

CHAPTER NO. 103.

SENATE BILL NO. 141

INTRODUCED BY MEHRENS, PETERSON, HEALY, HAFFERMAN, LOWE
BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE SENATE

January 17, 1979	Introduced and referred to Committee on Labor and Employment Relations.
January 29, 1979	Committee recommend bill do pass as amended. Report adopted.
January 30, 1979	Printed and placed on members' desks.
January 31, 1979	Second reading, do pass.
February 1, 1979	Considered correctly engrossed.
February 2, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 3, 1979	Introduced and referred to Committee on Labor and Employment Relations.
February 12, 1979	Committee recommend bill be concurred in as amended. Report adopted.
February 13, 1979	On motion, postponed until the 46th Legislative Day.
February 27, 1979	Second reading, concurred in.
February 28, 1979	Third reading, concurred in as amended.

IN THE SENATE

March 1, 1979	Returned from second house. Concurred in as amended.
March 3, 1979	Second reading, pass consideration.
March 5, 1979	Second reading, amendments adopted.
March 6, 1979	Third reading, amendments adopted. Sent to enrolling.
	Reported correctly enrolled.

1 *Joe* BILL NO. 141 *Neffman*
2 INTRODUCED BY *Robert* *Robert* *Neal* *Four*
3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO WORKERS' COMPENSATION; AMENDING SECTIONS
7 39-71-208, 39-71-210, 39-71-304, 39-71-405, 39-71-504,
8 39-71-603, 39-71-604, 39-71-609, 39-71-736, 39-71-901,
9 39-71-905, 39-71-906, 39-71-2202, 39-71-2301, AND
10 39-71-2306, MCA; AND REPEALING SECTIONS 39-71-305,
11 39-71-404, 39-71-2309, AND 39-71-2310, MCA."

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

14 Section 1. Section 39-71-208, MCA, is amended to read:
15 "39-71-208. Blank forms, minutes, and records. The
16 division shall cause to be printed such blank forms as it
17 shall deem requisite considers necessary to facilitate or
18 promote the efficient administration of this chapter. It
19 shall provide a book in which shall be entered the minutes
20 of all its proceedings; a book of record in which shall be
21 recorded record of all awards made by the division and such
22 other books or records as it shall deem requisite considers
23 necessary for the purpose and efficient administration of
24 this chapter. All such records are to be kept in the office
25 of the division."

1 Section 2. Section 39-71-210, MCA, is amended to read:
2 "39-71-210. Annual report of division -- copies for
3 general distribution. The division shall, not later than
4 October 1 after the end of each fiscal year, make a report
5 to the governor covering its entire operations and
6 proceedings for the preceding fiscal year, with such
7 suggestions or recommendations as it may deem of value for
8 public information. A reasonable number of copies of such
9 the report shall be printed for general distribution."

10 Section 3. Section 39-71-304, MCA, is amended to read:
11 "39-71-304. Books, records, and payrolls to be open to
12 inspection -- penalty for refusal. The books, records, and
13 payrolls of the an employer pertinent to the administration
14 of this chapter shall always be open to inspection by the
15 division or any duly authorized employee thereof for the
16 purpose of ascertaining the correctness of the payroll, the
17 number of men workers employed, and such other information
18 as may be necessary for the division and its management
19 under this chapter. Refusal on the part of the an employer
20 to submit said the books, records, and payrolls for such
21 inspection shall subject the offending employer to a penalty
22 of \$100 \$500 for each offense, to be collected by through a
23 civil action in the name of the state and paid into the
24 state treasury."

25 Section 4. Section 39-71-405, MCA, is amended to read:

1 "39-71-405. Liability of employer who contracts work
 2 out. (1) Any an employer who contracts with an independent
 3 contractor to have work performed of a kind which is a
 4 regular or a recurrent part of the work of the trade,
 5 business, occupation, or profession of such employer shall
 6 be is liable for the payment of compensation benefits under
 7 this chapter to the employees of any--subcontractor
 8 unless the subcontractor primarily liable for the payment of
 9 such compensation has coverage under this chapter the
 10 contractor if the contractor has not properly complied with
 11 the coverage requirements of the Worker's Compensation Act.
 12 Any employers insurer who shall become liable for
 13 such compensation payment of benefits may recover the amount
 14 of benefits paid and to be paid and necessary expenses from
 15 the subcontractor contractor primarily liable therein.

16 (2) Where any an employer procures contracts to have
 17 any work to be done--wholly--or--in--part--for--him-- by a
 18 contractor other than an independent contractor, and the
 19 work so procured contracted to be done is a part or process
 20 in the trade or business of such the employer, then such the
 21 employer shall be is liable to pay all compensation benefits
 22 under this chapter to the same extent as if the work were
 23 done without the intervention of such the contractor, and
 24 the work so procured contracted to be done shall not be
 25 construed to be casual employment. Where any an employer

1 procures contracts work to be done as specified in this
 2 subsection, such the contractor and his the contractor's
 3 employees shall be presumed to have elected to come under
 4 that plan of compensation adopted by the employer unless
 5 they shall have otherwise elected as provided herein.

6 (3) Where any an employer procures contracts any work
 7 to be done, wholly or in part for him the employer, by a an
 8 independent contractor, where the work so procured
 9 contracted to be done is casual employment as to such
 10 employer, then such then the contractor shall become the
 11 employer for the purposes of this chapter.

12 "47--Where--an--employer--procures--any--work--to--be--done--by
 13 any--contractor--or--through--him--by--a--subcontractor--the
 14 payment--for--which--is--to--be--made--in--property--other--than--money
 15 or--its--equivalent--and--the--value--of--which--property--is
 16 speculative--or--intangible--then--and--in--that--event--the
 17 employer--shall--not--be--liable--for--compensation--but--such
 18 liability--shall--fall--upon--the--contractor--or--subcontractor
 19 as--the--case--may--be."

20 Section 5. Section 39-71-504, MCA, is amended to read:
 21 "39-71-504. Funding of fund. The fund shall be funded
 22 in the following manner:

23 (1) The division shall require that the uninsured
 24 employer pay to the fund a penalty of either double the
 25 premium amount the employer would have paid on the payroll

1 of the employer's workers in this state if the employer had
 2 been enrolled with compensation plan No. 3 or \$500 \$200,
 3 whichever is greater. In determining the premium amount for
 4 the calculation of the penalty under this subsection, the
 5 division shall make an assessment on how much premium would
 6 have been paid on the employer's past 3-year payroll for
 7 periods within the 3 years when the employer was uninsured.
 8 An assessment for payroll paid by the uninsured employer for
 9 any time prior to July 1, 1977, may not be made.

