## SENATE BILL NO. 141

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

## IN THE SENATE

Introduced and referred to

January 17, 1979

Sundary Try 1979	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 13, 1979 February 27, 1979	

## 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.

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2 INTRODUCED BY DELLE BILL NO. WILL STATE OF THE DEPARTMENT OF LABOR AND INDUSTRY FOR

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

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

Section 1. Section 39-71-208, MCA, is amended to read:
#39-71-208. Blank forms, minutes, and records. The
division shall cause to be printed such blank forms as it
shall—deem—requisite considers necessary to facilitate or
promote the efficient administration of this chapter. It
shall provide a book in-which shall—be entered—the minutes
of-all-its-proceedingsy—a book of-record in-which—shall—be
recorded record of all awards made by the divisiony and such
other books or records as it shall—deem-requisite considers
necessary for the purpose and efficient administration of
this chapter. All such records are to be kept in the office
of the division.\*

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

"39-71-210. Annual report of division -- copies for
general distribution. The division shall. not-leter-then
Betober-lafter the end of each fiscal year. make a report
to the governor covering its entire operations and
proceedings for the preceding fiscal year. with such
suggestions or recommendations as it may deem of value for
public information. A reasonable number of copies of such
the report shall be printed for general distribution."

Section 3. Section 39-71-304. NCA. is amended to read:
#39-71-304. Books, records, and payrolls to be open to
Inspection --- penalty for refusal. The books, records, and
payrolls of the an employer pertinent to the administration
of this chapter shall always be open to inspection by the
division or any duly authorized employee thereof for the
purpose of ascertaining the correctness of the payroll, the
number of men workers employed, and such other information
as may be necessary for the division and its management
under this chapter. Refusal on the part of the an employer
to submit seid the books, records, and payrolls for such
inspection shall subject the offending employer to a penalty
of \$100 \$500 for each offense, to be collected by through a
civil action in the name of the state and paid into the
state treasury.\*\*

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

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"39-71-405. Liability of employer who contracts work out. (1) Any An employer who contracts with an independent contractor to have work performed of a kind which is a regular or a recurrent part of the work of the trade, business, occupation, or profession of such employer shall be is liable for the payment of compensation benefits under this chapter to the employees of eny---subcontractor unless the subcontractor primarily liable for the payment of such compensation has coverage under—this—chapter the contractor if the contractor has not properly complied with the coverage requirements of the Morker's Compensation Act. Any employers insurer who shall—become becomes liable for such-compensation payment of benefits may recover the amount of benefits paid and to be paid and necessary expenses from the subcontractor contractor primarily liable therein.

any work to be doney—wholly—or—in—port-for-hims by a contractor other than an independent contractor, and the work so procured contracted to be done is a part or process in the trade or business of such the employer, then such the employer shall—be is liable to pay all compensation benefits under this chapter to the same extent as if the work were done without the intervention of such the contractor, and the work so procured contracted to be done shall not be construed to be casual employment. Where eny an employer

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

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

(4)—Where—an employer procures—any-work—to—be—done—by
any-contractor—or—through—him—by—a—subcontractory—the
payment—for—which—is—to—be—made—in—property—other—than—money
or—its—equivalent—and—the—value—of—which—property—is
speculative—or—intengibley—then—and—in—that—event—the
employer—shall—not—be—liable—for—compensationy—but—such
liablility—shall—fall—upon—the—contractor—or—subcontractory
os—the—cose—moy—be—"

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

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

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

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(2) The fund shall receive from an uninsured employer an amount equal to all benefits paid or to be paid from the fund to an injured employee of the uninsured employer. However: the uninsured employer's liability under this subsection may not exceed \$30.000.

(3)--in-no-event-may-en-uninsured--employer\*s--combined
liebility--under--subsections--(1)--end--(2)-of-this-section
exemed-\$30v800v

(4)(3) The division may——at—the—beginning—of——each fiscal——year—v determine that the \$1.000 assessments that are charged against an insurer in each case of an industrial death under 39-71-902(1) shall be paid to the uninsured employers\* fund rather than the subsequent injury fund.

Section 6. Section 39-71-603. MCA, is amended to read:
#39-71-603. Notice of elaims—for injuries other than
death to be submitted within sixty days ——exception——

1 setual-notice. No claims claim to recover compensation benefits under this-fact the Workers' Compensation Acts for injuries not resulting in death, shall be maintained 3 considered compensable unless, within 60 days after the occurrence of the accident which is claimed to have caused the injury, notice in-writing-stating-the-ness--and--address 7 of--the--person--injuredy of the time and place where the 8 accident occurred, and the nature of the injury and -signed by--the-person--injured--or--seeene-in-his-behelf-shell-be 9 10 served upon is given to the employer or the employer's insurery by the injured employee or someone on the 11 employee's behalf. except---es---otherwise---provided---in 12 13 39-71-692--Howevery--ectual Actual knowledge of such the 14 accident and injury on the part of such the employer or his the employer's managing agent or superintendent in charge of 15 16 the work upon which the injured employee was engaged at the 17 time of the injury shell-be is equivalent to such--service 18 notice."

