed.

Senator Keating asked if medical benefits could be paid in a lump sum. Senator Harp said that had been amended out of HB 622.

Senator Hockett asked Mr. Hunter what the rationale was for lump

summing rehabilitation benefits. Mr. Hunter answered that there could be a number of rationales for lump summing rehabilitation benefits, including that there may be some dispute over the compensability of the claim. He said settling everything in a lump would be a way that the insurer and the worker could agree that this would take care of the settlement. He said that if a worker wished to establish a business agreement with the insurer, and the benefits may better be paid in a lump sum to enable the worker to establish a business.

Senator Hockett said that he had worked with many people in vocational rehabilitation programs and had found an incentive when the person had been kept in the program. He said he would like to remove the incentive of these people to drop out of the rehabilitation programs. He said if a person had the money in pocket, the worker may drop out of the rehabilitation.

Senator Lynch said he supported the amendment because he had seen people under rehabilitation that should not have been there. He stated rehabilitation could force a man with a bad back, in his late fifties, to learn to become a receptionist secretary. The man, if he completes the entire vo-tech rehabilitation education would not become a receptionist secretary. He said it was better to lump sum and see if there was a program that could better benefit the worker, rather than forcing the worker into a position where there would be no benefit received.

Senator Bartlett said she moved the amendment not because she thought workers should automatically lump sum their rehabilitation benefits, nor did she think that they would. She continued, saying there were instances in which lump summing could keep a case out of court, because being able to negotiate a settlement on rehabilitation is what would settle the claim. If that possibility is removed, court action may be the result. The option that the insurer and the claimant could negotiate together with departmental review may keep such rehabilitation cases out of court.

**Vote:**

The motion FAILED by a roll call vote, with Senators Forrester, Keating, Harp, Hertel, Aklestad, and Burnett voting NO. Senators Hockett, Wilson, Towe, Fritz, Bartlett, and Lynch voted YES.

**Discussion:**

The amendments (HB062223.ASF) were discussed. Senator Towe told the Committee that on page 27, HB 622 created a new concept of temporary partial disability, and the theory was that this would encourage a worker to return to work sooner if there was some partial disability even if the worker could not do the full job. He said there were comments that HB 622 should in no event allow the worker to receive more workers' compensation benefits than they would receive if the worker received temporary total

disability; and the worker should not receive a total of more than 66% of his previous pay. He said that the amendment would select the former, spelling out that the worker could not receive funding in excess of what the worker would be entitled to under total disability, but would not limit the worker to two thirds. He said this amendment took out weekly compensation benefits, and said it helped to make the Bill read more smoothly.

Senator Harp said everything that the benefit schedule was on was whatever the basic benefits were of 66 % of the average weekly wage earned at the time of injury. He said this had been the driving force of benefits, but the amendment diverged from that. He asked if under this proposed amendment would the worker exceed the benefits that the worker would be entitled to under temporary total disability.

Senator Towe answered the purpose of the amendment would be to limit the benefits so the worker would not receive any more benefits than what would be received under temporary total disability. He asked if there was an incentive, why not give the worker the right to keep the money that the worker could earn, and why limit it to two thirds.

Susan Fox explained Nancy Butler, General Council from the State Fund, had worked out scenarios. Senator Towe recognized Nancy Butler, and asked her to explain.

Nancy Butler told the Committee that if a person was making \$7.00 per hour, and went back to work at minimum wage, doing a modified job, the difference would be between \$280 per week and \$170 per week, or \$110 per week discrepancy. She explained as HB 622 currently read, the worker would be entitled to the difference from the insurer as long as it did not exceed the state's average weekly wage, or \$349 per week. She said the \$110 difference would be paid by the insurer, and this would raise the worker's benefits to the regular \$7.00 per hour. She said if the employer earned \$15.00 per hour, or \$600 per week, and was put back on a modified job, being paid minimum wage, or \$170 per week, with the difference being \$430, the difference would be greatly different, but the employer would be limited to the state's average weekly wage, and be reimbursed \$349 per week. She said if 66 % of the difference between the wage and what the worker was earning on temporary partial disability was added into HB 622, then this would limit it to be two thirds of the difference, and would be less than the temporary total rate, if the difference were the \$110. The difference in the second scenario was \$430, two thirds of this being \$280. This exceeds the state's weekly average wage.

Senator Harp said the problem was that the upper income wage earners would be affected most by this provision.

Senator Towe said the proposal on hand was not the two thirds, but that the benefits be limited to the total disability rate.

He asked Nancy Butler to explain the scenarios under this law.

Ms. Butler explained that the person making \$280 per week, with the \$110 difference being less than the temporary total rate (two thirds of \$280), would not be affected, as the whole \$110 would be paid in benefits. The person making \$600 per week, would have a temporary total disability of higher than \$349, and thus would be receiving only the \$349, Montana's average weekly wage, rather than the temporary total disability.

Senator Towe said if the person was making \$600 per week before injury, and goes back to partial work on minimum wage, the person would be limited to a total temporary rate of \$349. If the two thirds route was taken, this worker would be limited to about \$280. In this example, the amendment would allow for the higher benefits.

Senator Harp argued against the amendment, stating he was not happy with the state's average weekly wage at the time of injury, and said he understood and was happy with the 66 % that was in HB 622.

**Motion:**

Senator Lynch moved HB 622 be amended (HB062223.ASF).

**Discussion:**

Senator Keating asked if the weekly compensation benefits for temporary partial disability must be 66 % of the difference between the wage earned before, and the wage earned after injury.

Senator Towe said the motion was to limit the benefit, so the benefits could never be higher than the temporary total disability benefits.

**Vote:**

The Motion to amend HB 622 (HB062223.ASF) CARRIED by a roll call vote, with Senators Lynch, Towe, Bartlett, Fritz, Wilson, Hockett, and Forrester voting YES. Senators Harp, Aklestad, Keating, Hertel, and Burnett, voted NO.

**Discussion:**

Senator Towe explained the amendments (hb062221.asf). He told the Committee that in Section 26, two or more employers could join together and perhaps get a better rate. He said there may be a technical problem on page 50, line 15 "groups certified under this section may purchase individual workers' compensation policies covering each member of the group from any insurer authorized to write workers' compensation insurance in this state". Senator Towe said after the word "state", the wording "except that the State Fund, as defined in 39-71-2312, has the

right to refuse coverage of a group and its plan of operation but cannot refuse coverage to an individual employer". He said this would allow the State Fund to deny coverage for the group. Senator Towe said the amendment would not allow the State Fund to refuse coverage to any individual employer. The State Fund could except an individual employer out of a group.

Senator Bartlett said this was not how she read the amendment. She told the Committee the amendment simply said the State Fund had the right to refuse coverage to a group. She said an employer could not be segregated from the group.

Senator Towe said Senator Bartlett was technically correct in that the State Fund could refuse the whole group and make it reorganize.

**Motion:**

Senator Wilson moved HB 622 be amended (hb062221.asf).

**Discussion:**

Senator Aklestad asked why this amendment was needed.

Mike Micone, Montana Motor Carriers Association (MMCA), told the Committee he did not know why a group would be refused, but the financial condition as a group may be such that the State Fund may not wish to risk providing coverage.

Jim Murphy, State Fund, said the group program in HB 622 called for the insurer to pay a premium volume discount. He said if the group was involved in something, such as a safety program, the State Fund would like to review the program before granting the premium volume discount.

Senator Aklestad said there was no incentive for the State Fund to insure a group, and they had to give a discount. He said there would be no incentive for the State Fund to accept any groups, because it would get higher premiums under the individual employers.

Mr. Murphy responded that the incentive would be similar as current incentives. The State Fund provides discounts to groups of employers providing State Fund controlled safety programs, so the incentive would be that if a group initiated a good safety program, and reduce the accidents, there would be less cost to the State Fund.

Mike Micone told the Committee MMCA had believed it was discretionary for the State Fund to authorize a group. The State Fund did not read HB 622 this way, and thus the clarification amendment was offered.

**Vote:**



The motion that HB 622 be amended (hb062221.asf) CARRIED UNANIMOUSLY.

**Motion:**

Senator Lynch moved HB 622 be amended (hb062226.asf).

**Discussion:**

Senator Towe said amendment (hb062226.asf) would remove the apportionment provided for in HB 622. He told the Committee HB 622 without this amendment says that if a worker is previously injured and received workers' compensation, and then is injured a second time, and receive workers' compensation, an amount is figured on how much should be paid on the current injury by the previous carrier, and how much should be paid by the current carrier. This amount is apportioned out. Senator Towe noted that under current law, this is not allowed to happen, and the previous carrier is not liable for any of the new claim, and the new carrier takes all the new responsibility. Senator Towe expressed the problem with apportionment is that it is very difficult to manage. He said medical panels would cost too much, and it would be hard to find enough doctors to go through all the apportionment.

Senator Harp spoke in favor of apportionment as a way of holding costs down for an employer that has an employee that had a previous injury. The employer would be assessed on the new injury, though the previous injury may have had nothing to do with the employer, but had something to do with the new injury. He said there were potential litigation problems with apportionment, and the language may not be perfect in HB 622, but the concept was a valid one. He said he opposed the amendment.