10 (2) The fund shall receive from an uninsured employer
 11 an amount equal to all benefits paid or to be paid from the
 12 fund to an injured employee of the uninsured employer.
 13 However, the uninsured employer's liability under this
 14 subsection may not exceed \$30,000.

15 ~~+3+--in no event may an uninsured employer's--combined~~
 16 ~~liability--under--subsections--(1)--and--(2)--of--this--section~~
 17 ~~exceed \$30,000.~~

18 ~~+4+131 The division may--at--the--beginning--of--each~~
 19 ~~five--year~~ determine that the \$1,000 assessments that are
 20 charged against an insurer in each case of an industrial
 21 death under 39-71-902(1) shall be paid to the uninsured
 22 employers' fund rather than the subsequent injury fund."

23 Section 6. Section 39-71-603, MCA, is amended to read:
 24 "39-71-603. Notice of claims for injuries other than
 25 death to be submitted within sixty days --exception--

1 actual notice. No claims claim to recover compensation
 2 benefits under this fact; the Workers' Compensation Act, for
 3 injuries not resulting in death, shall be maintained
 4 considered compensable unless, within 60 days after the
 5 occurrence of the accident which is claimed to have caused
 6 the injury, notice in writing stating the name and address
 7 of the person injured, of the time and place where the
 8 accident occurred, and the nature of the injury and signed
 9 by the person injured or someone in his behalf shall be
 10 served upon is given to the employer or the employer's
 11 insurer by the injured employee or someone on the
 12 employee's behalf, except as otherwise provided in
 13 39-71-602. However, actual knowledge of such the
 14 accident and injury on the part of such the employer or his
 15 the employer's managing agent or superintendent in charge of
 16 the work upon which the injured employee was engaged at the
 17 time of the injury shall be is equivalent to such service
 18 notice."

19 Section 7. Section 39-71-604, MCA, is amended to read:
 20 "39-71-604. Application for compensation under plan
 21 three. (1) Where a worker is entitled to compensation
 22 benefits under compensation plan No. 3 this chapter, the
 23 worker shall file with the division an application therefor
 24 together with the certificate of the physician who attended
 25 him, and it shall be insurer or the division all reasonable

1 information needed by the insurer to determine
 2 compensability. It is the duty of such the worker's
 3 attending physician to lend all necessary assistance in
 4 making application for compensation and such proof of other
 5 matters as may be required by the rules of the division
 6 without charge to the workmen worker. The filing of a
 7 certificate of forms or other documentation by the attending
 8 physician does not constitute a sworn claim for
 9 compensation.

10 (29) for a proper compliance with the provisions of
 11 subsection (3) of this section, the physician, after
 12 approval by the division, shall be paid out of the
 13 division's administrative moneys in the earmarked revenue
 14 fund, \$150 for each case.

15 (39)21 Where death results from the an injury, the
 16 parties entitled to compensation under compensation plan. No
 17 one or someone in their behalf shall make application for the
 18 same to the division file a claim with the insurer or the
 19 division. The application claim must be accompanied with
 20 proof of death and proof of relationship, showing the
 21 parties entitled to compensation, certificate of the
 22 attending physician, if any, and such other proof as may be
 23 required by the rules of the division."

24 Section 8. Section 39-71-609, MCA, is amended to read:
 25 "39-71-609. Denial of claim after payments made or

1 termination of benefits by insurer -- fifteen fourteen days'
 2 notice required. If the an insurer determines to deny a
 3 claim on which payments have been made under 39-71-608
 4 during a time of further investigation or, after a claim has
 5 been accepted, terminates biweekly compensation benefits, it
 6 may do so only after t5 14 days' written notice to the
 7 claimant, the claimant's authorized representative, if any,
 8 and the division. However, if an insurer has knowledge that
 9 a claimant has returned to work, compensation benefits may
 10 be terminated as of the time the claimant returned to work."

11 Section 9. Section 39-71-736, MCA, is amended to read:
 12 "39-71-736. Compensation -- from what date paid. When
 13 an injured employee has a beneficiary who is entitled to
 14 compensation in case of the employee's death, no No
 15 compensation shall may be paid for the first week of any 5
 16 days loss of wages due to an injury, but if disability if
 17 loss of wages continues t-week for more than 5 days,
 18 compensation shall be paid from the date of injury.
 19 However, separate benefits of medical and hospital services
 20 shall be furnished from the date of injury."

21 Section 10. Section 39-71-901, MCA, is amended to
 22 read:

23 "39-71-901. Definitions. As used in this part, the
 24 following definitions apply:

25 (1) "Vocationally handicapped" means a person who has

1 a medically certifiable permanent physical impairment which
 2 is a substantial obstacle to obtaining employment or to
 3 obtaining reemployment if the employee should become
 4 unemployed, considering such factors as the person's age,
 5 education, training, experience, and employment rejection.

6 ~~certifying-agency~~ means the section of
 7 rehabilitation division of workers' compensation.

8 ~~131~~ "Certificate" means documentation issued by the
 9 certifying-agency division of workers' compensation to an
 10 individual who is vocationally handicapped.

11 ~~131~~ "Fund" means the subsequent injury fund."

12 Section 11. Section 39-71-905, MCA, is amended to
 13 read:

14 "39-71-905. Certification as vocationally handicapped.
 15 A person who wishes to be certified as vocationally
 16 handicapped for purposes of this part may apply to the
 17 certifying-agency division on forms furnished by that-agency
 18 the division. The certifying-agency division shall conduct
 19 an investigation and shall issue a certificate to a person
 20 who in the division's discretion, meets the requirements
 21 for vocationally handicapped certification. Failure of a
 22 person to be certified before employment precludes the
 23 person's employer or an employer's insurer from benefits
 24 under this part."

25 Section 12. Section 39-71-906, MCA, is amended to

1 read:

2 "39-71-906. Employer hiring or retaining certified
 3 vocationally handicapped person to file information with
 4 certifying-agency division -- effect of failure to file.
 5 Upon commencement of employment or retention in employment
 6 of a certified vocationally handicapped person, the employer
 7 shall submit to the certifying-agency division, on forms
 8 furnished by the agency division, all pertinent information
 9 requested by the agency division. The certifying-agency
 10 division shall acknowledge receipt of the information.
 11 Failure to file the required information with the certifying
 12 agency division within 60 days after the first day of the
 13 vocationally handicapped person's employment or retention in
 14 employment precludes the employer from the protection and
 15 benefits of this part unless the information is filed before
 16 an injury for which benefits are payable under this part."