Section 7. Section 39-71-604, MCA, is amended to read:

#39-71-604. Application for compensation under-plan

three. (1) Where a worker is entitled to compensation

henefits under compensation—plan—Nov-3 this chapter. the

worker shall file with the division an application therefore

together with the certificate of the physician who attended

hims and it shall be insurer or the division all reasonable

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read:

information needed by the insurer to determine compensability. It is the duty of such the worker's attending physician to lend all necessary assistance in making application for compensation and such proof of other matters as may be required by the rules of the division without charge to the workers workers. The filing of e certificate of forms or other documentation by the attending physician does not constitute a swern claim for compensation.

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t2)--for--a--proper--comptiones-with-the-provisions-of subsyction -- 11--of--this--sections--the--physiciany---after division's-administrative-soners-in-the-eeracrked--revenue funds-\$1u50-for-each-case-

(3)121 Where death results from the an injury, the parties entitled to compensation under-compensation-plan-Now 3 or someone in their behalf shall make-application-for--the some to the division file a claim with the insurer or the division. The application claim must be accompanied with proof of death and proof of relationship, showing the parties entitled to compensation, certificate of attending physician, if any, and such other proof as may be required by the rules-of-the division."

Section 8. Section 39-71-609. MCA. is amended to read: \*39-71-609. Denial of claim after payments made or

termination of benefits by insurer -- fifteen fourteen days' notice required. If the an insurer determines to deny a claim on which payments have been made under 39-71-608 during a time of further investigation or, after a claim has been accepted, terminates biweekly compensation benefits, it may do so only after 15 14 days written notice to the claimant, the claimant's authorized representative, if any and the division. However, if an insurer has knowledge that a claimant has returned to work, compensation benefits, may be terminated as of the time the claimant returned to works" 10 Section 9. Section 39-71-736, MCA: is amended to read: 11 \*39-71-736. Compensation -- from what date paid. When 12 13 an-infored-employee-has-a-beneficiary--who--is--entitled--to compensation---in--case--of--the--captoyee\*s--deathy--no No 14 15 compensation shell may be paid for the first week-of--eny 5 days loss of wages due to an injuryes but-if-disobility If 16 loss of wages continues 1--week for more than 5 days. 17 18 compensation shall be paid from the date of injury. However, separate benefits of medical and hospital services 19 20 shall be furnished from the date of injury." Section 10. Section 39-71-901, MCA, is amended to

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

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

a medically certifiable permanent physical impairment which 1 is a substantial obstacle to obtaining employment or to 2 obtaining reemployment if the employee should become unemployed, considering such factors as the person's age, education, training, experience, and employment rejection. t2}--\*Gertifying---agency\*---means---the---aection---af 6 rehabilitationy-division-of-workers\*-compansations 7 +3+(2) "Certificate" means documentation issued by the 8 certifying-agency division of workers\* compensation to an 9 individual who is vocationally handicapped. 10 +4+(3) "Fund" means the subsequent injury fund." 11 12 Section 11. Section 39-71-905. MCA. is amended to 13 read: \*39-71-905. Certification as vocationally handicapped. 14 A person who wishes to be certified as vocationally 15 16 handicapped for purposes of this part may apply to the certifying-agency division on forms furnished by that-agency 17 the division. The certifying-agency division shall conduct 18 19 an investigation and shall issue a certificate to a person who, in the division's discretion, meets the requirements 20 for vocationally handicapped certification. Failure of a 21 22 person to be certified before employment precludes the person's employer or an employer's insurer from benefits **Z3** 24 under this part." 25 Section 12. Section 39-71-906. MCA. is amended to

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\*39-71-906. Employer hiring or retaining certified vocationally handicapped person to file information with certifying-egoney division -- effect of failure to file. Upon commencement of employment or retention in employment of a certified vocationally handicapped person, the employer shall submit to the certifying-agency division, on forms furnished by the agency division, all pertinent information requested by the egency division. The certifying egency division shall acknowledge receipt of the information. Failure to file the required information with the certifying egency division within 60 days after the first day of the vocationally handicapped person's employment or retention in employment precludes the employer from the protection and benefits of this part unless the information is filed before an injury for which benefits are payable under this part." Section 13. Section 39-71-2202. MCA. is amended to read:

#39-71-2202. Policies made subject to chapter. Every policy for the insurance of the compensation herein-provided for or against—liability—therefor written under compansation plan No. 2 shall be deemed considered to be made subject to the provisions of this chapter. No insurer shall—enter—into—any—such-policy-of-insurance—unless—its forms—have been approved by the divisions and as—otherwise

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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	industryv-tradev-occupationv-or-employment-coming-underthe
7	provisionsofthe-plan-shall-be-liable-to-pay-for-injuries
8	happening-to-its-employees-coming-undertheprovisionsof
9	the Horkers*-Compensation Act to allow an employer to insure
10	with a state operated workers' compensation insurance
11	system 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 chanter to the deployees 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	#39-71-2506. Rates-to-be-advancedfordefault State
19	fund authorized to charge interest. Any employer-who is in
20	defeate-in-the-observence-ofanyorderofthedivision
21	issuedpursuanttotheprovisionsof39-71-2901to
22	39-72-2304y-inclusiveyshallyinadditiontoanyother
23	penaltyprovidedby-this-chaptery-be-charged-an-advance-of

balance that is due and owing the state fund by an employer

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clussified the employer's payroll, or defaulted in premium

payments. The interest rate charged shall be set by the

state fund at a reasonable rate. In determining what is a

reasonable rate, the state fund shall review appropriate

interest rates charged by financial institutions in this

state.\*

Section 16. Repealer. Sections 39-71-305, 39-71-404,

39-71-2309, and 39-71-2310, MCA, are repealed.