**Vote:**

The motion to amend HB 622 (hb062226.asf) FAILED by a roll call vote with Senators Hertel, Hockett, Burnett, Harp, Fritz, Bartlett, Keating, and Aklestad voting NO. Senators Towe, Lynch, Wilson, and Forrester voted YES.

**Discussion:**

The amendments (hb062220.asf) were discussed. Senator Towe explained one issue he wanted to discuss, in terms of an amendment to HB 622, was that of the use of alcohol during working hours. In HB 361, the employee was not eligible for benefits if the employee's use of alcohol or drugs not prescribed by a physician is the sole and exclusive cause of the death or injury. He said the language in HB 361 changed "sole and exclusive" to "major contributing", and defined "major contributing" as the cause that is the leading factor

contributing to the result in comparison to all other contributing causes.

Senator Towe also said "wage" in HB 361 would have included income or payment in the form of a draw, wage, net profit, or substitute for money received, or taken by sole proprietor or partner, regardless of whether the sole proprietor or partner has performed work or provided services for that enumeration. He said this would be a more broad, comprehensive definition of wage which would then govern the premium paid and the benefits received.

Senator Harp asked if "major contributing" was a more defined degree than "sole and exclusive". Senator Towe answered "major contributing" was a less precise term, but under the circumstances acceptable, because it was defined.

Senator Lynch asked if the amendment was changing present law from "sole and exclusive" to "major contributing". Senator Towe answered this was the first part of the amendment. He noted that the broader definition of "wage" was also in the amendment.

Senator Lynch asked these amendments be divided.

Senator Keating said the amendment would strike Section 24 in its entirety. He argued the vote on the last amendment was to retain this section. Susan Fox said this was correct, and that this would have to be coordinated between the two.

Senator Towe suggested on page 52, lines 13 and 14, strike the wording "sole and exclusive", insert "major contributing", renumber by adding (6), and renumber subsequent sections.

**Motion\Vote:**

Senator Fritz moved to amend HB 622 by striking "sole and exclusive" and inserting "major contributing" on page 52, lines 13 and 14. The Motion FAILED by a roll call vote with Senators Forrester, Lynch, Keating, Aklestad, Harp, Hertel, Burnett, and Wilson voting NO. Senators Towe, Bartlett, Fritz, and Hockett voted YES.

**Motion:**

Senator Aklestad moved HB 622 BE CONCURRED IN AS AMENDED.

**Discussion:**

Senator Lynch spoke against the motion. He said HB 622 was too confusing, and should be killed.

Senator Harp defended HB 622, saying that though HB 622 was confusing, there had not been fair time given to it during

committee hearings and action. He said 11 amendments were offered in the House Select Committee on Workers' Compensation, and there had been some amendments just offered. He said if HB 622 could get to a conference committee as quickly as possible, time could be spent to clean the Bill up, and help iron out the wrinkles in it. He stated there were problems with the apportionment section, and added that the section was not totally understood. He asked to keep HB 622 alive because it offered the use of the Taft-Hartly Act for the pension for organized labor, the ability to potentially work together on workers' compensation, the fraud sections, and the new benefits allowed to get people back to work, all sections worth looking at. He reiterated that HB 622 had not had the proper time spent on it in any committee.

Senator Lynch said his fear was that HB 622 was so complicated that it could not be explained in a presentation on the Floors of either the Senate or the House. He urged that HB 622 be killed, and for the issue to come up again next session with more time to work through it.

Senator Towe said he agreed with Senator Harp that there were good items in HB 622 that should not die. He said the temporary partial was an incentive for people to return to work, and it should not have to wait for two years until the next session to be addressed. He said the group plan was an issue with genuine potential for helping out the situation.

Vote:

The Motion that HB 622 BE CONCURRED IN AS AMENDED CARRIED by a roll call vote, with Senators Hockett, Harp, Towe, Forrester, Aklestad, Burnett, Bartlett, Fritz, and Keating voting YES. Senators Wilson, Lynch, and Hertel voted NO. Senator Towe was assigned to carry HB 622.

EXECUTIVE ACTION ON HB 504

Discussion:

Senator Towe explained HB 504 would fund the old fund liability, putting a 0.5 percent payroll tax on employers and employees. He offered an amendment (hb050405.asf) Senator Towe said his proposal was a bond issue that would authorize a bonding that would be necessary to settle the entire old fund problem. The bond could be sold on a 20 year basis, and would require payment of 0.5 percent by the employer, but nothing by the employee. He said the amendment would solve the issue of employee contribution. Senator Towe handed out sheets of figures (Exhibits #2 and #3). Senator Towe explained Exhibit #2. He said the first column showed the estimated payroll base; the second column showed the current payroll tax, at 0.28 percent;

the third column showed a place for an employee tax, which his proposal did not include; the fourth column showed what would be collected under HB 504 in addition to the 0.28 percent tax already being collected; and the fifth column showed the total revenue that would be raised from the tax. The sixth column showed the amount of annual claims, being the current number used for the deficit of \$371 million; and the seventh column showed the estimated annual amount of money that would be necessary for refunding bonds, and the additional debt if the bonds were refunded; and the year end old fund cash position was in the last column. Senator Towe said this showed there to be no new cash deficit in this bond program. It would mean the bonds were 20 year bonds, but they could be refunded after 10 years. This proposal showed that the bonds would be refunded and the entire 0.5 percent tax could be terminated after ten years. He said this would fund all the old fund liability of \$371 million, and would include the existing bonds with or without a refund.

**Motion:**

Senator Towe moved HB 504 be amended (hb050405.asf).

**Discussion:**

Senator Harp argued in opposition to the motion. He told Senator Towe he had neglected to tell the Committee that the bond debt and loan program as currently in statute was \$220 million. He said under the amendment's proposal, there would be the additional authorization of \$222,825,000, going beyond what was in the statutes. He told the Committee the debt in the loan amount and the debt service to pay off the unfunded liability was projected around \$371 million. Senator Harp said by accepting this amendment, the Committee would be requesting a two thirds vote, because when the debt service was increased, HB 504 would require such a vote. He claimed offering and accepting the amendment was essentially saying that there was no way of taking care of the old fund that currently is being paid about \$4 million per month from the new fund, loaned to help pay off the old fund. Senator Harp said this would cripple the new fund, and everything that the 53rd Legislature had accomplished for the workers' compensation would be destroyed by the amendment. He asked to debate the issue of the employer and the employee taxes matching singularly. He stated that by accepting the bonding issue, the Committee would need a two thirds vote of the Legislature to support the amendment and to pass HB 504. He said this was killing an issue of taking care of an old fund of \$371 million. Senator Harp said paying off the current bond issue program of \$138 million by 2018 would cost \$695 million. He said HB 504 would take care of the old fund debt in 10 years, and would pay for it honestly by reducing principal and debt. He said there was no way a bonding issue would pass the Legislature, because it would require a two thirds vote of both houses. He stated an answer was needed now of how to pay for the old fund liability, and HB 504 was the only reasonable proposal offered.

Senator Harp told the Committee he had asked organized labor how they would take care of the deficit problem, and they said they would like to raise property tax; he asked the Chamber of Commerce, who asked to take the money needed to pay off the old debt from the coal fund. He stated these were impossibilities, and added HB 504 was the only answer. He expressed that HB 504 was a raise in taxes because the money had been spent and was not available to pay off the old fund debt. Senator Harp reiterated that the bond issue would kill any possibility of taking care of the old fund.

Senator Towe said he did not understand Senator Harp's logic, as far as where he was talking about the new fund being used to pay off the debt of the old fund.

Senator Harp asked where the money was coming from currently to take care of the old fund. He said \$4 million to \$5 million per month was borrowed from the new fund.

Senator Towe responded that there had been money borrowed from the new fund, but added that his bonding proposal would pay that back and have enough in reserve to make sure the entire projected outstanding amount of \$371 million is taken care of. He said Senator Harp was saying to raise the tax on employers and employees to 0.5 percent, and raise twice as much money as would be necessary to solve the problem.

Senator Harp answered he would like to see the old fund liability be paid off in a decade and get the new fund money spent on the old fund back. He said HB 504 was a way to go about this honestly, and a bonding proposal would not be acceptable.

Senator Towe said the bond issue would pay off the debt in a decade.

Senator Harp said the cost of paying the old fund liability off in a decade with the bond issue would be \$812 million.

Senator Keating asked if the debt load was on the bonding proposal \$812 million in annual expenses. Scott Secat explained one of the amendments showed the outstanding debt would increase to approximately \$243 million.

Senator Keating asked what the total annual expenditure, or interest, was on the total life of the bonds. Mr. Secat said Senator Towe's handout showed an expenditure of \$812 million. If the current estimated liability is subtracted from that (\$371 million), the total debt service would be about \$440 million.