17 Section 13. Section 39-71-2202, MCA, is amended to
 18 read:

19 "39-71-2202. Policies made subject to chapter. Every
 20 policy for the insurance of the compensation herein provided
 21 for--or--against--liability--therefore, written under
 22 compensation plan No. 2 shall be deemed considered to be
 23 made subject to the provisions of this chapter. No--insurer
 24 shall--enter--into--any--such--policy--of--insurance--unless--its
 25 forms--have--been--approved--by--the--division--and--as--otherwise

1 provided-by-law"

2 Section 14. Section 39-71-2301, MCA, is amended to
3 read:

4 "39-71-2301. Intent and purpose of plan. It is the
5 intent and purpose of compensation plan No. 3 that each
6 industry-trader-occupation-or-employment-coming-under-the
7 provisions-of-the-plan-shall-be-titled-to-pay-for-injuries
8 happening-to-its-employees-coming-under-the-provisions-of
9 the-Workers'-Compensation-Act to allow an employer to insure
10 with a state operated workers' compensation insurance
11 systems known as the state compensation insurance fund or
12 state fund. The state fund shall be administered by the
13 division of workers' compensation and shall pay all benefits
14 under this chapter to the employees of an employer who
15 elects coverage with the state fund."

16 Section 15. Section 39-71-2306, MCA, is amended to
17 read:

18 "39-71-2306. Rates-to-be-advanced-for-default State
19 fund authorized to charge interest. Any employer who is in
20 default-in-the-observance-of-any-order-of-the-division
21 issued--pursuant--to--the--provisions--of--39-71-2301--to
22 39-71-2304, inclusive--shall--in--addition--to--any--other
23 penalty--provided--by--this--chapter--be--charged--an--advance--of
24 25%--over--the--established--rate--and--such--advanced--rate--shall
25 continue--and--be--in--force--until--the--employer--has--ceased--to--be

1 in--default. The state fund may charge interest on any
2 balance that is due and owing the state fund by an employer
3 who has misrepresented the employer's payroll, improperly
4 classified the employer's payroll, or defaulted in premium
5 payments. The interest rate charged shall be set by the
6 state fund at a reasonable rate. In determining what is a
7 reasonable rate, the state fund shall review appropriate
8 interest rates charged by financial institutions in this
9 state."

10 Section 16. Repealer. Sections 39-71-305, 39-71-404,
11 39-71-2309, and 39-71-2310, MCA, are repealed.

-End-

1 a medically certifiable permanent physical impairment which
 2 is a substantial obstacle to obtaining employment or to
 3 obtaining reemployment if the employee should become
 4 unemployed, considering such factors as the person's age,
 5 education, training, experience, and employment rejections.

6 ~~427--"Certifying--agency"---means---the---section---of~~
 7 ~~rehabilitation-division-of-workers'-compensation~~

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 16 handicapped for purposes of this part may apply to the
 17 certifying-agency division on forms furnished by ~~that-agency~~
 18 ~~the division~~. The certifying-agency division shall conduct
 19 an investigation and shall issue a certificate to a person
 20 who, ~~in~~ ~~the division's discretion~~, meets the requirements
 21 for vocationally handicapped certification. ~~Failure--of--a~~
 22 ~~person--to--be--certified--before--employment--precludes--the~~
 23 ~~person's--employer--or--an--employer's--insurer--from--benefits~~
 24 ~~under--this--part~~ ~~AN EMPLOYEE WHO IS EMPLOYED AT THE TIME OF~~
 25 ~~APPLICATION FOR CERTIFICATION MAY BE CERTIFIED AS~~

1 ~~VOCATIONALLY HANDICAPPED. AN EMPLOYEE WHO IS NOT EMPLOYED AT~~
 2 ~~THE TIME OF APPLICATION FOR CERTIFICATION MUST BE CERTIFIED~~
 3 ~~AS VOCATIONALLY HANDICAPPED BEFORE ENTERING NEW EMPLOYMENT~~
 4 ~~IN ORDER FOR THE NEW EMPLOYER TO RECEIVE THE BENEFITS OF~~
 5 ~~THIS PART."~~

6 Section 12. Section 39-71-906, MCA, is amended to
 7 read:

8 ~~"39-71-906. Employer hiring or retaining certified~~
 9 ~~vocationally handicapped person to file information with~~
 10 ~~certifying-agency division -- effect of failure to file.~~
 11 Upon commencement of employment or retention in employment
 12 of a certified vocationally handicapped person, the employer
 13 shall submit to the certifying-agency division, on forms
 14 furnished by the agency division, all pertinent information
 15 requested by the agency division. The certifying-agency
 16 division shall acknowledge receipt of the information.
 17 Failure to file the required information with the certifying
 18 agency division within 60 days after the first day of the
 19 vocationally handicapped person's employment or retention in
 20 employment precludes the employer from the protection and
 21 benefits of this part unless the information is filed before
 22 an injury for which benefits are payable under this part."

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1 policy for the insurance of the compensation herein provided
 2 for---or---against---liability---therefore written under
 3 compensation plan No. 2 shall be deemed considered to be
 4 made subject to the provisions of this chapter. No insurer
 5 shall enter into any such policy of insurance unless its
 6 forms have been approved by the division and as otherwise
 7 provided by law."

8 Section 14. Section 39-71-2301, MCA, is amended to
 9 read:

10 "39-71-2301. Intent and purpose of plan. It is the
 11 intent and purpose of compensation plan No. 3 that each
 12 industry, trade, occupation or employment coming under the
 13 provisions of the plan shall be liable to pay for injuries
 14 happening to its employees coming under the provisions of
 15 the Workers' Compensation Act to allow an employer to insure
 16 with a state operated workers' compensation insurance
 17 system, known as the state compensation insurance fund or
 18 state fund. The state fund shall be administered by the
 19 division of workers' compensation and shall pay all benefits
 20 under this chapter to the employees of an employer who
 21 selects coverage with the state fund."

22 Section 15. Section 39-71-2306, MCA, is amended to
 23 read:

24 "39-71-2306. Rates to be advanced for default State
 25 fund authorized to charge interest. Any employer who is in

1 default in the observance of any order of the division
 2 issued pursuant to the provisions of 39-71-2301 to
 3 39-71-2304, inclusive, shall in addition to any other
 4 penalty provided by this chapter be charged an advance of
 5 25% over the established rates and such advanced rate shall
 6 continue and be in force until the employer has ceased to be
 7 in default. The state fund may charge interest on any
 8 balance that is due and owing the state fund by an employer
 9 who has misrepresented the employer's payroll, improperly
 10 classified the employer's payroll, or defaulted in premium
 11 payments. The interest rate charged shall be set by the
 12 state fund at a reasonable rate. In determining what is a
 13 reasonable rate, the state fund shall review appropriate
 14 interest rates charged by financial institutions in this
 15 state."