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25%-over-the-established-rater-and-such-advanced-rate--shall

continue-and-be-in-force-until-the-employer-has-coased-to-be

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(3)(2) "Certificate" means documentation issued by the certifying-agency division of workers\* compensation to an individual who is vocationally handicapped.

f4f(3) "Fund" means the subsequent injury fund."

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

#39-71-905. Certification as vocationally handicapped.

A person who wishes to be certified as vocationally handicapped for purposes of this part may apply to the certifying-agency division on forms furnished by that-agency the division. The certifying-agency division shall conduct an investigation and shall issue a certificate to a person who: in the division's discretions meets the requirements for vocationally handicapped certification. Enduration: Enduration: person to the certified before employment precludes the person acceptance and person and shall issue a certification. Enduration and shall issue a certificate to a person who: in the division's discretions meets the requirements for vocationally handicapped certification. Enduration and shall issue a certification. Enduration and shall issue a certificate to a person who: in the division's discretions meets the requirements for vocationally handicapped certification. Enduration and shall issue a certificate to a person who: in the division's discretions meets the requirements for vocationally handicapped certification. Enduration and shall issue a certificate to a person who: in the division's discretions meets the requirements for vocationally handicapped certification. Enduration and shall issue a certificate to a person who: in the division's discretions meets the requirements for vocationally handicapped certification. Enduration and shall issue a certificate to a person who: in the division's discretions meets the requirements for vocationally handicapped certification.

YOCATIONALLY MANDICAPPED. AN EMPLOYEE WHO IS NOT EMPLOYED AT

HE TIME OF APPLICATION FOR CERTIFICATION MUST BE CERTIFIED

AS YOCATIONALLY MANDICAPPED BEFORE ENTERING NEW EMPLOYMENT

IN ORDER FOR THE NEW EMPLOYER TO RECEIVE THE BENEFITS OF

HIS PARIA\*\*

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

\*39-71-906. Employer hiring or retaining certified vocationally handicapped person to file information with certifying-agency division -- effect of failure to file. Upon commencement of employment or retention in employment of a certified vocationally handicapped person: the employer shall submit to the certifying-edency division, on forms furnished by the agency division, all pertinent information requested by the agency division. The certifying-agency division shall acknowledge receipt of the information. Failure to file the required information with the certifying egency division within 60 days after the first day of the vocationally handicapped person's employment or retention in employment precludes the employer from the protection and benefits of this part unless the information is filed before an injury for which benefits are payable under this part." Section 13. Section 39-71-2202, MCA, is amended to read:

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

policy for the insurance of-the-compensation-herein-provided
forv-or--against--liability--thereforv written under
Gumpensation\_plan\_Now\_2 shall be deemed considered to be
made subject to the provisions of this chapter. No--insurer
shall--enter--into--any--such-policy-of-insurance-unless-its
forms-have-been-approved-by-the-divisiony-and--as--otherwise
provided-by-laws\*

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

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"39-71-2301. Intent and purpose of plan. It is the intent and purpose of compensation plan No. 3 that-each industryy-tradey-secupationy-or-employment-coming-under—the provisions—of—the-plan-shall—be-liable—to-pay-for-injuries happening—to-its-employees-coming-under—the—provisions—of the-Workers\*—Compensation—Act to allow an employer to insure with a state operated workers\* compensation insurance systems known as the state compensation insurance fund or state fund. The state fund shall be administered by the division of workers\* compensation and shall pay all benefits under this chapter to the employees of an employer who elects coverage with the state fund.

22 Section 15. Section 39-71-2306, NCA, 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

default-in-the-observance--of--env--order--of--the--division 1 issued---pursuent---to---the--provisions--of--39-71-2301--to 2 39-71-2304--inclusive--ehally--in--addition--to--any--ather penalty--provided--by-this-chaptery-be-charged-an-advance-of 25%-over-the-established-rate-and-such-advanced-rate--sholl continue-and-be-in-force-until-the-ampleyer-has-ceased-to-be 7 in-default. Inc. state fund may charge interest on any balance that is due and owing the state fund by an employer who has misrepresented the employer's payrolla improperly 9 10 classified the employer's payrolle or defaulted in premium payments. The interest rate charged shall be set by the 11 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." Section 16. Repealer. Sections 39-71-305, 39-71-404, 16 17 39-71-2309, and 39-71-2310, MCA, are repealed.