Senator Keating said this would almost double the cost by going to bonding, but if a cash flow tax was used, the debt could be paid out without the interest cost. Mr. Secat answered, saying that the total cost to state employers, the old fund being paid off through bonds, would be \$812 million. He asked the Committee

to realize the fact that \$371 million would have to be paid. He said included in that would be a borrowing of about \$26 million from the new fund for the old fund. Under the tax-cash flow, the total cost to employers would be about \$314 million, and the cost to employees would be about \$314 million. Under the bonding issue additional debt service would be incurred. The bonding issue was a 15 year plan, whereas HB 504 unamended was a 10 year payroll tax plan.

Senator Harp said under the statutes there was a debt limit both for debt and for loan purposes of \$220 million. He continued, asking if by offering the amendment, and raising the authorization by \$222,825,000, HB 504 would be required to have a simple majority, or a two thirds vote. Mr. Secat said in his opinion, the vote would have to be a two thirds vote. He told the Committee when the original bonding bill passed in the June, 1992 special session, Greg Petesch, chief legal council, put a provision in the bill to require the two thirds vote of each house.

Senator Towe conceded that a bonding bill would require a vote of two thirds in both houses to pass it.

Senator Keating asked what would happen to the \$144 million bonded at the present time under the amendment. Mr. Secat answered that under the amendment there was a proposal for a refunding issue, and this could be thought of in the manner of a trade buying out one bond issue at a little higher interest cost with a new issue at a little lower interest rate.

Senator Keating said there was a \$371 million unfunded liability plus \$144 million worth of bonds. He told the Committee this would total \$520 million of debt. Senator Keating asked if that \$520 million would be bonded in the new bond issue. Mr. Secat said that there would also be \$26 million to the new fund. Senator Keating said this would be a \$550 million float. Mr. Secat said he would subtract out the \$142 million, because refunding was a separate issue.

Senator Towe explained the options should be kept open. If it made sense financially to refund, then it should be done, and this could save \$300 thousand per year. He said this may still not work out. The amendment allowed for the refunding issue to go either way.

Senator Lynch asked if the amendment, requiring two thirds vote, and having strong opposition, would go beyond the Committee. Senator Towe said he did not know. Senator Lynch said this would require 34 votes in the Senate.

Senator Towe said he recognized this fact, but did not understand the opposition. He said the concern was how to raise the funds needed to pay off the unfunded liability. He said if this was a pay-as-you-go tax plan, the money needed would be twice as much

as needed by expanding the authority from \$220 to \$243 million. Senator Towe said the reason for that was the employer growth rate was significant, and as time went on there would be more base against which to levy the 0.5 percent tax, and it would pay off those bonds. This could be done without having the employee pay anything. He explained Exhibit #3, showing a current payroll tax of 0.28 percent, and showing an employee contribution of 0.3 percent, and another employer contribution of 0.10 percent, so the division is 0.3 percent and 0.38 percent. This shows the tax would be paying the debt in ten years. Senator Towe argued this, saying he did not understand why more unneeded money was going to be raised, when in reality, it made sense to expand to the maximum of the current bonding. He said the maximum might not have to be met, but rather, \$243 million could take care of the unfunded liability.

Senator Forrester asked for clarification if the bonding issue would require a two thirds vote of both houses of the Legislature. Senator Towe said this was true.

Senator Forrester said he detested the fact that employees had to be taxed, but he did not see any other way.

Senator Lynch said he had problems with the employee tax on the employer's insurance policy. He said this was something that Senator Towe had tried to iron out with his amendment but, the requirement of a two thirds vote was an exercise in futility.

**Vote:**

The motion that HB 504 be amended (hb050405.asf) FAILED by a roll call vote. Senators Harp, Fritz, Hockett, Burnett, Aklestad, Hertel, Forrester, and Keating voted NO. Senators Towe, Wilson, Lynch, and Bartlett voted YES.

**Motion:**

Senator Lynch moved HB 504 be amended by striking the employee's contribution.

**Discussion:**

Senator Lynch said HB 504 is the most devastating piece of legislation to the employees of Montana. He stated workers' compensation was not an employee's insurance responsibility, but rather an employer's insurance policy established by conservatives to make sure that employers were protected when an employee was injured through negligence on behalf of the employer. He said employee contribution would be the same as requesting employers to contribute union dues. He said, if nothing else, he hoped the Committee would support striking employee's contribution to an employer's insurance policy.

Senator Harp recalled in 1987 when the 0.28 percent payroll tax

was put on employers. He said the deficit of the old fund was \$60 million, and the discussion was that the debt would be paid off in five to six years. The debt, six years later, is about \$371 million. He stated the concept of the employee and employer contributing on an equal basis was a simple one, because this was no longer a debt of the employers, but the state. He said both employers and employees would have to recognize this. Senator Harp expressed that by eliminating employee's contribution, and putting the 0.5 percent payroll tax on employers of Montana only, the people that have never been a part of the debt problem, such as the self-insured employers, will be taxed unfairly. He said his concern was if there was not an equal share of both employer and employee tax, these larger companies like the self-insurers would begin to say they were tired of contributing to pay off a debt they did not have a part in making. Senator Harp stated if the old fund was not taken care of, there would be no way to cash-flow and continue to take care of the new fund, because \$4 to \$5 million per month was being borrowed from the new fund to help pay the deficit in the old fund. He told the Committee the actuary from the State Fund had said there were some improvements in the new fund based on medical costs, but the old fund deficit was not looking better, and may be greater than \$371 million. Senator Harp reiterated HB 504 was onerous, but was the only plan to take care of the old unfunded liability within a decade. He said HB 504 could be the toughest piece of legislation he had ever seen, and no one wanted to pay the bill, but it was time to get out of debt.

Senator Lynch said every time there was a rate increase in the employers' and insurers' insurance policies, the precedent was set that employees would have to start contributing to the employer's insurance policy. He said this was absurd, because every time the employers needed a boost, it would be a half-and-half boost, with the employers and employees paying the same amounts. He said for the employees to start paying the employers' insurance policy was madness.

Senator Towe said he was disappointed the Republicans had taken a hard position against the bonding amendment, because the problem could be solved without employee contribution. He said this could be done spending the same amount of money, but the attitude was that if the employees did not contribute, the employers would not want to pay anything. He said that at the present time, there was no reason to have the employees pay on the employers' insurance debt. He stated the idea behind workers' compensation was to give the employees' guaranteed benefit payment at the cost of the employers. Saying that the employees would have to now pay into the workers' compensation system violated the entire concept of workers' compensation.

Vote:



The Motion to amend HB 504 by striking the employees contribution FAILED by roll call vote, with Senators Keating, Aklestad, Harp, Hertel, Hockett, and Burnett, voting NO. Senators Forrester, Lynch, Bartlett, Towe, Fritz, and Wilson voted YES.

**Motion\Vote:**

Senator Lynch moved HB 504 BE TABLED. The motion FAILED by roll call vote with Senators Harp, Forrester, Hertel, Aklestad, Burnett, and Keating voting NO. Senators Hockett, Towe, Lynch, Wilson, Fritz, and Bartlett voted YES.

**Discussion:**

Senator Harp offered a conceptual amendment. He said at this point, the employers' tax was 0.28 percent. HB 504 would raise this to 0.5 percent, and employees would go from no tax to 0.5 percent. He said he would offer to change the employees' tax from 0.5 percent to 0.22 percent, while keeping the employers' tax at 0.5 percent.

**Motion:**

Senator Harp moved to amend HB 504 by striking 0.5 percent under the employees' tax, and inserting 0.22 percent.

**Discussion:**

Senator Towe said this would offer a 0.22 percent raise in the existing tax for both employers and employees.

Senator Aklestad asked if this suggestion would still satisfy the cash flow. Senator Harp said he was not sure of this at the time, but he added that because of the tie votes holding HB 504, it would be a potential way to move the Bill to the Floor for consideration.

Senator Towe asked Senator Harp if there were any circumstances on which there would be some Republican support and votes on a bonding proposal. Senator Harp answered no.

Senator Lynch spoke against the motion. He said the most devastating thing being done to the employees of Montana was deciding that they were going to contribute to the employers' insurance policy. He said no matter what the tax, there would be a precedent set so every time insurance rates went up, there would be an attempt to make the employees pay the difference. He said they might as well take all workers' compensation out of statute, and let the employers be subject to due process of law. Senator Lynch reiterated that employees should not be made to pay employers' insurance policies.

Senator Towe noted that any amount of tax put on employees might

get a petition drive to revoke the statute, and then there would be nothing.

Senator Harp said there was a threat of this on every piece of legislation taken care of by the Legislature. He asked for the Committee to meet on this middle ground.

Senator Forrester said he did not like this, but added he would vote for it because there had to be something to show that the Legislature had tried to solve the unfunded liability this Session. He stated there had to be a bill on the Senate Floor that would deal with the unfunded liability problem.

Senator Towe urged him to wait for a decent proposal.

**Vote:**

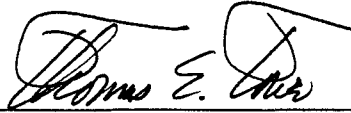
The motion to amend HB 504 CARRIED by roll call vote with Senators Harp, Hockett, Burnett, Aklestad, Hertel, Forrester, and Keating voting YES. Senators Towe, Fritz, Wilson, Lynch, and Bartlett voted NO.

