

HOUSE BILL NO. 124

INTRODUCED BY LORY

BY REQUEST OF WORKERS' COMPENSATION ADVISORY COUNCIL

IN THE HOUSE

January 8, 1981	Introduced and referred to Committee on Labor.
January 16, 1981	Committee recommend bill do pass as amended. Report adopted.
January 19, 1981	Bill printed and placed on members' desks.
January 20, 1981	Second reading, do pass.
January 21, 1981	Correctly engrossed. Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 22, 1981	Introduced and referred to Committee on Labor and Employment Relations.
February 10, 1981	Committee recommend bill be concurred in. Report adopted.
February 12, 1981	Second reading, pass consideration.
February 13, 1981	Second reading, concurred in.
February 17, 1981	Third reading, concurred in. Ayes, 47; Nays, 3.

IN THE HOUSE

February 18, 1981	Returned from Senate. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 such partnership or the owner of the sole proprietorship  
 2 devoting full time to the partnership or proprietorship  
 3 business. In the event of such election, the employer must  
 4 serve upon the employer's insurer written notice naming the  
 5 partners or sole proprietor to be covered, and no partner or  
 6 sole proprietor shall be deemed an employee within this  
 7 chapter until such notice has been given. For premium  
 8 ratemaking and for the determination of weekly wage for  
 9 weekly compensation benefits, the insurance carrier shall  
 10 assume a salary or wage of such electing employee to be \$900  
 11 per month not less than \$900 a month and not more than 1 1/2  
 12 times the average weekly wage as defined in this chapter."

13 Section 2. Section 39-71-205, MCA, is amended to read:

14 "39-71-205. Division authorized to charge certain fees  
 15 -- disposition of. (1) The division shall have power and  
 16 authority to charge and collect ~~the following fees: a fee~~

17 ~~(a) for copies of papers and records, not required to~~  
 18 ~~be certified or otherwise authenticated by the division, -- 25~~  
 19 ~~cents -- for -- each -- fee; (b) including certified copies of~~  
 20 ~~documents and orders filed in its office, sufficient to~~  
 21 ~~recover the cost of the material and the time expended, as~~  
 22 ~~fixed by the administrator.~~

23 ~~(b) -- for certified copies -- of -- official -- documents -- and~~  
 24 ~~orders -- filed in its office, or of the evidence taken at any~~  
 25 ~~hearing, 20 cents for each follow~~

1 (2) The division shall have power and authority to fix  
 2 and collect reasonable charges for publications issued under  
 3 its authority.

4 (3) The fees charged and collected under this section  
 5 shall be paid monthly into the treasury of the state to the  
 6 credit of the earmarked revenue fund and shall be  
 7 accompanied by detailed statement thereof."

8 Section 3. Section 39-71-308, MCA, is amended to read:

9 "39-71-308. Neglect or refusal of public corporation  
 10 to file monthly payroll reports -- arbitrary assessment by  
 11 division. Whenever any public corporation insured by the  
 12 state compensation insurance fund neglects or refuses to  
 13 file ~~with -- the -- division -- monthly prescribed~~ payroll report  
 14 ~~reports~~ of its employees, the division may levy an  
 15 arbitrary assessment upon such public corporation in an  
 16 amount of \$25 ~~175~~ for each such assessment, which  
 17 assessments shall be collected in the manner provided in  
 18 this chapter for the collection of assessments."

19 Section 4. Section 39-71-403, MCA, is amended to read:

20 "39-71-403. Plan three exclusive for state agencies --  
 21 election of plan by other public corporations. (1) Where a  
 22 state agency is the employer, the terms, conditions, and  
 23 provisions of compensation plan No. 3 shall be exclusive,  
 24 compulsory, and obligatory upon both employer and employee.  
 25 Any sums necessary to be paid under the provisions of this

1 chapter by any state agency shall be considered to be  
 2 ordinary and necessary expense of the agency, and the agency  
 3 shall make appropriation of and pay such sums into the  
 4 ~~accident--or--administration-fund, as the case may be,~~ state  
 5 compensation insurance fund at the time and in the manner  
 6 provided for in this chapter, notwithstanding that the state  
 7 agency may have failed to anticipate such ordinary and  
 8 necessary expense in any budget, estimate of expenses,  
 9 appropriations, ordinances, or otherwise.

10 (2) A public corporation, other than a state agency,  
 11 may elect coverage under compensation plan No. 1, employer;  
 12 plan No. 2, insurer; or plan No. 3, state insurance funds;  
 13 separately or jointly with any other public corporation,  
 14 other than a state agency. A public corporation electing  
 15 compensation plan No. 1 may purchase reinsurance. A public  
 16 corporation electing compensation plan No. 1 is subject to  
 17 the same provisions as a private employer electing  
 18 compensation plan No. 1.