-End-

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Approved by Committee on Labor & Employment Relations

## SELATE BILL NO. ...

INTRODUCED BY MEHRENS, PETERSON, HEALY, HAFFERMAN, LOWE

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE

7 39-71-208, 39-71-210, 39-71-304, 39-71-405, 39-71-504,

39-71-603, 39-71-604, 39-71-609, 39-71-736, 39-71-901,

LAWS RELATING TO WORKERS. COMPENSATION; AMENDING SECTIONS

9 39-71-905, 39-71-906, 39-71-2202, 39-71-2301, AND

10 39-71-2306+ HCA; AND REPEALING SECTIONS 39-71-305+

39-71-404, 39-71-2309, AND 39-71-2310, MCA.M

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

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

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

#39-71-210. Annual report of division — copies for
general distribution. The division shall, not-leter-then
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to the governor covering its entire operations and
proceedings for the preceding fiscal year, with such
suggestions or recommendations as it may deem of value for
public information. A reasonable number of copies of such
the report shall be printed for general distribution.

Section 3. Section 39-71-304, MCA, is amended to read:

"39-71-304. Books, records, and payrolls to be open to inspection — penalty for refusal. The books, records, and payrolls of the an employer pertinent to the administration of this chapter shall always be open to inspection by the division or any duly authorized employee thereof for the purpose of ascertaining the correctness of the payroll, the number of men workers employed, and such other information as may be necessary for the division and its management under this chapter. Refusal on the part of the an employer to submit said the books, records, and payrolls for such inspection shall subject the offending employer to a penalty of NOI EXCEEDING \$100 \$500 for each offense, to be collected by through a civil action in the name of the state and paid into the state treasury."

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

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SECOND READING

w39-71-405. Liability of employer who contracts work out. (1) Any An employer who contracts with an independent contractor to have work performed of a kind which is a regular or a recurrent part of the work of the trade, business, occupation, or profession of such employer shall be is liable for the payment of compensation benefits under this contractor to the employees of any-subcontractor unless-the-subcontractor-primarily-liable-for-the-payment-of such-compensation—has—coverage—under—this—chapter the contractor if the contractor has not properly complied with the coverage requirements of the Morker's Compensation. Actany employers insurer who shall—become becomes liable for such-compensation payment of benefits may recover the amount of henefits paid and to be paid and necessary expenses from the subcontractor contractor primarily liable therein.

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

(3) Where any an employer procures <u>Contracts</u> any work to be done, wholly or in part for him <u>the employer</u>, by a an <u>independent</u> contractor, where the work so procured <u>contracted</u> to be done is casual employment as to such employer, then—such <u>then</u> the contractor shall become the employer for the purposes of this chapter.

thin-where an employer-procures any-work-to-be-done-by any-contractor-or-through-him-by-a-subcontractor-the payment-for-which-is-to-be-made-in-property-other-than-money or-its-equivalent-and-the-value-of-which-property-is speculative-or-intangiblev-than-and-in-that-event-the employer-shall-not-be-liable-for-compensationy-but-suc liability-shall-fall-upon-the-contractor-or-subcontractory as-the-case-may-be-"

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

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

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

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- (2) The fund shall receive from an uninsured employer an amount equal to all benefits paid or to be paid from the fund to an injured employee of the uninsured employer. However, the uninsured employer's liability under this subsection\_pay\_not\_exceed\_\$30.000.
- +3+--in--no--event-may-an-uninsured-employer\*s-combined tightitity-under-subsections-(1)--and--(2)--of--this--section exceed-\$38y888#
- (4)(3) The division may--at--the--beginning-of-each fiscol-yeary determine that the \$1,000 assessments that are charged against an insurer in each case of an industrial death under 39-71-902(1) shall be paid to the uninsured employers' fund rather than the subsequent injury fund."
- Section 6. Section 39-71-603, MCA, is amended to read: m39-71-603. Notice of claims-for injuries other than death to be submitted within sixty days ----exception----

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1 setual -- notice. No claims claim to recover compensation 2 benefits under this-facti the Workers! Compensation Act. for 3 injuries not resulting in deaths shall be mainteined considered\_compensable unless, within 60 days after the occurrence of the accident which is claimed to have caused the injury, notice in-writing-stating-the-name-and-address of-the-person-injured, of the time and place where the 9 accident occurredy and the nature of the injury and-signed by-the-person-in-ured-or-someone--in--his--behalf--shall--be served--upon <u>is given to</u> the employer or the <u>employer's</u> 11 insurery by the injured employee or someone on the employee's \_\_behalf.
except---os---othorwise--provided--in 39-71-682\*-Howevery-actual Actual knowledge of such the accident and injury on the part of such the employer or his the employer's managing agent or superintendent in charge of the work upon which the injured employee was engaged at the time of the injury shall-be is equivalent to such-service notice."

Section 7. Section 39-71-604, MCA, is amended to read: #39-71-604. Application for compensation under--plan three. (1) Where a worker is entitled to compensation benefits under compensation-plan-Nov--3 this chapter: the worker shall file with the division-an-application-therefore together--with-the-certificate-of-the-physician-who-attended nimy-end-it-shell-be insurer or the division all reasonable

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

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(2)--For-a-proper-compliance--with--the--provisions--of subsection---(1)--of--this--sectionv--the--physicianv--after approval--by--the--divisionv--shall--be--paid--out--of---the division\*s--administrative--moneys--in-the-earmarked-revenue fundv-51-50-for-each-casev

f3f(2) Where death results from the an injury, the parties entitled to compensation under-compensation-plan-Nov 3 or someone in their behalf shall make-application-for-the same-to-the-division file a claim with the insurer or the division. The application claim must be accompanied with proof of death and proof of relationship, showing the parties untitled to compensation, certificate of the attending physician, if any, and such other proof as may be required by the rules-of-the division."