**Motion\Vote:**

Senator Harp moved HB 504 BE CONCURRED IN AS AMENDED. The Motion CARRIED by a roll call vote, with Senators Harp, Keating, Burnett, Aklestad, Hertel, Forrester, Hockett, and Fritz voted YES. Senators Wilson, Bartlett, Lynch, and Towe voted NO.

ADJOURNMENT

Adjournment: 6:00 PM



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SENATOR THOMAS E. TOWE, Chair



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KELSEY S. CHAPMAN, Secretary

TET/ksc

# ROLL CALL

SENATE SELECT COMMITTEE ON Workers' Compensation DATE 04/06/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Towe	X		
Senator Forrester	X		
Senator Bartlett	X		
Senator Wilson	X		
Senator Burnett	X		
Senator Lynch	X		
Senator Aklestad	X		
Senator Fritz	X		
Senator Hockett	X		
Senator Hertel	X		
Senator Harp	X		
Senator Keating	X		

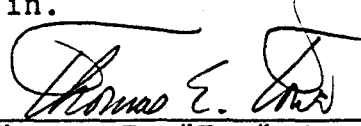
Attach to each day's minutes

SENATE SELECT COMMITTEE REPORT

Page 1 of 2  
April 7, 1993

MR. PRESIDENT:

We, your select committee on Worker's Compensation having had under consideration House Bill No. 13 (third reading copy -- blue), respectfully report that House Bill No. 13 be amended as follows and as so amended be concurred in.

Signed:   
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, page 1, lines 14 through 18.

Following: "CLAIMS;"

Strike: the remainder of line 14 through "GOVERNOR;" on line 18

2. Title, page 2, line 1.

Strike: "2-15-1019,"

3. Title, page 2, line 3.

Strike: "39-71-2317,"

4. Page 24, line 18 through page 26, line 18.

Strike: sections 2 and 3 in their entirety

Renumber: subsequent sections

5. Page 34, line 4.

Following: "12"

Insert: ", and the provisions of Title 17, chapter 7, parts 1 through 4"

6. Page 37, line 17.

Strike: "10"

Insert: "8"

7. Page 37, line 19.

Strike: "12"

Insert: "10"

8. Page 39, lines 21 and 23.

Strike: "9"


Insert: "7"

Strike: "11"

Insert: "9"

9. Page 40, line 5.

Strike: "THROUGH 3"

 Amd. Coord.  
Sec. of Senate

  
Senator Carrying Bill

781554SC.San

10. Page 40, line 6.

Strike: "11, AND 16 THROUGH 19"

Insert: "9, and 14 through 17"

11. Page 40, lines 11 and 12.

Strike: "4 THROUGH 10 AND 12 THROUGH 15]"

Insert: "2 through 8 and 10 through 13]"

12. Page 40, line 13.

Strike: "11"

Insert: "9"

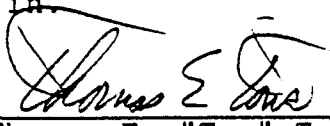
-END-

SENATE SELECT COMMITTEE REPORT

Page 1 of 1  
April 12, 1993

MR. PRESIDENT:


We, your select committee on Worker's Compensation having had under consideration House Bill No. 504 (third reading copy -- blue), respectfully report that House Bill No. 504 be amended as follows and as so amended be concurred in.

Signed:   
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Page 11, line 8.  
Strike: "0.5%"  
Insert: "0.22%"

-END-

  
Amd. Coord.  
Sec. of Senate

  
Senator Carrying Bill

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SENATE SELECT COMMITTEE REPORT

Page 1 of 2  
April 7, 1993



MR. PRESIDENT:

We, your select committee on Worker's Compensation having had under consideration House Bill No. 622 (third reading copy -- blue), respectfully report that House Bill No. 622 be amended as follows and as so amended be concurred in.

Signed:   
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, page 1, lines 7 and 8.  
Following: "APPOINTMENTS;" on line 7  
Strike: the remainder of line 7 through "BENEFITS;" on line 8
2. Title, page 2, line 12.  
Strike: "39-71-741,"
3. Page 2, line 19.  
Strike: "23"  
Insert: "22"
4. Page 15, line 22 through page 19, line 11.  
Strike: section 5 in its entirety  
Renummer: subsequent sections
5. Page 27, line 12.  
Following: "(2)"  
Strike: line 12 through "benefits"  
Insert: "An insurer's liability"
6. Page 27, line 18.  
Strike: line 18 in its entirety  
Insert: "the injured worker's temporary total disability benefit rate."
7. Page 49, line 11.  
Strike: "23"  
Insert: "22"
8. Page 50, line 15.  
Following: "STATE"  
Insert: ", except that the state fund, as defined in 39-71-2312, has the right to refuse coverage of a group and its plan of operation but cannot refuse coverage to an individual employer"

 Amd. Coord.  
 Sec. of Senate

  
Senator Carrying Bill

781556SC.San



9. Page 55, line 24.  
Page 56, line 2.  
Strike: "8"  
Insert: "7"

10. Page 56, lines 3 and 6.  
Strike: "10"  
Insert: "9"

11. Page 56, lines 7 and 10.  
Following: "20"  
Insert: "17 and"  
Following: "18"  
Strike: "AND 19"

12. Page 56, lines 11 and 13.  
Following: "SECTIONS"  
Insert: "21 and"  
Following: "22"  
Strike: "AND 23"

-END-

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 13

DATE 3/4/93 TIME 3:34 A.M. (P.M.)

NAME	YES	NO
Senator Hertel		X
Senator Hockett		X
Senator Burnett		X
Senator Harp		X
Senator Fritz		
Senator Bartlett	X	
Senator Wilson	X	
Senator Lynch	X	
Senator Keating		X
Senator Aklestad		X
Senator Towe	X	
Senator Forrester	X	

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Lynch moved to amend  
(hb001311.asf). Motion failed.

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 13

DATE 4/5/93 TIME 3:44 A.M. P.M.

NAME	YES	NO
Senator Forrester	X	
Senator Lynch	X	
Senator Bartlett	X	
Senator Towe	X	
Senator Keating		X
Senator Aklestad		X
Senator Harp		X
Senator Hertel		X
Senator Hockett	X	
Senator Burnett		X
Senator Fritz	X	
Senator Wilson	X	

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Bartlett to amend HB 13  
(hb001310.95F)

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 361

DATE 01/06/93 TIME 3:20 A.M. (P.M)

NAME	YES	NO
Senator Lynch	X	
Senator Harp		X
Senator Aklestad		X
Senator Keating		X
Senator Towe	X	
Senator Bartlett	X	
Senator Fritz	X	
Senator Hockett	X	
Senator Hertel		X
Senator Burnett		X
Senator Wilson	X	
Senator Forrester	X	

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Lynch to Table HB 361.

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 504

DATE 4/6/93 TIME 5:30 A.M. (P.M.)

NAME	YES	NO
Senator Harp		X
Senator Towe	X	
Senator Fritz		X
Senator Wilson	X	
Senator Lynch	X	
Senator Hockett		X
Senator Burnett		X
Senator Aklestad		X
Senator Bartlett	X	
Senator Hertel		X
Senator Forrester		X
Senator Keating		X

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Towe that HB 504 be  
amended (hb050405.asf).

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 504

DATE 4/6/93 TIME 5:36 A.M. P.M.

NAME	YES	NO
Senator Forrester	X	
Senator Lynch	X	
Senator Bartlett	X	
Senator Towe	X	
Senator Keating		X
Senator Aklestad		X
Senator Harp		X
Senator Hertel		X
Senator Hockett		X
Senator Burnett		X
Senator Fritz	X	
Senator Wilson	X	

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Lynch that HB 504 BE  
Amended by striking "employees contribution."  
FAILED

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 504

DATE 4/6/93 TIME 5:38 A.M. (P.M.)

NAME	YES	NO
Senator Hockett	X	
Senator Harp		X
Senator Towe	X	
Senator Forrester		X
Senator Lynch	X	
Senator Wilson	X	
Senator Hertel		X
Senator Aklestad		X
Senator Burnett		X
Senator Fritz	X	
Senator Bartlett	X	
Senator Keating		X

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Lynch to TABLE HB 504

Motion FAILED.

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 504

DATE 4/6/93 TIME 5:43 A.M. (P.M.)

NAME	YES	NO
Senator Harp	X	
Senator Towe		X
Senator Fritz		X
Senator Wilson		X
Senator Lynch		X
Senator Hockett	X	
Senator Burnett	X	
Senator Aklestad	X	
Senator Bartlett		X
Senator Hertel	X	
Senator Forrester	X	
Senator Keating	X	

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Harp to amend HB 504. by  
increasing amount by .22%.



# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 504

DATE 4/6/93 TIME 5:44 A.M. (P.M.)

NAME	YES	NO
Senator Towe		X
Senator Wilson		X
Senator Forrester	X	
Senator Keating	X	
Senator Harp	X	
Senator Hockett	X	
Senator Hertel	X	
Senator Fritz	X	
Senator Bartlett		X
Senator Aklestad	X	
Senator Burnett	X	
Senator Lynch		X

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Harp that HB 504 BE  
CONCURRED IN AS AMENDED.