16 Section 16. Repeater. Sections 39-71-305, 39-71-404,
 17 39-71-2309, and 39-71-2310, MCA, are repealed.

-End-

Approved by Committee
on Labor & Employment
Relations

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6 LAWS RELATING TO WORKERS' COMPENSATION; AMENDING SECTIONS
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19 shall provide a book-in-which-shall-be-entered-the-minutes
20 of-all-its-proceedings--a-book-of-record-in-which--shall--be
21 recorded record of all awards made by the division and such
22 other books or records as it shall-deem-requisite considers
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14 of this chapter shall always be open to inspection by the
15 division or any duly authorized employee thereof for the
16 purpose of ascertaining the correctness of the payroll, the
17 number of men workers employed, and such other information
18 as may be necessary for the division and its management
19 under this chapter. Refusal on the part of the an employer
20 to submit said the books, records, and payrolls for such
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 4 regular or a recurrent part of the work of the trade,
 5 business, occupation, or profession of such employer shall
 6 be liable for the payment of compensation benefits under
 7 this chapter to the employees of any subcontractor
 8 unless the subcontractor primarily liable for the payment of
 9 such compensation has coverage under this chapter the
 10 contractor if the contractor has not properly complied with
 11 the coverage requirements of the Worker's Compensation Act.
 12 Any employers insurer who shall become liable for
 13 such compensation payment of benefits may recover the amount
 14 of benefits paid and to be paid and necessary expenses from
 15 the subcontractor contractor primarily liable therein.

16 (2) Where any an employer procures contracts to have
 17 any work to be done wholly or in part for him by a
 18 contractor other than an independent contractor, and the
 19 work so procured contracted to be done is a part or process
 20 in the trade or business of such the employer, then such the
 21 employer shall be liable to pay all compensation benefits
 22 under this chapter to the same extent as if the work were
 23 done without the intervention of such the contractor, and
 24 the work so procured contracted to be done shall not be
 25 construed to be casual employment. Where any an employer

1 procures contracts work to be done as specified in this
 2 subsection, such the contractor and his the contractor's
 3 employees shall be presumed to have elected to come under
 4 that plan of compensation adopted by the employer unless
 5 they shall have otherwise elected as provided herein.

6 (3) Where any an employer procures contracts any work
 7 to be done, wholly or in part for him the employer, by a an
 8 independent contractor, where the work so procured
 9 contracted to be done is casual employment as to such
 10 employer, then such then the contractor shall become the
 11 employer for the purposes of this chapter.

12 {4}--Where an employer procures any work to be done by
 13 any contractor or through him by a subcontractor the
 14 payment for which is to be made in property other than money
 15 or its equivalent and the value of which property is
 16 speculative or intangible then and in that event the
 17 employer shall not be liable for compensation but sue
 18 liability shall fall upon the contractor or subcontractor
 19 as the case may be."

20 Section 5. Section 39-71-504, MCA, is amended to read:
 21 "39-71-504. Funding of fund. The fund shall be funded
 22 in the following manner:

23 (1) The division shall require that the uninsured
 24 employer pay to the fund a penalty of either double the
 25 premium amount the employer would have paid on the payroll

1 of the employer's workers in this state if the employer had
 2 been enrolled with compensation plan No. 3 or \$500 \$200,
 3 whichever is greater. In determining the premium amount for
 4 the calculation of the penalty under this subsection, the
 5 division shall make an assessment on how much premium would
 6 have been paid on the employer's past 3-year payroll for
 7 periods within the 3 years when the employer was uninsured.
 8 An assessment ~~for payroll paid by the uninsured employer for~~
 9 ~~any time prior to July 1, 1977, may not be made.~~

10 (2) The fund shall receive from an uninsured employer
 11 an amount equal to all benefits paid or to be paid from the
 12 fund to an injured employee of the uninsured employer.
 13 ~~However, the uninsured employer's liability under this~~
 14 ~~subsection may not exceed \$300,000.~~

15 ~~(3) In no event may an uninsured employer's combined~~
 16 ~~liability under subsections (1) and (2) of this section~~
 17 ~~exceed \$300,000.~~

18 ~~(4) (1) The division may at the beginning of each~~
 19 ~~fiscal year determine that the \$1,000 assessments that are~~
 20 ~~charged against an insurer in each case of an industrial~~
 21 ~~death under 39-71-902(1) shall be paid to the uninsured~~
 22 ~~employers' fund rather than the subsequent injury fund."~~

23 Section 6. Section 39-71-603, MCA, is amended to read:
 24
 25 ~~"39-71-603. Notice of claims for injuries other than~~
 death to be submitted within sixty days ----exception----

1 ~~setout--notices. No claims claim to recover compensation~~
 2 ~~benefits under this--fact; the Workers' Compensation Act for~~
 3 ~~injuries not resulting in death shall be maintained~~
 4 ~~considered compensable unless, within 60 days after the~~
 5 ~~occurrence of the accident which is claimed to have caused~~
 6 ~~the injury, notice in writing--stating--the--name--and--address~~
 7 ~~of--the--person--injured; of the time and place where the~~
 8 ~~accident occurred; and the nature of the injury and signed~~
 9 ~~by--the--person--injured--or--someone--in--his--behalf--shall--be~~
 10 ~~served--upon is given to the employer or the employer's~~
 11 ~~insurer by the injured employee or someone on the~~
 12 ~~employee's behalf except--as--otherwise--provided--in~~
 13 ~~39-71-602--However, actual knowledge of such the~~
 14 ~~accident and injury on the part of such the employer or his~~
 15 ~~the employer's managing agent or superintendent in charge of~~
 16 ~~the work upon which the injured employee was engaged at the~~
 17 ~~time of the injury shall be is equivalent to such--service~~
 18 ~~notice."~~

19 Section 7. Section 39-71-604, MCA, is amended to read:
 20
 21 ~~"39-71-604. Application for compensation under--plan~~
 22 ~~three. (1) Where a worker is entitled to compensation~~
 23 ~~benefits under compensation--plan--No--3 this chapter, the~~
 24 ~~worker shall file with the division--an--application--therefore~~
 25 ~~together--with--the--certificate--of--the--physician--who--attended~~
~~him--and--he--shall--be insurer or the division all reasonable~~

1 information needed by the insurer to determine
 2 compensability. It is the duty of such the worker's
 3 attending physician to lend all necessary assistance in
 4 making application for compensation and such proof of other
 5 matters as may be required by the rules of the division
 6 without charge to the workmen worker. The filing of a
 7 certificate-of forms or other documentation by the attending
 8 physician does not constitute a sworn claim for
 9 compensation.

10 ~~for a proper compliance with the provisions of~~
 11 subsection ~~of this section~~ the physician after
 12 approval by the division shall be paid out of the
 13 division's administrative moneys in the earmarked revenue
 14 fund \$50 for each case.