19 (3) A public corporation, other than a state agency,  
 20 that elects plan No. 1 may establish a fund sufficient to  
 21 pay the compensation and benefits provided for in this  
 22 chapter and chapter 72 and to discharge all liabilities that  
 23 reasonably incur during the fiscal year for which the  
 24 election is effective. Proceeds from the fund must be used  
 25 only to pay claims covered by this chapter and chapter 72

1 and for actual and necessary expenses required for the  
 2 efficient administration of the fund.

3 (4) All money in the fund established under subsection  
 4 (2) not needed to meet immediate expenditures must be  
 5 invested by the governing body of the public corporation,  
 6 and all proceeds of the investment shall be credited to the  
 7 fund."

8 Section 5. Section 39-71-701, MCA, is amended to read:  
 9 "39-71-701. Compensation for injuries producing  
 10 temporary total disability. (1) Weekly compensation benefits  
 11 for injury producing total temporary disability shall be  
 12 66 2/3% of the wages received at the time of the injury. The  
 13 maximum weekly compensation benefits shall not exceed \$110  
 14 beginning July 1, 1973. Beginning July 1, 1974, the maximum  
 15 weekly compensation benefits shall not exceed the state's  
 16 average weekly wage. Total temporary disability benefits  
 17 shall be paid for the duration of the worker's temporary  
 18 disability.

19 (2) In cases where it is determined that periodic  
 20 disability benefits granted by the Social Security Act, ~~42~~  
 21 ~~U.S.C. 301-1935~~, are payable because of the injury, the  
 22 weekly benefits payable under this section are reduced, but  
 23 not below zero, by an amount equal, as nearly as practical,  
 24 to one-half the federal periodic benefits for such week,  
 25 which amount is to be calculated from the date of the

1 disability social security entitlement."

2 Section 6. Section 39-71-702, MCA, is amended to read:

3 "39-71-702. Compensation for injuries producing total  
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13 ~~45, 46, 301-1935~~, are payable because of the injury, the  
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16 to one-half the federal periodic benefits for such week,  
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20 "39-71-725. Payment of burial expense. There shall be  
21 paid, in case of the death of an employee, which death is  
22 the result of an accidental injury arising out of the  
23 employment and happening in the course of the employment,  
24 the reasonable burial expenses of the employee, not  
25 exceeding ~~\$1,100~~ \$1,400, and such payment is not a part of

1 the compensation which might be paid but is a benefit in  
2 addition to and separate and apart from compensation."

3 Section 8. Section 39-72-701, MCA, is amended to read:

4 "39-72-701. Compensation for total disability or death  
5 due to occupational disease other than pneumoconiosis. ~~11~~  
6 The compensation to which an employee temporarily totally  
7 disabled or permanently totally disabled by an occupational  
8 disease other than pneumoconiosis, or the beneficiaries and  
9 dependents of the employee in the case of death caused by an  
10 occupational disease other than pneumoconiosis, are entitled  
11 under this chapter shall be the same payments which are  
12 payable to an injured employee, and such payments shall be  
13 made for the same period of time as is provided in cases of  
14 temporary total disability, permanent total disability, and  
15 in cases of injuries causing death under the Workers'  
16 Compensation Act.

17 (2) In cases where it is determined that periodic  
18 disability benefits granted by the Social Security Act are  
19 payable because of the disease, the weekly benefits payable  
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23 calculated from the date of the disability social security  
24 entitlement."

25 Section 9. Section 39-72-706, MCA, is amended to read:

1       "39-72-706. Aggravation. (1) Where an occupational  
2 disease is aggravated by any other disease or infirmity not  
3 itself compensable or where disability or death from any  
4 other cause not itself compensable is aggravated, prolonged,  
5 accelerated, or in any wise contributed to by an  
6 occupational disease, the compensation payable under this  
7 chapter shall be reduced and limited to such proportion only  
8 of the compensation that would be payable if the  
9 occupational disease were the sole cause of the disability  
10 or death as such occupational disease as a causative factor  
11 bears to all the causes of such disability or death.