Section 8. Section 39-71-609, MCA, is amended to read:

M39-71-609. Denial of claim after payments made or

-7-

1	termination of benefits by insurer fifteen fourteen days
2	notice required. If the an insurer determines to deny
3	claim on which payments have been made under 39-11-608
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 15 14 days' written notice to the
7	claimant, the claimant's authorized representatives if any
9	and the division. Howevers if an insurer has knowledge that
9	a claimant has returned to work, compensation benefits ma
10	be terminated as of the time the claimant returned to works
11	Section 9. Section 39-71-736, MCA, is amended to read
15	#39-71-736. Compensation from what date paid. When
13	aninjuredemployeehasa-baneficiary-who-is-entitled-t
14	compensationincaseoftheemployee*sdeathyno N
15	compensation shall may be paid for the first week-of-eny
16	days loss of wages due to an injury - but-ifdisability 1
17	loss of wages continues tweek for more than 5 days
16	compensation shall be paid from the date of injury
19	However, separate benefits of medical and hospital service
20	shall be furnished from the date of injury."

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

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

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

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 medically certifiable permanent physical impairment which is a substantial obstacle to obtaining employment or to obtaining reemployment if the employee should become unemployed, considering such factors as the person's age. education, training, experience, and employment rejection. +2+-- #6ertifying---agency #---means---the---section---of

remanification--division-of-workers--compensation-

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+3+(2) "Certificate" means documentation issued by the certifying--agency division of workers\* compensation to an individual who is vocationally handicapped.

44+(3) "Fund" means the subsequent injury fund." 11 1.2 Section 11. Section 39-71-905. MCA. is amended to read: 1.3

"39-71-905. Certification as vocationally handicapped. A person who wishes to be certified as vocationally mandicapped for purposes of this part may apply to the certifying-agency division on forms furnished by that-agency the division. The certifying-agency division shall conduct an investigation and shall issue a certificate to a person who, in the division's discretion, meets the requirements for vocationally handicapped certification. Earlure of the person-to-the-reartified-rhafore-remolovment-rarechudes-the person\*s-employer-ormanicampleyer-siminsurer-ifrom-rhanefits under - this sects AN EMPLOYEE NHO IS EMPLOYED AT THE TIME OF APPLICATION FOR CERTIFICATION MAY BE CERTIFIED AS

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VOCATIONALLY HANDICAPPED. AN EMPLOYEE WHO IS NOT EMPLOYED AT THE \_TIME OF APPLICATION FOR CERTIFICATION MUST BE CERTIFIED AS YOCATIONALLY MANDICAPPED BEFORE ENTERING NEW EMPLOYMENT IN ORDEK FOR THE NEW EMPLOYER TO RECEIVE THE BENEFITS OF IHIS\_PART."

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

\*39-71-906. Employer hiring or retaining certified vocationally handicapped person to file information with certifying--agency division -- effect of failure to file. Upon commencement of employment or retention in employment of a certified vocationally handicapped person, the employer shall submit to the certifying-egency division; on forms furnished by the agency division, all pertinent information requested by the agency division. The certifying-agency division shall acknowledge receipt of the information. Failure to file the required information with the certifying agency <u>uivision</u> within 60 days after the first day of the vocationally handicapped person's employment or retention in employment precludes the employer from the protection and benefits of this part unless the information is filed before an ingury for which benefits are payable under this part." Section 13. Section 39-71-2202. MCA: is amended to read:

\*39-71-2202. Policies made subject to chapter. Every

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policy for the insurance of-the-compensation-herein-provided for--or--egoinst---liability---therefore written under compensation...plan\_Nos\_2 shall be deemed considered to be made subject to the provisions of this chapter. No--insurer shall--enter--into--any--such-policy-of-insurance-unless-its forms-have-been-approved-by-the-divisions-and--as--otherwise provided-by-laws\*

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Section 14. Section 39-71-2301, MCA, is amended to

"39-71-2301. Intent and purpose of plan. It is the intent and purpose of compensation plan No. 3 that-each industryy-tradey-occupationy-or-employment-coming-under-the provisions-of-the-plan-shall-be-liable-to-pay-for-injuries happening-to-its-employees-coming-under-the-provisions-of the-workers\*-Compensation-ket to allow an employer to insure with a state operated workers\* compensation insurance system, known as the state compensation insurance fund or state fund. The state fund shall be administered by the division of workers\* compensation and shall pay all benefits under this chapter to the employees of an employer who elects coverage with the state fund."

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

#39-71-2306. Rates-to-be-advanced--for--default State

<u>fund\_authorized\_to\_charge\_interest</u>. Any-employer-who-is-in

default-in-the-observance--of--any--order--of--the--division issued---pursuant---to---the--provisions--of--39-71-2301--to 2 3 59-71-2364v-inclusivev--shallv--in--addition--to--any--other penatty--provided--by-this-chaptery-be-charged-an-advance-of 25%-over-the-established-ratev-and-such-advanced-rate--shall continue-and-be-in-force-until-the-employer-has-ceased-to-be in--default. The state fund may charge interest on any palance that is due and owing the state fund by an employer 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 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,

39-71-2309, and 39-71-2310, MCA, are repealed.