15 ~~Where death results from an injury, the~~
 16 parties entitled to compensation under compensation plan No
 17 3 or someone in their behalf shall make application for the
 18 same to the division file a claim with the insurer or the
 19 division. The application claim must be accompanied with
 20 proof of death and proof of relationship, showing the
 21 parties entitled to compensation, certificate of the
 22 attending physician, if any, and such other proof as may be
 23 required by the rules of the division."

24 Section 8. Section 39-71-609, MCA, is amended to read:
 25 ~~"39-71-609. Denial of claim after payments made or~~

1 termination of benefits by insurer -- fifteen fourteen days'
 2 notice required. If the an insurer determines to deny a
 3 claim on which payments have been made under ~~39-71-608~~
 4 during a time of further investigation or, after a claim has
 5 been accepted, terminates biweekly compensation benefits, it
 6 may do so only after ~~to~~ 14 days' written notice to the
 7 claimant, the claimant's authorized representative, if any,
 8 and the division. However, if an insurer has knowledge that
 9 a claimant has returned to work, compensation benefits may
 10 be terminated as of the time the claimant returned to work."

11 Section 9. Section 39-71-736, MCA, is amended to read:
 12 ~~"39-71-736. Compensation -- from what date paid. When~~
 13 ~~an injured employee has a beneficiary who is entitled to~~
 14 ~~compensation -- in case of the employee's death -- no~~ No
 15 compensation shall may be paid for the first week of any 2
 16 days loss of wages due to an injury, but if disability if
 17 loss of wages continues ~~to~~ week for more than 5 days,
 18 compensation shall be paid from the date of injury.
 19 However, separate benefits of medical and hospital services
 20 shall be furnished from the date of injury."

21 Section 10. Section 39-71-901, MCA, is amended to
 22 read:

23 ~~"39-71-901. Definitions. As used in this part, the~~
 24 ~~following definitions apply:~~
 25 (1) "Vocationally handicapped" means a person who has

1 a medically certifiable permanent physical impairment which
 2 is a substantial obstacle to obtaining employment or to
 3 obtaining reemployment if the employee should become
 4 unemployed, considering such factors as the person's age,
 5 education, training, experience, and employment rejection.

6 f27--"Certifying--agency" means the section of
 7 rehabilitation-division-of-workers'-compensation.

8 f37121 "Certificate" means documentation issued by the
 9 certifying--agency division of workers' compensation to an
 10 individual who is vocationally handicapped.

11 f47131 "Fund" means the subsequent injury fund.

12 Section 11. Section 39-71-905, MCA, is amended to
 13 read:

14 "39-71-905. Certification as vocationally handicapped.
 15 A person who wishes to be certified as vocationally
 16 handicapped for purposes of this part may apply to the
 17 certifying-agency division on forms furnished by that-agency
 18 the--division. The certifying-agency division shall conduct
 19 an investigation and shall issue a certificate to a person
 20 who in the division's discretion meets the requirements
 21 for vocationally handicapped certification. ~~Failure--of--a~~
 22 ~~person--to--be--certified--before--employment--not--rectified--as--the~~
 23 ~~person--an--employer--or--an--employer--insurance--from--benefits~~
 24 ~~under--this--part--AN--EMPLOYEE--WHO--IS--EMPLOYED--AT--THE--TIME--OF~~
 25 ~~APPLICATION--FOR--CERTIFICATION--MAY--BE--CERTIFIED--AS~~

1 VOCATIONALLY HANDICAPPED AN EMPLOYEE WHO IS NOT EMPLOYED AT
 2 THE TIME OF APPLICATION FOR CERTIFICATION MUST BE CERTIFIED
 3 AS VOCATIONALLY HANDICAPPED BEFORE ENTERING NEW EMPLOYMENT
 4 IN ORDER FOR THE NEW EMPLOYER TO RECEIVE THE BENEFITS OF
 5 THIS PART.

6 Section 12. Section 39-71-906, MCA, is amended to
 7 read:

8 "39-71-906. Employer hiring or retaining certified
 9 vocationally handicapped person to file information with
 10 certifying--agency division -- effect of failure to file.
 11 Upon commencement of employment or retention in employment
 12 of a certified vocationally handicapped person, the employer
 13 shall submit to the certifying-agency division on forms
 14 furnished by the agency division, all pertinent information
 15 requested by the agency division. The certifying-agency
 16 division shall acknowledge receipt of the information.
 17 Failure to file the required information with the certifying
 18 agency division within 60 days after the first day of the
 19 vocationally handicapped person's employment or retention in
 20 employment precludes the employer from the protection and
 21 benefits of this part unless the information is filed before
 22 an injury for which benefits are payable under this part."

23 Section 13. Section 39-71-2202, MCA, is amended to
 24 read:

25 "39-71-2202. Policies made subject to chapter. Every

1 policy for the insurance of the compensation herein provided
 2 for---or---against---liability---therefore written under
 3 compensation plan No. 2 shall be deemed considered to be
 4 made subject to the provisions of this chapter. No insurer
 5 shall enter into any such policy of insurance unless its
 6 forms have been approved by the division and as otherwise
 7 provided by law."

8 Section 14. Section 39-71-2301, MCA, is amended to
 9 read:

10 "39-71-2301. Intent and purpose of plan. It is the
 11 intent and purpose of compensation plan No. 3 that each
 12 industry, trade, occupation, or employment coming under the
 13 provisions of the plan shall be liable to pay for injuries
 14 happening to its employees coming under the provisions of
 15 the workers' compensation act to allow an employer to insure
 16 with a state operated workers' compensation insurance
 17 system known as the state compensation insurance fund or
 18 state fund. The state fund shall be administered by the
 19 division of workers' compensation and shall pay all benefits
 20 under this chapter to the employees of an employer who
 21 elects coverage with the state fund."

22 Section 15. Section 39-71-2306, MCA, is amended to
 23 read:

24 "39-71-2306. Rates to be advanced for default State
 25 fund authorized to charge interest. Any employer who is in

1 default in the observance of any order of the division
 2 issued pursuant to the provisions of 39-71-2301 to
 3 39-71-2304, inclusive, shall, in addition to any other
 4 penalty provided by this chapter, be charged an advance of
 5 25% over the established rate and such advanced rate shall
 6 continue and be in force until the employer has ceased to be
 7 in default. The state fund may charge interest on any
 8 balance that is due and owing the state fund by an employer
 9 who has misrepresented the employer's payroll, improperly
 10 classified the employer's payroll, or defaulted in premium
 11 payments. The interest rate charged shall be set by the
 12 state fund at a reasonable rate. In determining what is a
 13 reasonable rate, the state fund shall review appropriate
 14 interest rates charged by financial institutions in this
 15 state."