12       ~~(2) Where compensation is reduced a proportionate~~  
13 ~~amount as in subsection (1) above and the worker receives~~  
14 ~~disability social security benefits, the offset entitlement~~  
15 ~~granted to the insurer shall be reduced in the same~~  
16 ~~proportionate amount as the compensation as long as the~~  
17 ~~worker continues to receive disability social security~~  
18 ~~benefits."~~

19       Section 10. Repealer. Sections 50-75-101 through  
20 50-75-107, MCA, are repealed.

-End-

HB 124

Approved by Committee  
on Labor & Employment  
Relations

1 HOUSE BILL NO. 124  
2 INTRODUCED BY LORY  
3 BY REQUEST OF WORKERS' COMPENSATION ADVISORY COUNCIL  
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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
6 LAWS RELATING TO WORKERS' COMPENSATION; AMENDING SECTIONS  
7 39-71-118, 39-71-205, 39-71-308, 39-71-403, 39-71-701,  
8 39-71-702, 39-71-725, 39-72-701, AND 39-72-706, MCA; AND  
9 REPEALING SECTIONS 50-75-101 THROUGH 50-75-107, MCA."  
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
12 Section 1. Section 39-71-118, MCA, is amended to read:  
13 "39-71-118. Employee, worker, and workman defined. (1)  
14 The terms "employee", "workman", or "worker" mean:  
15 (a) each person in this state, including a contractor  
16 other than an independent contractor, who is in the service  
17 of an employer, as defined by 39-71-117, under any  
18 appointment or contract of hire, expressed or implied, oral  
19 or written. The terms include aliens and minors, whether  
20 lawfully or unlawfully employed, and all of the elected and  
21 appointed paid public officers and officers and members of  
22 boards of directors of quasi-public or private corporations  
23 while rendering actual service for such corporations for  
24 pay. Casual employees as defined by 39-71-116(3) are  
25 included as employees if they are not otherwise covered by

1 workers' compensation and if an employer has elected to be  
2 bound by the provisions of the compensation law for these  
3 casual employments, as provided in 39-71-401(2). Household  
4 or domestic service is excluded.  
5 (b) a recipient of general relief who is performing  
6 work for a county of this state under the provisions of  
7 53-3-302 through 53-3-305 and any juvenile performing work  
8 under authorization of a district court judge in a  
9 delinquency prevention or rehabilitation program;  
10 (c) a person receiving on-the-job vocational  
11 rehabilitation training or other on-the-job training under a  
12 state or federal vocational training program, whether or not  
13 under an appointment or contract of hire with an employer as  
14 defined in this chapter and whether or not receiving payment  
15 from a third party. However, this subsection does not apply  
16 to students enrolled in vocational training programs as  
17 outlined above while they are on the premises of a public  
18 school or community college; or  
19 (d) students enrolled and in attendance in programs of  
20 vocational technical education approved by the state board  
21 of public education at designated postsecondary vocational  
22 technical centers.  
23 (2) If the employer is a partnership or sole  
24 proprietorship, such employer may elect to include as an  
25 employee within the provisions of this chapter any member of

1 such partnership or the owner of the sole proprietorship  
 2 devoting full time to the partnership or proprietorship  
 3 business. In the event of such election, the employer must  
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18 appointment or contract of hire, expressed or implied, oral  
19 or written. The terms include aliens and minors, whether  
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21 appointed paid public officers and officers and members of  
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21 of public education at designated postsecondary vocational  
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 16 corporation electing compensation plan No. 1 is subject to  
 17 the same provisions as a private employer electing  
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 22 chapter and chapter 72 and to discharge all liabilities that  
 23 reasonably incur during the fiscal year for which the  
 24 election is effective. Proceeds from the fund must be used  
 25 only to pay claims covered by this chapter and chapter 72

1 and for actual and necessary expenses required for the  
 2 efficient administration of the fund.

3 (4) All money in the fund established under subsection  
 4 (2) not needed to meet immediate expenditures must be  
 5 invested by the governing body of the public corporation,  
 6 and all proceeds of the investment shall be credited to the  
 7 fund."

8 Section 5. Section 39-71-701, MCA, is amended to read:

9 "39-71-701. Compensation for injuries producing  
 10 temporary total disability. (1) Weekly compensation benefits  
 11 for injury producing total temporary disability shall be  
 12 66 2/3% of the wages received at the time of the injury. The  
 13 maximum weekly compensation benefits shall not exceed \$110  
 14 beginning July 1, 1973. Beginning July 1, 1974, the maximum  
 15 weekly compensation benefits shall not exceed the state's  
 16 average weekly wage. Total temporary disability benefits  
 17 shall be paid for the duration of the worker's temporary  
 18 disability.

19 (2) In cases where it is determined that periodic  
 20 disability benefits granted by the Social Security Act, ~~42~~  
 21 ~~U.S.C. 301-1935~~, are payable because of the injury, the  
 22 weekly benefits payable under this section are reduced, but  
 23 not below zero, by an amount equal, as nearly as practical,  
 24 to one-half the federal periodic benefits for such week,  
 25 which amount is to be calculated from the date of the

1 disability social security entitlement."

2 Section 6. Section 39-71-702, MCA, is amended to read:

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4 permanent disability. (1) Weekly compensation benefits for  
5 injury producing total permanent disability shall be 66 2/3%  
6 of the wages received at the time of the injury. The maximum  
7 weekly compensation benefits shall not exceed the state's  
8 average weekly wage. Total permanent disability benefits  
9 shall be paid for the duration of the worker's total  
10 permanent disability.