-End-

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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,
В	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	shelldeemrequisite 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-proceedingsy-a-book-of-record-in-whichshallbe
21	recorded record of all awards made by the division and such
22	other books or records as it shell-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."

SENATE BILL NO. 141

4	October-i 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 years 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 NOT EXCEEDING \$198 \$500 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. HCA. is amended to read:

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

#39-71-210. Annual report of division -- copies for general distribution. The division shall, not-later-than

#39-71-405. Liability of employer who contracts work
out- (1) Any An employer who contracts with an independent
contractor to have work performed of a kind which is a
regular or a recurrent part of the work of the trade,
business: occupation: or profession of such employer shell
be is liable for the payment of compensation benefits under
this chapter to the employees of enysubcontractor
unless-the-subcontractor-primarily-liable-for-the-payment-of
suchcompensationhascoverageunderthischapter the
contractor if the contractor has not properly complied with
the coverage requirements of the Worker's Compensation Act.
Any employers insurer who shall-become becomes liable for
such-compensation payment of benefits may recover the amount
of benefits paid and to be paid and necessary expenses from
the subcontroctor contractor primarily liable therein.

any work to be done,—whelly—er—in—part—for—him by a contractor other than an independent contractor, and the work so procured contracted to be done is a part or process in the trade or business of such the employer, then such the employer shell—be is liable to pay all compensation benefits under this chapter to the same extent as if the work were done without the intervention of such the contractor, and the work so procured contracted to be done shall not be construed to be casual employment. Where any an employer

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

(3) Where any an employer procures <u>Contracts</u> any work to be done, wholly or in part for him <u>the employer</u>, by a <u>an independent</u> contractor, where the work so procured <u>contracted</u> to be done is casual employment as to such employer, then—such <u>then</u> the contractor shall become the employer for the purposes of this chapter.

t+1--Where-an-employer-procures-any-work-to-be-done-by
any--contractor--or--through--him--by--a--subcontractory-the
payment-for-which-is-to-be-made-in-property-other-than-money
or-its--equivalent--and--the--value--of--which--property--is
speculative--or--intengibley--then--and--in--that--event-the
employer-shall-not-be--liable--for--compansationy--but--such
liability--shall--fall-upon-the-contractor-or-subcontractory
as-tho-case-may-boy\*

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

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

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

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- (2) The fund shall receive from an uninsured employer an amount equal to all benefits paid or to be paid from the fund to an injured employee of the uninsured employer. However: the uninsured employer's liability under this subsection may not exceed \$30.000.
- (3)--in--no--event-may-an-uninsured-employer\*s-combined
  liability-under-subsections-(1)--and--(2)--of--this--section
  exceed-\$38,888
- this collapse of the division may not be should be paid to the uninsured employers' fund rather than the subsequent injury fund.

1 setual--notice. No claims claim to recover compensation 2 benefits under this-fact the Workers! Compensation Act: for 3 injuries not resulting in deaths shall be meinteined considered\_compensable unless, within 60 days after the occurrence of the accident which is claimed to have caused the injury, notice in-writing-stating-the-name-and-address of-the-person-injured, of the time and place where the accident occurredy and the nature of the injury and-signed by-the-person-injured-or-someone--in--his--behalf--shall--be 10 served--upon is given to the employer or the employer's 11 insurery by the injured employee or someone on the 12 employee's behalf. except---as---otherwise--provided--in 13 39-71-602v-Howevery-actual Actual knowledge of such the accident and injury on the part of such the employer or his i 4 15 the employer's managing agent or superintendent in charge of the work upon which the injured employee was engaged at the 16 time of the injury shall-be is equivalent to such-service 17 notice." 18

Section 7. Section 39-71-604. HCA, is amended to read:
#39-71-604. Application for compensation under--plan
three. (1) Where a worker is entitled to compensation
benefits under compensation-plan-Now--3 this chapter: the
worker shall file with the division-an-application-therefore
together--with-the-certificate-of-the-physician-who-attended
nimv-and-it-shall-be insurer or the division all reasonable

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

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t2}--For-a-proper-compliance--with--the--provisions--of
subsection---tip--of--this--sectionv--the--physicianv--after
approvol--by--the--divisionv--shall--be--paid--out--of---the
division's--odministrative--moneys--in-the-cormarked-revenue
fundy-\$\frac{1}{2}\$-for-each-coses

†37(2) Where death results from the an injury: the parties entitled to compensation under-compensation-plan-Nov 3 or someone in their behalf shall make-application-for-the same-to-the-division file a claim with the insurar or the division. The application claim must be accompanied with proof of death and proof of relationship: showing the parties entitled to compensation: certificate of the attending physician: if any; and such other proof as may be required by the rules-of-the division."