16 Section 16. Repealer. Sections 39-71-305, 39-71-404,
 17 39-71-2309, and 39-71-2310, MCA, are repealed.

-End-

1 SENATE BILL NO. 141
2 INTRODUCED BY MEHRENS, PETERSON, HEALY, HAFFERMAN, LOWE
3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO WORKERS' COMPENSATION; AMENDING SECTIONS
7 39-71-208, 39-71-210, 39-71-304, 39-71-405, 39-71-504,
8 39-71-603, 39-71-604, 39-71-609, 39-71-736, 39-71-901,
9 39-71-905, 39-71-906, 39-71-2202, 39-71-2301, AND
10 39-71-2306, MCA; AND REPEALING SECTIONS 39-71-305,
11 39-71-404, 39-71-2309, AND 39-71-2310, MCA."

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

14 Section 1. Section 39-71-208, MCA, is amended to read:

15 "39-71-208. Blank forms, minutes, and records. The

16 division shall cause to be printed such blank forms as it

17 shall--deem--requisite ~~considers necessary~~ to facilitate or

18 promote the efficient administration of this chapter. It

19 shall provide a book-in-which-shall-be-entered-the-minutes

20 of-all-its-proceedings, a book-of-record-in-which--shall--be

21 recorded record of all awards made by the division and such

22 other books or records as it shall--deem--requisite ~~considers~~

23 ~~necessary~~ for the purpose and efficient administration of

24 this chapter. All such records are to be kept in the office

25 of the division."

1 Section 2. Section 39-71-210, MCA, is amended to read:

2 "39-71-210. Annual report of division -- copies for

3 general distribution. The division shall, not later than

4 October 1 after the end of each fiscal year, make a report

5 to the governor covering its entire operations and

6 proceedings for the preceding fiscal year, with such

7 suggestions or recommendations as it may deem of value for

8 public information. A reasonable number of copies of such

9 the report shall be printed for general distribution."

10 Section 3. Section 39-71-304, MCA, is amended to read:
11 "39-71-304. Books, records, and payrolls to be open to
12 inspection -- penalty for refusal. The books, records, and
13 payrolls of the ~~an~~ employer pertinent to the administration
14 of this chapter shall always be open to inspection by the
15 division or any duly authorized employee thereof for the
16 purpose of ascertaining the correctness of the payroll, the
17 number of men ~~workers~~ employed, and such other information
18 as may be necessary for the division and its management
19 under this chapter. Refusal on the part of the ~~an~~ employer
20 to submit ~~the~~ books, records, and payrolls for such
21 inspection shall subject the offending employer to a penalty
22 of NOT EXCEEDING \$100 \$1500 for each offense, to be collected
23 by ~~through~~ a civil action in the name of the state and paid
24 into the state treasury. "

25 Section 4. Section 39-71-405, RCA, is amended to read:

1 "39-71-605. Liability of employer who contracts work
 2 out. (1) Any an employer who contracts with an independent
 3 contractor to have work performed of a kind which is a
 4 regular or a recurrent part of the work of the trade,
 5 business, occupation, or profession of such employer shall
 6 be is liable for the payment of compensation benefits under
 7 this chapter to the employees of any--subcontractor
 8 unless the subcontractor primarily liable for the payment of
 9 such compensation--has--coverage--under--this--chapter the
 10 contractor if the contractor has not properly complied with
 11 the coverage requirements of the Worker's Compensation Act.
 12 Any employers insurer who shall--become becomes liable for
 13 such compensation payment of benefits may recover the amount
 14 of benefits paid and to be paid and necessary expenses from
 15 the subcontractor contractor primarily liable therein.

16 (2) Where any an employer procures contracts to have
 17 any work to be done--wholly--or--in--part--for--him by a
 18 contractor other than an independent contractor, and the
 19 work so procured contracted to be done is a part or process
 20 in the trade or business of such the employer, then such the
 21 employer shall be is liable to pay all compensation benefits
 22 under this chapter to the same extent as if the work were
 23 done without the intervention of such the contractor, and
 24 the work so procured contracted to be done shall not be
 25 construed to be casual employment. Where any an employer

1 procures contracts work to be done as specified in this
 2 subsection, such the contractor and his the contractor's
 3 employees shall be--presumed-to-have-elected-to come under
 4 that plan of compensation adopted by the employer unless
 5 they--shall--have--otherwise--elected--as--provided--herein.

6 (3) Where any an employer procures contracts any work
 7 to be done, wholly or in part for him the employer, by a an
 8 independent contractor, where the work so procured
 9 contracted to be done is casual employment as to such
 10 employer, then--such then the contractor shall become the
 11 employer for the purposes of this chapter.

12 ~~44--Where an employer procures any work to be done--by~~
 13 ~~any--contractor--or--through--him--by--a--subcontractor--the~~
 14 ~~payment--for--which--is--to--be--made--in--property--other--than--money~~
 15 ~~or--its--equivalent--and--the--value--of--which--property--is~~
 16 ~~speculative--or--intangible--then--and--in--that--event--the~~
 17 ~~employer--shall--not--be--liable--for--compensation--but--such~~
 18 ~~liability--shall--fall--upon--the--contractor--or--subcontractor--~~
 19 ~~as--the--case--may--be."~~

20 Section 5. Section 39-71-504, MCA, is amended to read:
 21 "39-71-504. Funding of fund. The fund shall be funded
 22 in the following manner:

23 (1) The division shall require that the uninsured
 24 employer pay to the fund a penalty of either double the
 25 premium amount the employer would have paid on the payroll

1 of the employer's workers in this state if the employer had
 2 been enrolled with compensation plan No. 3 or \$588 \$200,
 3 whichever is greater. In determining the premium amount for
 4 the calculation of the penalty under this subsection, the
 5 division shall make an assessment on how much premium would
 6 have been paid on the employer's past 3-year payroll for
 7 periods within the 3 years when the employer was uninsured.
 8 An assessment for payroll paid by the uninsured employer for
 9 any time prior to July 1, 1977, may not be made.

10 (2) The fund shall receive from an uninsured employer
 11 an amount equal to all benefits paid or to be paid from the
 12 fund to an injured employee of the uninsured employer.
 13 However, the uninsured employer's liability under this
 14 subsection may not exceed \$30,000.

15 (3) --in--no--event--may--an--uninsured--employer's--combined
 16 liability--under--subsections--(1)--and--(2)--of--this--section
 17 exceed--\$30,000.

18 (4) The division may--at--the--beginning--of--each
 19 fiscal--year determine that the \$1,000 assessments that are
 20 charged against an insurer in each case of an industrial
 21 death under 39-71-902(1) shall be paid to the uninsured
 22 employers' fund rather than the subsequent injury fund."