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 622

DATE 4/6/93 TIME 4:02 A.M. (P.M.)

NAME	YES	NO
Senator Harp		X
Senator Towe	X	
Senator Fritz	X	
Senator Wilson	X	
Senator Lynch	X	
Senator Hockett		X
Senator Burnett		X
Senator Aklestad		X
Senator Bartlett	X	
Senator Hertel		X
Senator Forrester		X
Senator Keating		X

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Towe to amend HB 622  
(~~hb062222.asf~~) (hb062225.asf.)

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 622

DATE 4/6/93 TIME 4:25 A.M. (P.M.)

NAME	YES	NO
Senator Towe	X	
Senator Wilson	X	
Senator Forrester		X
Senator Keating		X
Senator Harp		X
Senator Hockett	X	
Senator Hertel		X
Senator Fritz	X	
Senator Bartlett	X	
Senator Aklestad		X
Senator Burnett		X
Senator Lynch	X	

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Bartlett that HB 622 be  
amended (hb062224.asf). FAILED

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 622

DATE 4/6/93 TIME 4:37 A.M. (P.M.)

NAME	YES	NO
Senator Lynch	X	
Senator Harp		X
Senator Aklestad		X
Senator Keating		X
Senator Towe	X	
Senator Bartlett	X	
Senator Fritz	X	
Senator Hockett	X	
Senator Hertel		X
Senator Burnett		X
Senator Wilson	X	
Senator Forrester	X	

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Lynch that HB 622  
be amended (HB062223. ASF).

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 622

DATE 4/6/93 TIME 4:55 A.M. (P.M.)

NAME	YES	NO
Senator Hertel		X
Senator Hockett		X
Senator Burnett		X
Senator Harp		X
Senator Fritz		X
Senator Bartlett		X
Senator Wilson	X	
Senator Lynch	X	
Senator Keating		X
Senator Aklestad		X
Senator Towe	X	
Senator Forrester	X	

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Lynch that HB 622 be  
amended (hb062226.asf)

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 622

DATE 4/6/93 TIME 5:03 A.M.  P.M.

NAME	YES	NO
Senator Forrester		X
Senator Lynch		X
Senator Bartlett	X	
Senator Towe	X	
Senator Keating		X
Senator Aklestad		X
Senator Harp		X
Senator Hertel		X
Senator Hockett	X	
Senator Burnett		X
Senator Fritz	X	
Senator Wilson		X

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Fritz that HB 622 be  
amended.

# ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 622

DATE 4/6/93 TIME 5:05 A.M. P.M.

NAME	YES	NO
Senator Hockett	X	
Senator Harp	X	
Senator Towe	X	
Senator Forrester	X	
Senator Lynch		X
Senator Wilson		X
Senator Hertel		X
Senator Aklestad	X	
Senator Burnett	X	
Senator Fritz	X	
Senator Bartlett	X	
Senator Keating	X	

KELSEY CHAPMAN  
SECRETARY

SENATOR TOM TOWE  
CHAIR

MOTION: By Sen. Aklestad that HB 622 BE  
CONCURRED IN AS AMENDED.

Amendments to House Bill No. 13  
Third Reading Copy

Requested by Sen. Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Title, page 1, lines 13 and 14.

Following: "~~FUND,~~"

Strike: the remainder of line 13 through "CLAIMS;" on line 14

2. Title, page 2, line 2.

Strike: "39-71-105,"

3. Page 22, line 21 through page 24, line 17.

Strike: section 1 in its entirety

Renumber: subsequent sections

4. Page 37, line 17.

Strike: "10"

Insert: "9"

5. Page 37, line 19.

Strike: "12"

Insert: "11"

6. Page 39, lines 21 and 24.

Strike: "9"

Insert: "8"

Strike: "11"

Insert: "10"

7. Page 40, line 5.

Strike: "THROUGH 3"

Insert: ", 2"

8. Page 40, line 6.

Strike: "11, AND 16 THROUGH 19"

Insert: "10, and 15 through 18"

9. Page 40, lines 11 and 12.

Strike: "4 THROUGH 10 AND 12 THROUGH 15]"

Insert: "3 through 9 and 11 through 14]"

10. Page 40, line 13.

Strike: "11"

Insert: "10"



Amendments to House Bill No. 13  
Third Reading Copy

For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Title, page 1, lines 14 through 18.  
Following: "CLAIMS;"  
Strike: the remainder of line 14 through "GOVERNOR;" on line 18
2. Title, page 2, line 1.  
Strike: "2-15-1019,"
3. Title, page 2, line 3.  
Strike: "39-71-2317,"
4. Page 24, line 18 through page 26, line 18.  
Strike: sections 2 and 3 in their entirety  
Renumber: subsequent sections
5. Page 34, line 4.  
Following: "12"  
Insert: ", and the provisions of Title 17, chapter 7, parts 1  
through 4"
6. Page 37, line 17.  
Strike: "10"  
Insert: "8"
7. Page 37, line 19.  
Strike: "12"  
Insert: "10"
8. Page 39, lines 21 and 23.  
Strike: "9"  
Insert: "7"  
Strike: "11"  
Insert: "9"
9. Page 40, line 5.  
Strike: "THROUGH 3"
10. Page 40, line 6.  
Strike: "11, AND 16 THROUGH 19"  
Insert: "9, and 14 through 17"
11. Page 40, lines 11 and 12.  
Strike: "4 THROUGH 10 AND 12 THROUGH 15]"  
Insert: "2 through 8 and 10 through 13]"
12. Page 40, line 13.  
Strike: "11"  
Insert: "9"

Amendments to House Bill No. 13  
Third Reading Copy

Requested by Senator Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Page 33, line 3.  
Strike: "to amass and maintain"  
Insert: "in addition to set as a goal"

Amendments to House Bill No. 13  
Third Reading Copy

Requested by Sen. Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Page 33, line 8.

Following: "~~1~~"

Insert: "(1)"

2. Page 33, line 19.

Strike: "1"

Insert: "(a)"

3. Page 33, line 21.

Strike: "2"

Insert: "(b)"

4. Page 33, line 24.

Following: line 23

Insert: "(2) The legislature shall appropriate necessary funds  
to the legislative auditor to perform this function."

Amendments to House Bill No. 13  
Third Reading Copy

Requested by Senator Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
March 31, 1993

1. Page 34, line 4.

Following: "12"

Insert: ", and the provisions of Title 17, chapter 7, parts 1  
through 4"

Amendments to House Bill No. 622  
Third Reading Copy

Requested by Senator Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Page 15, lines 20 and 21.

Following: "worker" on line 20

Strike: the remainder of line 20 through "benefits" on line 21

Insert: "is presumed to have been released on the day that the  
worker failed to keep the medical appointment"

Amendments to House Bill No. 622  
Third Reading Copy

For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Title, page 1, lines 7 and 8.  
Following: "APPOINTMENTS;" on line 7  
Strike: the remainder of line 7 through "BENEFITS;" on line 8
2. Title, page 2, line 12.  
Strike: "39-71-741,"
3. Page 2, line 19.  
Strike: "23"  
Insert: "22"
4. Page 15, line 22 through page 19, line 11.  
Strike: section 5 in its entirety  
Renumber: subsequent sections
5. Page 27, line 12.  
Following: "(2)"  
Strike: line 12 through "benefits"  
Insert: "An insurer's liability"
6. Page 27, line 18.  
Strike: line 18 in its entirety  
Insert: "the injured worker's temporary total disability benefit rate."
7. Page 49, line 11.  
Strike: "23"  
Insert: "22"
8. Page 50, line 15.  
Following: "STATE"  
Insert: ", except that the state fund, as defined in 39-71-2312, has the right to refuse coverage of a group and its plan of operation but cannot refuse coverage to an individual employer"
9. Page 55, line 24.  
Page 56, line 2.  
Strike: "8"  
Insert: "7"
10. Page 56, lines 3 and 6.  
Strike: "10"  
Insert: "9"
11. Page 56, lines 7 and 10.  
Following: "20"

Insert: "17 and"  
Following: "18"  
Strike: "AND 19"

12. Page 56, lines 11 and 13.  
Following: "SECTIONS"  
Insert: "21 and"  
Following: "22"  
Strike: "AND 23"

Amendments to House Bill No. 622  
Third Reading Copy

Requested by Sen. Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Title, page 1, lines 8 and 9.  
Following: "BENEFITS;" on line 8  
Strike: the remainder of line 8 through "REQUIREMENTS;" on line 9
2. Title, page 2, line 12.  
Strike: "39-71-2001"
3. Page 2, line 19.  
Strike: "23"  
Insert: "22"
4. Page 19, line 12 through page 22, line 6.  
Strike: section 6 in its entirety  
Renumber: subsequent sections
5. Page 49, line 11.  
Strike: "23"  
Insert: "22"
6. Page 55, line 24.  
Page 56, line 2.  
Strike: "8"  
Insert: "7"
7. Page 56, lines 3 and 6.  
Strike: "10"  
Insert: "9"
8. Page 56, lines 7 and 10.  
Following: "20"  
Insert: "17 and"  
Following: "18"  
Strike: "AND 19"
9. Page 56, lines 11 and 13.  
Following: "SECTIONS"  
Insert: "21 and"  
Following: "22"  
Strike: "AND 23"



Amendments to House Bill No. 622  
Third Reading Copy

Requested by Sen. Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Page 27, line 12.