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

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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 may do so only after 15 14 days' written notice to the 6 claimant, the claimant's authorized representatives if anys R and the division. However, if an insurer has knowledge that 9 a claimant has returned to work, compansation 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--e-beneficiery-who-is-entitled-to 14 compensation---n--case--of--the--employee\*s--deathy--no No 15 compensation shall may be paid for the first week-of-any 2 days loss of wages due to an injuryea but-if--disability If 17 loss of wages continues 1-week for more than 5 days. 18 compensation shall be paid from the date of injury. However, separate benefits of medical and hospital services 19 20 shall be furnished from the date of injury."

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

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

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

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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
0	39-71-2306, MCA; AND REPEALING SECTIONS 39-71-305,
11	39-71-404+ 39-71-2309+ AND 39-71-2310+ MCA+*
2	
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	shelldeemrequisite 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-proceedingsy-a-book-of-record-in-whichshallbe
21	recorded record of all awards made by the divisiony 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.  N

SENATE BILL NO. 141

#39-71-210. Annual report of division -- copies for general distribution. The division shall, not-leter-them October-1 after the end of each fiscal year, make a report governor covering its entire operations and proceedings for the preceding fiscal years with such suggestions or recommendations as it may deem of value for public information. A reasonable number of copies of such the report shall be printed for general distribution.\* Section 3. Section 39-71-304. HCA: is amended to read: #39-71-304. Books, records, and payrolls to be open to inspection -- penalty for refusal. The books, records, and payrolls of the an employer pertinent to the administration of this chapter shall always be open to inspection by the division or any duly authorized employee thereof for the purpose of ascertaining the correctness of the payroll, the number of men workers employed, and such other information as may be necessary for the division and its management under this chapter. Refusal on the part of the an employer to submit said the books, records, and payrolls for such inspection shall subject the offending employer to a penalty of MOI EXCEEDING \$100 \$500 for each offense, to be collected by through a civil action in the name of the state and paid into the state treasury."

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

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

m39-71-405. Liability of employer who contracts work out. (1) Any An employer who contracts with an independent contractor to have work performed of a kind which is a regular or a recurrent part of the work of the trade. business, occupation, or profession of such employer shall be is liable for the payment of compensation benefits, under this chapter to the employees of any-subcontractor unless the subcontractor primarily-liable-for-the payment of such compensation—has—coverage—under—this—chapter that contractor if the contractor has not properly complied with the coverage requirements of the Yorker's Compensation Actany employers insurer who shall become becomes liable for such-compensation payment of benefits may recover the amount of benefits paid and to be paid and necessary expenses from the subcontractor contractor primarily liable therein.

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

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

(+)--Where-an-employer-procures-any-work-to-be-done-by

any--contractor--or--through--him--by--a--subcontractory-the

payment-for-which-is-to-be-made-in-property-other-than-money

or-its--equivalent--and--the--value--of--which--property--is

speculative--or--intengibley--then--and--in--that--event-the

employer-shell-not-be--liable--for--compensationy--but--such

liability--shell--fall-upon-the-contractor-or-subcontractory

as-the-case-may-be-

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

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

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

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- (2) The fund shall receive from an uninsured employer an amount equal to all benefits paid or to be paid from the fund to an injured employee of the uninsured employer.

  However: the uninsured employer's liability under this subsection may not exceed \$30.000.
- {3}--in--no--event-may-an-uninsured-captoyer\*s-combined
  trability-under-subsections-fly--and--f2}--of--this--section
  exceed-938v888
- (4)(3) The division may--et--the--beginning-of-each fiscal-yeary determine that the \$1,000 assessments that are charged against an insurer in each case of an industrial death under 39-71-902(1) shall be paid to the uninsured employers\* fund rather than the subsequent injury fund.\*\*
- 23 Section 6. Section 39-71-603, NCA, is amended to read:
  24 #39-71-603. Notice of eleims-for injuries other than
  25 death to be submitted within sixty days ---exception----

actual -- notice. No elefus claim to recover compensation 1 benefits under this-fact; the Workers' Compensation Acts for 2 injuries not resulting in deaths shall be saintoined 3 considered compensable unless, within 60 days after the 5 occurrence of the accident which is claimed to have caused the injury. notice in-writing-stating-the-name-end-address of-the-person-injured, of the time and place where the 7 accident occurredy and the nature of the injury and-signed by-the-person-injured-or-someone--in-his--behelf--shall--be served-upon is given to the employer or the employer's 10 11 insurery by the injured employee or someone on the employee's behalf. except---es---otherwise--provided--in 12 13 <del>39-71-682-However-ectus? <u>Actual</u> knowledge of <u>such the</u></del> 14 accident and injury on the part of such the employer or his 15 the employer's managing agent or superintendent in charge of the work upon which the injured employee was engaged at the 17 time of the injury shall-be is equivalent to such-survice notice." 18

Section 7. Section 39-71-604, MCA, is amended to read:

#39-71-604. Application for compensation under--plan

three. (1) Where a worker is entitled to compensation

banefits under compensation-plan-Now--3 this chapter, the

worker shall file with the division-an-application-therefore

together--with-the-certificate-of-the-physicion-who-attended

himz-and-it-shall-be insurer or the division all reasonable

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following definitions apply:

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information needed by the insurer to determine compensability. It is the duty of such the worker's attending physician to lend all necessary assistance in making application for compensation and such proof of other matters as may be required by the rules of the division without charge to the workman worker. The filing of e cortificate-of forms or other documentation by the attending physician does not constitute a swern claim for compensation.