23 Section 6. Section 39-71-603, MCA, is amended to read:
 24
 25 "39-71-603. Notice of claims for injuries other than
 death to be submitted within sixty days ----exception----

1 actual--notice. No claims claim to recover compensation
 2 benefits under this--fact; the Workers' Compensation Act; for
 3 injuries not resulting in death; shall be maintained
 4 considered--compensable unless, within 60 days after the
 5 occurrence of the accident which is claimed to have caused
 6 the injury, notice in-writing--stating--the--name--and--address
 7 of--the--person--injured; of the time and place where the
 8 accident occurred; and the nature of the injury end--signed
 9 by--the--person--injured--or--someone--in--his--behalf--shall--be
 10 served--upon is--given to the employer or the employer's
 11 insurer by the injured employee or someone on the
 12 employee's behalf; except--as--otherwise--provided--in
 13 39-71-602--However--actual knowledge of such the
 14 accident and injury on the part of such the employer or his
 15 the employer's managing agent or superintendent in charge of
 16 the work upon which the injured employee was engaged at the
 17 time of the injury shall be is equivalent to such--service
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 22 three. (1) Where a worker is entitled to compensation
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 12 approves by the division shall be paid out of the
 13 division's administrative money in the earmarked revenue
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15 division or any duly authorized employee thereof for the
16 purpose of ascertaining the correctness of the payroll, the
17 number of men ~~workers~~ employed, and such other information
18 as may be necessary for the division and its management
19 under this chapter. Refusal on the part of the an employer
20 to submit said the books, records, and payrolls for such
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 4 regular or a recurrent part of the work of the trade,
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 6 be is liable for the payment of compensation benefits under
 7 this chapter to the employees of any--subcontractor
 8 unless the subcontractor primarily liable for the payment of
 9 such compensation--has--coverage--under--this--chapter the
 10 contractor if the contractor has not properly complied with
 11 the coverage requirements of the Worker's Compensation Act.
 12 Any employers insurer who shall--become becomes liable for
 13 such--compensation payment of benefits may recover the amount
 14 of benefits paid and to be paid and necessary expenses from
 15 the subcontractor contractor primarily liable therein.

16 (2) Where any an employer procures contracts to have
 17 any work to be done--wholly--or--in--part--for--him by a
 18 contractor other than an independent contractor, and the
 19 work so procured contracted to be done is a part or process
 20 in the trade or business of such the employer, then such the
 21 employer shall--be is liable to pay all compensation benefits
 22 under this chapter to the same extent as if the work were
 23 done without the intervention of such the contractor, and
 24 the work so procured contracted to be done shall not be
 25 construed to be casual employment. Where any an employer

1 procures contracts work to be done as specified in this
 2 subsection, such the contractor and his the contractor's
 3 employees shall be--presumed-to-have-elected-to come under
 4 that plan of compensation adopted by the employer unless
 5 they--shall--have--otherwise--elected--as--provided--herein.

6 (3) Where any an employer procures contracts any work
 7 to be done, wholly or in part for him the employer, by a an
 8 independent contractor, where the work so procured
 9 contracted to be done is casual employment as to such
 10 employer, then--such then the contractor shall become the
 11 employer for the purposes of this chapter.

12 ~~if--Where--an--employer--procedures--any--work--to--be--done--by~~
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 4 the calculation of the penalty under this subsection, the
 5 division shall make an assessment on how much premium would
 6 have been paid on the employer's past 3-year payroll for
 7 periods within the 3 years when the employer was uninsured.
 8 An assessment for payroll paid by the uninsured employer for
 9 any time prior to July 1, 1977, may not be made.

10 (2) The fund shall receive from an uninsured employer
 11 an amount equal to all benefits paid or to be paid from the
 12 fund to an injured employee of the uninsured employer.
 13 However, the uninsured employer's liability under this
 14 subsection may not exceed \$30,000.

15 ~~if~~--in--no--event--may--an--uninsured--employer's--combined
 16 liability--under--subsections--~~if~~--and--~~if~~--of--this--section
 17 exceed--\$30,000.

18 ~~if~~131 The division may--at--the--beginning--of--each
 19 fiscal--year, determine that the \$1,000 assessments that are
 20 charged against an insurer in each case of an industrial
 21 death under 39-71-902(1) shall be paid to the uninsured
 22 employers' fund rather than the subsequent injury fund."

23 Section 6. Section 39-71-603, MCA, is amended to read:
 24
 25 "39-71-603. Notice of claims--for injuries other than
 death to be submitted within sixty days ----exception----

1 actual--notice. No claim to recover compensation
 2 benefits under this--fact; the Workers' Compensation Act; for
 3 injuries not resulting in death shall be maintained
 4 considered compensable unless, within 60 days after the
 5 occurrence of the accident which is claimed to have caused
 6 the injury, notice in-writing--stating--the--name--and--address
 7 of--the--person--injured, of the time and place where the
 8 accident occurred, and the nature of the injury and--signed
 9 by--the--person--injured--or--someone--in--his--behalf--shall--be
 10 served--upon is given to the employer or the employer's
 11 insurer by the injured employee or someone on the
 12 employee's behalf, except--as--otherwise--provided--in
 13 39-71-602--However--actual knowledge of such the
 14 accident and injury on the part of such the employer or his
 15 the employer's managing agent or superintendent in charge of
 16 the work upon which the injured employee was engaged at the
 17 time of the injury shall be is equivalent to such service
 18 notice."

19 Section 7. Section 39-71-604, MCA, is amended to read:
 20
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 22 three. (1) Where a worker is entitled to compensation
 23 benefits under compensation--plan--No--3 this chapter, the
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 8 physician does not constitute a sworn claim for
 9 compensation.

10 {2}--For-a-proper-comptence--with--the--provisions--of
 11 subsection--{2}--of--this--section--the--physician--after
 12 approval--by--the--division--shall--be--paid--out--of--the
 13 division's--administrative--moneys--in-the--earmarked-revenue
 14 fund--\$150--for--each--case.

15 {39121 Where death results from the an injury, the
 16 parties entitled to compensation under-compensation-plan-How
 17 3 or someone in their behalf shall make-application-for-the
 18 same-to-the-division file a claim with the insurer or the
 19 division. The application claim must be accompanied with
 20 proof of death and proof of relationship, showing the
 21 parties entitled to compensation, certificate of the
 22 attending physician, if any, and such other proof as may be
 23 required by the rules-of-the division."