Following: "(2)"

Strike: line 12 through "benefits"

Insert: "An insurer's liability"

2. Page 27, line 18.

Strike: line 18 in its entirety

Insert: "the injured worker's temporary total disability benefit  
rate."

Amendments to House Bill No. 622  
Third Reading Copy

Requested by Sen. Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Page 50, line 15.

Following: "STATE"

Insert: ", except that the state fund, as defined in 39-71-2312,  
has the right to refuse coverage of a group and its plan of  
operation but cannot refuse coverage to an individual  
employer"

Amendments to House Bill No. 622  
Third Reading Copy

Requested by Senator Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

1. Title, page 1, lines 12 and 13.

Following: "INFIRMITY;"

Strike: the remainder of line 12 and line 13 in their entirety

2. Title, page 2, line 11.

Strike: "39-71-407,"

3. Title, page 2, line 13.

Following: "AND"

Insert: "AND"

Strike: "39-72-706, AND 39-72-707,"

4. Page 51, line 6 through page 54, line 23.

Strike: sections 24, 25, and 26 in their entirety

Renumber: subsequent sections

Amendments to House Bill No. 622  
Third Reading Copy

Requested by Sen. Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 6, 1993

no  
motion

1. Title, page 2, line 10.  
Following: "39-71-116,"  
Insert: "39-71-123,"

2. Page 51, line 6 through page 53, line 12.  
Strike: Section 24 in its entirety  
Insert: "Section 24. Section 39-71-407, MCA, is amended to read:  
"39-71-407. Liability of insurers -- limitations. (1) Every insurer is liable for the payment of compensation, in the manner and to the extent ~~hereinafter~~ provided in this section, to an employee of an employer that it insures who receives an injury arising out of and in the course of ~~his~~ employment or, in the case of ~~his~~ death from ~~such~~ the injury, to ~~his~~ the employee's beneficiaries, if any.

(2) (a) An insurer is liable for an injury as defined in 39-71-119 if the claimant establishes that it is more probable than not that:

- (i) a claimed injury has occurred; or
- (ii) a claimed injury aggravated a preexisting condition.

(b) Proof that it was medically possible that a claimed injury occurred or that ~~such~~ the claimed injury aggravated a preexisting condition is not sufficient to establish liability.

(3) An employee who suffers an injury or dies while traveling is not covered by this chapter unless:

(a) (i) the employer furnishes the transportation or the employee receives reimbursement from the employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement; and

(ii) the travel is necessitated by and on behalf of the employer as an integral part or condition of the employment; or

(b) the travel is required by the employer as part of the employee's job duties.

(4) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the ~~sole and exclusive~~ major contributing cause of the injury or death. However, if the employer had knowledge of and failed to attempt to stop the employee's use of alcohol or drugs, this subsection does not apply.

(5) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to the same part of the body, the workers' compensation insurer is not liable for any compensation or medical benefits caused by the subsequent nonwork-related injury.

(6) As used in this section, "major contributing cause" means a leading factor contributing to the result when compared to all other contributing factors."

3. Page 55, line 18.

Following: line 17

Insert: "Section 28. Section 39-71-123, MCA, is amended to read:

"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, or income provided for in subsection (1)(d). 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-; and

(d) income or payment in the form of a draw, wage, net profit, or substitute for money received or taken by a sole proprietor or partner, regardless of whether the sole proprietor or partner has performed work or provided services for that remuneration.

(2) Wages do not include:

(a) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, and other expenses, as set forth in department rules;

(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).

(b) The compensation benefits for a covered volunteer must be based on the average actual wages in ~~his~~ the volunteer's regular employment, except self-employment as a sole proprietor or partner who elected not to be covered, from which ~~he~~ the volunteer is disabled by the injury incurred.

(c) The compensation benefits for an employee working at two or more concurrent remunerated employments must be based on the aggregate of average actual wages of all employments, except self-employment as a sole proprietor or partner who elected not to be covered, from which the employee is disabled by the injury incurred.

(5) The compensation benefits and the payroll, for premium purposes, for a volunteer firefighter covered pursuant to 39-71-118(4) must be based upon a wage of not less than \$900 a month and not more than  $1\frac{1}{2}$  times the average weekly wage as defined in this chapter.""

Renumber: subsequent sections

Amendments to House Bill No. 504  
Third Reading Copy

Requested by Sen. Towe  
For the Committee on Workers' Compensation

Prepared by Susan B. Fox  
April 3, 1993

1. Title, line 6.  
Strike: "INCREASING"  
Insert: "REVISING"

2. Title, lines 7 and 8.  
Following: "PERCENT" on line 7  
Strike: the remainder of line 7 through "TAX" on line 8  
Insert: "INCREASING THE TAX RATE; PROVIDING FOR A FLEXIBLE TAX RATE; PROVIDING FOR AN IRREVOCABLE AGREEMENT FOR MAINTAINING THE TAX AT A RATE SUFFICIENT TO PROVIDE A STATED RATE OF DEBT COVERAGE; PROVIDING A CALCULATION TO BE USED TO DETERMINE THE AMOUNT OF LOANS AND BONDS TO BE ISSUED; INCREASING THE AMOUNT OF LOAN AND BOND PROCEEDS THAT MAY BE ISSUED;"

3. Title, lines 10 and 11.  
Strike: "PROVIDING APPROPRIATIONS;"  
Following: "SECTIONS"  
Strike: the remainder of line 10 through "39-71-406," on line 11  
Following: "39-71-2351,"  
Strike: "39-72-2501, 39-71-2502,"  
Insert: "39-71-2354, 39-71-2355, AND"

4. Title, line 12.  
Strike: "AND 39-71-2504,"

5. Page 2, line 14.  
Following: "39-71-2503"  
Strike: the remainder of line 14 in its entirety

6. Page 3, line 2 through page 9, line 20.  
Strike: sections 2 through 4 in their entirety  
Insert: "Section 2. Section 39-71-2503, MCA, is amended to read:  
"39-71-2503. Workers' compensation payroll tax. (1) (a)  
There is imposed on each employer a workers' compensation payroll tax in an amount equal to ~~0.28%~~ 0.5% of the employer's payroll in the preceding calendar quarter for all employments covered under 39-71-401, except that if an employer is subject to 15-30-204(2), the tax is an amount equal to ~~0.28%~~ 0.5% of the employer's payroll in the preceding week. This payroll tax must be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990. If one or more loans or bonds are outstanding, the tax must be continued at the ~~0.28%~~ 0.5% rate and the legislature may not modify the tax rate, the use of the tax proceeds, or this

section in a manner that reduces the security for repayment of the outstanding loans or bonds, ~~except that the legislature may forgive payment of the tax or reduce the tax rate for any 12-month period if the workers' compensation bond repayment account contains on the first day of that period an amount, regardless of the source, that is in excess of the reserve maintained in the account and that is equal to the amount needed to pay and dedicated to the payment of the principal, premium, and interest that must be paid during that period on the outstanding loans or bonds.~~

(b) The legislature may not increase or decrease the tax rate except upon a two-thirds vote of each house in a manner inconsistent with subsection (1)(a). While bonds are outstanding, the state irrevocably agrees with the owners of the bonds that the bonds have a first and prior lien on the tax collections.

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

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

(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 and the state fund shall, on July 1, 1991, 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 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.

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

7. Page 10, line 9.

Strike: "(A)"

8. Page 10, lines 23 and 24.

Following: "TAX" on line 23

Strike: the remainder of line 23 through "TAX" on line 24

9. Page 11, line 2 through page

Following: "(I)"

Strike: the remainder of line 2 through "(II)" on line 11

10. Page 11, line 14.

Strike: "(III)"

Insert: "(II)"

11. Page 11, line 16 and line 20.

Strike: "2003"

Insert: "2008"

12. Page 11, line 21.

Strike: "(IV)"

Insert: "(III)"

Following: the first "TAX"

Strike: the remainder of line 21

13. Page 11, line 24 through page 12, line 13.

Strike: subsections (3), (4), and (5) in their entirety

14. Page 12, line 14 through page 12, line 23.

Strike: sections 6 through 8 in their entirety

Insert: "Section 4. Section 39-71-2354, MCA, is amended to read:

"39-71-2354. Use of payroll tax proceeds -- loans -- bonds.