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#21--For-a-proper-compliance--with--the--provisions--of subsection---(1)--of--this--sectiony--the--physiciony--ofter moorayal--by--the--divisiony--shall--be--paid--out--of---the division\*s-administrative--moneys--in-the-earmerked-revenue fundy-\$1+50-for-each-case+

(3)(2) Where death results from the ag injury, the parties entitled to compensation under-compensation-plan-Now 3 or someone in their behalf shall make-application-for-the same-to-the-division file a claim with the insurer or the division. The application claim must be accompanied with proof of death and proof of relationship, showing the parties entitled to compensation, certificate of the attending physician, if any, and such other proof as may be required by the rules-of-the division.\*

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

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termination of benefits by insurer -- fifteen fourteen days' notice required. If the an insurer determines to deny a 2 claim on which payments have been made under 39-71-608 during a time of further investigation or after a claim has been accepted, terminates biweekly compensation benefits, it may do so only after 15 14 days' written notice to the claimant. the claimant's authorized representative. if any. and the division. However, if an insurer has knowledge that a claimant has returned to work, compensation benefits may be terminated as of the time the claimant returned to work." 10 Section 9. Section 39-71-736, MCA: is amended to read: 11 \*39-71-736. Compensation -- from what date paid. When 12 en--injured--employee--has--a-beneficiary-who-is-entitled-to 13 compensation--in--case--of--the--employee\*s--deathy--no No 14 compensation shall may be paid for the first week-of-eny 5 15 days loss of wages due to an injuryer but-if--disability If 16 loss of wages continues 1--week for more than 5 days. 17 compensation shall be paid from the date of injury. 18 However, separate benefits of medical and hospital services 19 shall be furnished from the date of injury." 20 Section 10. Section 39-71-901, MCA, is amended to 21 22 read: #39-71-901. Definitions. As used in this part, the

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

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

†27-\*\*Eertifying---agency\*\*---means---the---section---of rehebilitation--division-of-workers\*-compensation\*

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†37121 "Certificate" means documentation issued by the certifying--egency division of workers\* compensation to an individual who is vocationally handicapped.

f4f(3) "Fund" means the subsequent injury fund."

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

CERTIFIED AS VOCATIONALLY HANDICAPPED. AN EMPLOYEE MHO IS

NOT EMPLOYED AT THE TIME OF APPLICATION FOR CERTIFICATION

MUST BE CERTIFIED AS VOCATIONALLY HANDICAPPED BEFORE

ENTERING NEW EMPLOYMENT IN ORDER FOR THE NEW EMPLOYER TO

RECEIVE THE BENEFITS OF THIS PARLA®

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

#39-71-906. Employer hiring or retaining certified vocationally handicapped person to file information with certifying-agency division -- effect of failure to file. Upon commencement of employment or retention in employment of a certified vocationally handicapped person, the employer shall submit to the certifying-agency division, on forms furnished by the agency division, all pertinent information requested by the agency division. The certifying-agency division shall acknowledge receipt of the information. Failure to file the required information with the certifying egency division within 60 days after the first day of the vocationally handicapped person's employment or retention in employment precludes the employer from the protection and benefits of this part unless the information is filed before an injury for which benefits are payable under this part." Section 13. Section 39-71-2202, MCA, is amended to read:

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

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1	policy for the insurance of-the-compensation-herein-provided
2	for
3	compensation_plan_Nos2 shall be deemed considered to be
4	made subject to the provisions of this chapter. Noinsured
5	shallenterintoanysuch-policy-of-insurance-unless-it
6	forms-have-been-approved-by-the-divisionandasotherwise
7	provided-by-lows"
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 tradeoccupationor-employment-coming-underthe
13	provisionsofthe-plan-shall-be-liable-to-pay-for-injuries
14	hoppening-to-its-employees-coming-undertheprovisionsof
15	the-Workers*-Compensation-Act to allow an employer to insure
16	with a state operated workers compensation insurance

system, known as the state compensation insurance fund or

state fund. The state fund shall be administered by the

division of workers' compensation and shall pay all benefits

under this chapter to the employers of an employer who

Section 15. Section 39-71-2306, NCA, is amended to

\*39-71-2306. Retes-to-be-edvanced--for--defoult State

fund\_authorized\_to\_charge\_interest. Any-employer-who-is-in

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miects coverage with the state fund."

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read:

default-in-the-observance--of--any--order--of--the--division +ssued---pursuant---to---the--provisions--of--39-71-2301--to 39-71-2384y-inclusivey--shally--in--addition--to--any--other penalty--provided--by-this-chaptery-be-charged-an-advance-of 25q-ever-the-established-ratev-end-such-edvanced-rate--shall continue-and-be-in-force-until-the-employer-has-ceased-to-be in--default. The state fund may charge interest on any halance that is die and owing the state fund by an employer who has misrepresented the employer's payroll, improperly 10 classified the employer's payroll, or defaulted in premium payments. The interest rate charged shall be set by the 11 state fund at a reasonable rate. In determining what is a 12 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-

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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.