24 Section 8. Section 39-71-609, MCA, is amended to read:
 25 "39-71-609. Denial of claim after payments made or

1 termination of benefits by insurer -- fifteen fourteen days'
 2 notice required. If the an insurer determines to deny a
 3 claim on which payments have been made under 39-71-608
 4 during a time of further investigation or, after a claim has
 5 been accepted, terminates biweekly compensation benefits, it
 6 may do so only after 25 14 days' written notice to the
 7 claimant, the claimant's authorized representative, if any,
 8 and the division. However, if an insurer has knowledge that
 9 a claimant has returned to work, compensation benefits may
 10 be terminated as of the time the claimant returned to work."

11 Section 9. Section 39-71-736, MCA, is amended to read:
 12 "39-71-736. Compensation -- from what date paid. When
 13 an--injured--employee--has--a--beneficiary--who--is--entitled--to
 14 compensation--in--case--of--the--employee's--death--no--No
 15 compensation shall may be paid for the first week-of-any 2
 16 days loss of wages due to an injury-- but-if--disability If
 17 loss of wages continues t--week for more than 5 days,
 18 compensation shall be paid from the date of injury.
 19 However, separate benefits of medical and hospital services
 20 shall be furnished from the date of injury."

21 Section 10. Section 39-71-901, MCA, is amended to
 22 read:

23 "39-71-901. Definitions. As used in this part, the
 24 following definitions apply:

25 (1) "Vocationally handicapped" means a person who has

1 a medically certifiable permanent physical impairment which
 2 is a substantial obstacle to obtaining employment or to
 3 obtaining reemployment if the employee should become
 4 unemployed, considering such factors as the person's age,
 5 education, training, experience, and employment rejection.

6 ~~127--"Certifying--agency" means the section of
 7 rehabilitation division of workers' compensation.~~

8 ~~137121 "Certificate" means documentation issued by the
 9 certifying--agency division of workers' compensation to an
 10 individual who is vocationally handicapped.~~

11 ~~147131 "Fund" means the subsequent injury fund."~~

12 Section 11. Section 39-71-905, MCA, is amended to
 13 read:

14 ~~"39-71-905. Certification as vocationally handicapped.
 15 A person who wishes to be certified as vocationally
 16 handicapped for purposes of this part may apply to the
 17 certifying-agency division on forms furnished by that-agency
 18 the division. The certifying-agency division shall conduct
 19 an investigation and shall issue a certificate to a person
 20 who in the division's discretion meets the requirements
 21 for vocationally handicapped certification. Failure of a
 22 person to be certified before employment precludes the
 23 person a employer or an employer's insurer from benefits
 24 under this part. AN EMPLOYEE WHO IS EMPLOYED AT THE TIME OF
 25 APPLICATION FOR CERTIFICATION REQUESTING REEMPLOYMENT MAY BE~~

1 ~~CERTIFIED AS VOCATIONALLY HANDICAPPED. AN EMPLOYEE WHO IS
 2 NOT EMPLOYED AT THE TIME OF APPLICATION FOR CERTIFICATION
 3 MUST BE CERTIFIED AS VOCATIONALLY HANDICAPPED BEFORE
 4 ENTERING NEW EMPLOYMENT IN ORDER FOR THE NEW EMPLOYER TO
 5 RECEIVE THE BENEFITS OF THIS PART."~~

6 Section 12. Section 39-71-906, MCA, is amended to
 7 read:

8 ~~"39-71-906. Employer hiring or retaining certified
 9 vocationally handicapped person to file information with
 10 certifying-agency division -- effect of failure to file.
 11 Upon commencement of employment or retention in employment
 12 of a certified vocationally handicapped person, the employer
 13 shall submit to the certifying-agency division, on forms
 14 furnished by the agency division, all pertinent information
 15 requested by the agency division. The certifying-agency
 16 division shall acknowledge receipt of the information.
 17 Failure to file the required information with the certifying
 18 agency division within 60 days after the first day of the
 19 vocationally handicapped person's employment or retention in
 20 employment precludes the employer from the protection and
 21 benefits of this part unless the information is filed before
 22 an injury for which benefits are payable under this part."~~

23 Section 13. Section 39-71-2202, MCA, is amended to
 24 read:

25 ~~"39-71-2202. Policies made subject to chapter. Every~~

1 policy for the insurance of the compensation herein provided
 2 for--or--against--liability--therefore written under
 3 compensation plan No. 2 shall be deemed considered to be
 4 made subject to the provisions of this chapter. No insurer
 5 shall enter into any such policy of insurance unless its
 6 forms have been approved by the division and as otherwise
 7 provided by law."

8 Section 14. Section 39-71-2301, MCA, is amended to
 9 read:

10 "39-71-2301. Intent and purpose of plan. It is the
 11 intent and purpose of compensation plan No. 3 that each
 12 industry, trade, occupation, or employment coming under the
 13 provisions of the plan shall be liable to pay for injuries
 14 happening to its employees coming under the provisions of
 15 the Workers' Compensation Act to allow an employer to insure
 16 with a state operated workers' compensation insurance
 17 system, known as the state compensation insurance fund, or
 18 state funds. The state fund shall be administered by the
 19 division of workers' compensation and shall pay all benefits
 20 under this chapter to the employees of an employer who
 21 selects coverage with the state fund."

22 Section 15. Section 39-71-2306, MCA, is amended to
 23 read:

24 "39-71-2306. Rates to be advanced for default State
 25 fund authorized to charge interest. Any employer who is in

1 default in the observance of any order of the division
 2 issued pursuant to the provisions of 39-71-2301 to
 3 39-71-2304, inclusive, shall, in addition to any other
 4 penalty provided by this chapter, be charged an advance of
 5 25% over the established rate and such advanced rate shall
 6 continue and be in force until the employer has ceased to be
 7 in default. The state fund may charge interest on any
 8 balance that is due and owing the state fund by an employer
 9 who has misrepresented the employer's payroll, improperly
 10 classified the employer's payroll, or defaulted in premium
 11 payments. The interest rate charged shall be set by the
 12 state fund at a reasonable rate. In determining what is a
 13 reasonable rate, the state fund shall review appropriate
 14 interest rates charged by financial institutions in this
 15 state."

16 Section 16. Repealer. Sections 39-71-305, 39-71-404,
 17 39-71-2309, and 39-71-2310, MCA, are repealed.

-End-

HOUSE OF REPRESENTATIVES
February 10, 1979

Labor and Employment Relations Committee amendments to Senate Bill 141,
3rd Reading Copy, as follows:

1. Page 9, line 24.

Following: "IS"

Strike: "EMPLOYED AT THE TIME OF APPLICATION FOR CERTIFICATION"

Insert: "requesting reemployment"

1. Page 9, line 24.

Following: "IS"

Strike: "EMPLOYED AT THE TIME OF APPLICATION FOR CERTIFICATION"

Insert: "requesting reemployment"

AND AS AMENDED, BE CONCURRED IN.