(1) Taxes collected under 39-71-2503 may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990, including the cost of repaying bonds issued and loan proceeds given under 39-71-2355 and this section. If the state fund determines that, for the next 1 or more years following the date of the determination, the tax revenue, together with funds in the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, will be insufficient to administer and pay those claims, the state fund may, through its board of directors, request the budget director to certify to the board of

investments that additional funding is necessary. If the budget director agrees with the state fund's board of directors that additional funding is necessary, the budget director shall certify to the board of investments the amount that the budget director determines is necessary to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Except as provided in subsection (2), the board of investments shall, at times and in amounts it considers necessary or advisable, finance the amount certified by the budget director by giving the state fund the proceeds of a loan or a bond issue to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Loans must be from reserves accumulated from premiums paid to the state fund based upon wages payable on or after July 1, 1990. The board of investments shall choose the method of financing that is most cost-effective for the state fund. A loan must bear interest at the rate the money would earn in the pooled investment fund required by 17-6-203. The board of investments may also, upon request of the board of directors of the state fund, give the state fund the proceeds of a bond issue, to be used to pay off loans made under 39-71-2355 and this section. Bonds for the state fund must be workers' compensation bonds issued under 39-71-2355.

(2) The total amount of loan proceeds given to the state fund plus workers' compensation bonds issued under 39-71-2355, except bonds issued to repay loans as provided for in subsection (1), may not exceed ~~\$220~~ \$243 million. All loan and bond proceeds given to the state fund must be repaid to the board of investments before July 1, 2020."

Section 5. Section 39-71-2355, MCA, is amended to read:

"39-71-2355. Workers' compensation bonds -- loans -- form -- principal and interest. (1) Subject to the ~~\$220 million~~ limit contained in 39-71-2354(2), the board of investments may not give the state fund loan proceeds or issue workers' compensation bonds unless the aggregate amount of outstanding and proposed loans and bonds can be serviced with no more than 90% of the amount of tax revenue that the department of revenue estimates will be raised by the tax imposed under 39-71-2503 during the remainder of the then current fiscal year and during each succeeding fiscal year through the end of the fiscal year in which the last then outstanding or proposed loan or bond will be repaid or retired.

(2) Bonds are limited obligations payable solely from and secured by the money deposited in the workers' compensation bond repayment account created by 39-71-2504. Each series of bonds may be issued by the board of investments at public or private sale, in denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for the conversion or exchange, bearing interest at a rate or rates or the method of determining the rate or rates, maturing at times, not later than June 30, 2020, subject to redemption at earlier times and prices and upon notice, and payable at the office of a fiscal agency of the state, as determined by the board of investments. Any action taken by the board of investments under 39-71-2354 and this section must be approved by at least a majority vote of its members.

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

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

(5) All loan and bond proceeds given to the state fund must be deposited to the credit of the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, and may be used only for the administration and payment of those claims and for the costs of giving the loan proceeds and issuing the bonds.""

Renumber: subsequent sections

15. Page 15, line 5 through line 10.

Strike: section 10 in its entirety

Renumber: subsequent sections

16. Page 15, line 12 and line 14.

Strike: "5"

Insert: "3"

17. Page 15, lines 15 and 16.

Following: "Applicability."

Strike: the remainder of line 15 through "THE" on line 16

Insert: "The"

18. Page 15, line 17.

Strike: "4 AND 5"

Insert: "2 and 3"

HB 361

Section 4, page 12, lines 11 to 21

RE: Aggravation of pre-existing conditions

This section addresses the liability of an employer and insurer when a worker with a pre-existing condition (work-related injury or non-work injury or a congenital condition) has a new on-the-job injury.

If the new injury is not the major contributing cause of the worker's condition (as a result of the combination of the pre-existing condition and the injury), there is no liability for the employer and insurer.

Major contributing cause means the largest factor contributing to the worker's condition, post-injury, i.e., if there were three causes of the resultant condition, and the new injury was the largest of the three, the injury would be compensable.

Example: Worker has a car accident and injures his back and is placed in a brace. He returns to work, but has a notable increase in symptoms while vacuuming in a janitorial job and files a claim. The physician would be asked for a medical opinion on whether the car accident or work injury was the largest cause of the worker's combined condition.

Benefits would be payable if the injury caused most of worker's condition post-injury.

Often, benefits would also likely be payable until a worker's condition stabilized and had returned to a condition close to that prior to the injury at work.

Example: A worker with a high school football injury twists his knee at work on a construction site. Again, the physician would be asked as to which was the largest factor in creating the worker's combined condition.

As can be seen, it will be a case by case analysis as to the severity of the pre-existing condition, and the condition which results from the new injury in determining liability.

SENATE SELECT COMMITTEE  
WORKERS' COMPENSATION  
EXHIBIT # 1  
DATE 04/06/93  
BILL # HB 361

Exhibit # 1A  
Select Workers' Comp

ANDERSON STEEL SUPPLY, INC.  
301 ORCHARD LANE • P.O. Box 20714  
BILLINGS, MT 59104  
(406) 245-6386

TO Senate Select Committee  
on Workers Comp.

DATE 4-6-93

SUBJECT

What seems to be the problem with  
HB361? It is a very good Bill +  
Very much needed if you are serious  
about W.C. reform!

Please, I urge you to pass this Bill.

Sincerely

Don DeFarnett

Don DeFarnett

Sam. Towne

STATE OF MONTANA  
 WORKERS' COMPENSATION - OLD FUND  
 POTENTIAL FUNDING ALTERNATIVE - C  
 REFUNDING SERIES 1981 DSR  
 FREE-UP SERIES 1981 DSR  
 SERIES 1983 NEW MONEY ISSUE - WITH  
 ADDITIONAL AUTHORIZATION OF \$22,255,000

ALL \$\$\$ IN \$000s

FISCAL YEAR	ESTIMATED PAYROLL BASE GROWTH @ 5.00%	CURRENT PAYROLL TAX RATE @ 0.28%	ADDITIONAL TAXES @ EMPLOYEE RATE	EMPLOYER RATE	FREED-UP SERIES 1981 DSR TAX	ADDITIONAL "MCA" - CFP - 787 SERIES 1983 NET PROCEEDS	TOTAL ANNUAL REVENUES	ESTIMATED ANNUAL LIABILITY CLAIMS (S)	ESTIMATED SERIES 1983 REFUNDING BONDS DEBT SERVICE	ADDITIONAL "MCA" - CFP - 787 SERIES 1983 DEBT SERVICE	TOTAL ANNUAL EXPENSES	YEAR ENDS "OLD FUND" CASH POSITION	ESTIMATED INTEREST EARNINGS	DEBT SERVICE COMPOUNDED SERIES 1981 SERIES 1983 & ALONE
1984	\$3,391,857	\$15,090	\$0.00%	\$11.840	0.22%	\$100,000	\$138,251	\$58,388	\$11,185	\$7,833	\$75,214	\$26,834	\$1,209	1.35
1985	\$3,650,950	\$15,823	\$0.00%	\$12.432	0.22%	\$0	\$28,325	\$47,482	\$11,185	\$7,833	\$80,298	\$148,484	\$7,225	1.41
1986	\$3,933,487	\$16,614	\$0.00%	\$13.054	0.22%	\$0	\$29,687	\$41,622	\$11,185	\$7,833	\$90,800	\$115,793	\$6,790	1.49
1987	\$4,231,172	\$17,444	\$0.00%	\$13.708	0.22%	\$0	\$31,151	\$37,358	\$11,185	\$7,833	\$101,450	\$143,117	\$6,340	1.58
1988	\$4,541,641	\$18,317	\$0.00%	\$14.392	0.22%	\$0	\$32,708	\$33,212	\$11,185	\$7,833	\$112,350	\$170,317	\$5,876	1.64
1989	\$4,865,765	\$19,233	\$0.00%	\$15.111	0.22%	\$0	\$34,344	\$30,288	\$11,185	\$7,833	\$123,487	\$197,464	\$5,400	1.71
2000	\$7,212,203	\$30,194	\$0.00%	\$15.887	0.22%	\$0	\$36,061	\$27,538	\$11,185	\$7,833	\$135,350	\$224,282	\$4,915	1.78
2001	\$7,572,813	\$31,204	\$0.00%	\$16.660	0.22%	\$0	\$37,854	\$25,122	\$11,185	\$7,833	\$147,867	\$251,931	\$4,420	1.81
2002	\$7,951,654	\$32,384	\$0.00%	\$17.443	0.22%	\$0	\$39,757	\$22,069	\$11,185	\$7,833	\$161,000	\$280,000	\$3,915	1.86
2003	\$8,349,027	\$33,777	\$0.00%	\$18.238	0.22%	\$0	\$41,743	\$19,757	\$11,185	\$7,833	\$174,750	\$308,667	\$3,390	1.90
2004	\$8,764,478	\$35,377	\$0.00%	\$19.048	0.22%	\$0	\$43,822	\$17,685	\$11,185	\$7,833	\$189,000	\$337,800	\$2,855	1.94
2005	\$9,204,802	\$37,173	\$0.00%	\$19.886	0.22%	\$0	\$46,024	\$15,825	\$11,185	\$7,833	\$203,750	\$367,400	\$2,310	1.98
2006	\$9,665,042	\$39,282	\$0.00%	\$20.753	0.22%	\$0	\$48,355	\$14,165	\$11,185	\$7,833	\$219,000	\$397,400	\$1,765	2.01
2007	\$1,014,8294	\$41,615	\$0.00%	\$21.658	0.22%	\$0	\$50,741	\$12,685	\$11,185	\$7,833	\$234,750	\$427,800	\$1,220	2.04
2008	\$1,065,709	\$44,058	\$0.00%	\$22.598	0.22%	\$0	\$53,279	\$11,385	\$105,500	\$7,833	\$177,823	\$458,200	\$705	2.07
2009	\$1,118,484	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$489,000	\$455	2.10
2010	\$1,174,919	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$520,000	\$455	2.13
2011	\$1,235,315	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$551,000	\$455	2.16
2012	\$1,298,081	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$582,000	\$455	2.19
2013	\$1,362,885	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$613,000	\$455	2.22
2014	\$1,429,688	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$644,000	\$455	2.25
2015	\$1,498,652	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$675,000	\$455	2.28
2016	\$1,570,335	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$706,000	\$455	2.31
2017	\$1,645,302	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$737,000	\$455	2.34
2018	\$1,724,078	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$768,000	\$455	2.37
2019	\$1,807,478	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$800,000	\$455	2.40
2020	\$1,895,122	\$0	\$0.00%	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$832,000	\$455	2.43
TOTAL		\$25,172	\$0	\$255,482		\$100,000	\$981,985	\$371,843	\$361,850	\$178,885	\$512,578	\$1,812,578	\$781	2.00

(1) CLAIMS BASED ON ESTIMATES FROM OFFICE OF LEGISLATIVE AUDITOR 1984 THROUGH 2003  
 (2) ASSUMES SERIES 1981 BONDS ARE REFUNDED - ESTIMATED PRESENT-VALUE SAVINGS OF REFUNDING IS \$2,051,000; 36% OF PAR AMOUNT OF REFUNDED BONDS) OR \$135,000 AVERAGE ANNUAL DEBT SERVICE SAVINGS.  
 NOTE THAT IN CURRENT MARKET STATE MIGHT BE BETTER SERVED POSTPONING REFUNDING BUT ISSUING \$10-15 MILLION MORE IN NEW MONEY BONDS.  
 PLUS ADDITIONAL AUTHORIZATION OF \$25,255,000; SO THAT NEW MONEY ISSUE IS - \$102,920,000.  
 (3) NOTE THAT CASH POSITION OF "OLD FUND" ALLOWS ALL BONDS TO BE CALLED IN 2008; PLUS, DEFICIT IS ADDRESSED.

SENATE SELECT COMMITTEE  
 WORKERS' COMPENSATION

EXHIBIT # 2  
 DATE 4/6/93  
 BILL # HB 504

STATE OF MONTANA  
 WORKERS' COMPENSATION "OLD FUND"  
 POTENTIAL FUNDING ALTERNATIVE - C  
 REFINANCING SERIES 1991  
 "FREE-UP" SERIES 1991 DSR  
 SERIES 1993 NEW MONEY ISSUE

ALL \$\$\$ IN \$000s

FISCAL YEAR	ESTIMATED PAYROLL BASE GROWTH @ 5.00%	CURRENT PAYROLL TAX RATE @ 0.28%	ADDITIONAL TAXES @ EMPLOYEE RATE	EMPLOYER RATE	"FREED-UP" SERIES 1991 "DSIF"	ADDITIONAL "MCA" - CHP - 787 SERIES 1993 NET PROCEEDS	TOTAL ANNUAL REVENUES	ESTIMATED ANNUAL LIABILITY CLAIMS (1)	CURRENT SERIES 1993 REFLUNDING BONDS DEBT SERVICE	ADDITIONAL "MCA" - CHP - 787 SERIES 1993 DEBT SERVICE (2)	TOTAL ANNUAL EXPENSES	YEAR END "OLD FUND" CASH POSITION	ESTIMATED INTEREST EARNINGS	DEBT SERVICE COVERAGE (3) SERIES 1991 SERIES 1991 & ALONE SERIES 1993
1994	\$5,381,857	\$15,088	\$16,148 0.30%	\$5,382 0.10%	\$11,322	\$153,582	\$201,461	\$56,396	\$10,982	\$11,114	\$78,472	\$85,324	(\$1,047)	1.37
1995	\$5,650,950	\$15,823	\$16,953 0.30%	\$5,651 0.10%	\$0	\$0	\$38,426	\$47,482	\$10,982	\$11,114	\$99,538	\$98,978	\$4,766	1.74
1996	\$5,953,497	\$16,814	\$17,800 0.30%	\$5,833 0.10%	\$0	\$0	\$40,348	\$41,632	\$10,982	\$11,114	\$63,706	\$63,007	\$3,449	1.83
1997	\$6,230,172	\$17,444	\$18,691 0.30%	\$6,230 0.10%	\$0	\$0	\$42,365	\$37,356	\$10,982	\$11,114	\$59,432	\$34,454	\$2,453	1.92
1998	\$6,541,681	\$18,317	\$19,625 0.30%	\$6,542 0.10%	\$0	\$0	\$44,463	\$33,212	\$10,982	\$11,114	\$55,288	\$25,372	\$1,723	2.02
1999	\$6,888,765	\$19,233	\$20,608 0.30%	\$6,889 0.10%	\$0	\$0	\$46,708	\$30,299	\$10,982	\$11,114	\$52,375	\$20,873	\$1,269	2.12
2000	\$7,212,203	\$20,194	\$21,637 0.30%	\$7,212 0.10%	\$0	\$0	\$49,043	\$27,538	\$10,982	\$11,114	\$49,614	\$21,451	\$1,049	2.23
2001	\$7,572,813	\$21,204	\$22,718 0.30%	\$7,573 0.10%	\$0	\$0	\$51,485	\$25,122	\$10,982	\$11,114	\$47,198	\$24,820	\$1,073	2.33
2002	\$7,961,454	\$22,264	\$23,854 0.30%	\$7,961 0.10%	\$0	\$0	\$54,070	\$22,069	\$10,982	\$11,114	\$44,145	\$28,086	\$1,341	2.45
2003	\$8,348,027	\$23,377	\$25,047 0.30%	\$8,349 0.10%	\$0	\$0	\$56,773	\$20,982	\$10,982	\$11,114	\$42,076	\$32,831	\$1,904	2.57
2004	\$8,768,478	\$24,546	\$26,299 0.30%	\$8,766 0.10%	\$0	\$0	\$59,612	\$20,000	\$10,982	\$11,114	\$40,000	\$38,063	\$2,825	2.84
2005	\$9,204,802	\$25,773	\$27,614 0.30%	\$9,205 0.10%	\$0	\$0	\$62,593	\$19,000	\$10,982	\$11,114	\$38,076	\$44,145	\$4,133	2.70
2006	\$9,665,042	\$27,062	\$28,995 0.30%	\$9,665 0.10%	\$0	\$0	\$65,722	\$18,000	\$10,982	\$11,114	\$36,145	\$50,375	\$5,715	2.47
2007	\$10,148,294	\$28,415	\$30,445 0.30%	\$10,148 0.10%	\$0	\$0	\$69,008	\$17,000	\$11,128	\$112,804	\$34,086	\$57,961	\$7,764	0.00
2008	\$10,655,709	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$8,539	\$398	0.00
2009	\$11,188,494	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$8,777	\$418	0.00
2010	\$11,747,919	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$9,216	\$439	0.00
2011	\$12,335,315	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$9,677	\$464	0.00
2012	\$12,952,081	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$10,161	\$491	0.00
2013	\$13,599,685	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$10,669	\$508	0.00
2014	\$14,278,069	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$11,202	\$533	0.00
2015	\$14,993,652	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$11,762	\$560	0.00
2016	\$15,743,335	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$12,351	\$588	0.00
2017	\$16,530,502	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$12,968	\$618	0.00
2018	\$17,357,027	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$13,617	\$648	0.00
2019	\$18,224,878	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$14,287	\$681	0.00
2020	\$19,136,122	\$0	\$0 0.00%	\$0 0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$15,012	\$715	0.00
TOTAL	\$295,336	\$318,431	\$105,477	\$253,788	\$257,286	\$153,582	\$982,128	\$371,843	\$253,788	\$257,286	\$982,917	\$982,917	\$715	0.00

(1) CLAIMS BASED ON ESTIMATES FROM OFFICE OF LEGISLATIVE AUDITOR 1994 THRU 2003  
 (2) ASSUMES SERIES 1991 BONDS ARE REFUNDED; ESTIMATED PRESENT VALUE SAVINGS OF REFLUNDING IS \$5,964,000 (4.25% OF PAR AMOUNT OF REFUNDED BONDS) OR \$345,000 AVERAGE ANNUAL DEBT SERVICE SAVINGS.  
 PLUS ADDITIONAL AUTHORIZATION OF \$100,000,000 IS APPROVED.  
 (3) NOTE THAT CASH POSITION OF "OLD FUND" ALLOWS ALL BONDS TO BE CALLED IN 2007.

SENATE SELECT COMMITTEE  
 WORKERS' COMPENSATION  
 EXHIBIT # 3  
 DATE 4/6/93  
 BILL # HB 504

Sen. Toure