11 (2) In cases where it is determined that periodic  
12 disability benefits granted by the Social Security Act, 42  
13 U.S.C. 302-1935, are payable because of the injury, the  
14 weekly benefits payable under this section are reduced, but  
15 not below zero, by an amount equal, as nearly as practical,  
16 to one-half the federal periodic benefits for such week,  
17 which amount is to be calculated from the date of the  
18 disability social security entitlement."

19 Section 7. Section 39-71-725, MCA, is amended to read:

20 "39-71-725. Payment of burial expense. There shall be  
21 paid, in case of the death of an employee, which death is  
22 the result of an accidental injury arising out of the  
23 employment and happening in the course of the employment,  
24 the reasonable burial expenses of the employee, not  
25 exceeding \$1,400, and such payment is not a part of

1 the compensation which might be paid but is a benefit in  
2 addition to and separate and apart from compensation."

3 Section 8. Section 39-72-701, MCA, is amended to read:

4 "39-72-701. Compensation for total disability or death  
5 due to occupational disease other than pneumoconiosis. (1)  
6 The compensation to which an employee temporarily totally  
7 disabled or permanently totally disabled by an occupational  
8 disease other than pneumoconiosis, or the beneficiaries and  
9 dependents of the employee in the case of death caused by an  
10 occupational disease other than pneumoconiosis, are entitled  
11 under this chapter shall be the same payments which are  
12 payable to an injured employee, and such payments shall be  
13 made for the same period of time as is provided in cases of  
14 temporary total disability, permanent total disability, and  
15 in cases of injuries causing death under the Workers'  
16 Compensation Act.

17 (2) In cases where it is determined that periodic  
18 disability benefits granted by the Social Security Act are  
19 payable because of the disease, the weekly benefits payable  
20 under this section are reduced, but not below zero, by an  
21 amount equal as nearly as practical to one-half the federal  
22 periodic benefits for such week, which amount is to be  
23 calculated from the date of the disability social security  
24 entitlement."

25 Section 9. Section 39-72-706, MCA, is amended to read:

1       "39-72-706. Aggravation. (1) Where an occupational  
2 disease is aggravated by any other disease or infirmity not  
3 itself compensable or where disability or death from any  
4 other cause not itself compensable is aggravated, prolonged,  
5 accelerated, or in any wise contributed to by an  
6 occupational disease, the compensation payable under this  
7 chapter shall be reduced and limited to such proportion only  
8 of the compensation that would be payable if the  
9 occupational disease were the sole cause of the disability  
10 or death as such occupational disease as a causative factor  
11 bears to all the causes of such disability or death.

12       ~~(2) Where compensation is reduced a proportionate~~  
13 ~~amount as in subsection (1) above and the worker receives~~  
14 ~~disability social security benefits, the offset entitlement~~  
15 ~~granted to the insurer shall be reduced in the same~~  
16 ~~proportionate amount as the compensation as long as the~~  
17 ~~worker continues to receive disability social security~~  
18 ~~benefits."~~

19       Section 10. Repealer. Sections 50-75-101 through  
20 50-75-107, MCA, are repealed.

-End-



1 HOUSE BILL NO. 124

2 INTRODUCED BY LORY

3 BY REQUEST OF WORKERS' COMPENSATION ADVISORY COUNCIL

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
6 LAWS RELATING TO WORKERS' COMPENSATION; AMENDING SECTIONS  
7 39-71-118, 39-71-205, 39-71-308, 39-71-403, 39-71-701,  
8 39-71-702, 39-71-725, 39-72-701, AND 39-72-706, MCA; AND  
9 REPEALING SECTIONS 50-75-101 THROUGH 50-75-107, MCA."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 39-71-118, MCA, is amended to read:

13 "39-71-118. Employee, worker, and workman defined. (1)

14 The terms "employee", "workman", or "worker" mean:

15 (a) each person in this state, including a contractor  
16 other than an independent contractor, who is in the service  
17 of an employer, as defined by 39-71-117, under any  
18 appointment or contract of hire, expressed or implied, oral  
19 or written. The terms include aliens and minors, whether  
20 lawfully or unlawfully employed, and all of the elected and  
21 appointed paid public officers and officers and members of  
22 boards of directors of quasi-public or private corporations  
23 while rendering actual service for such corporations for  
24 pay. Casual employees as defined by 39-71-116(3) are  
25 included as employees if they are not otherwise covered by

1 workers' compensation and if an employer has elected to be  
2 bound by the provisions of the compensation law for these  
3 casual employments, as provided in 39-71-401(2). Household  
4 or domestic service is excluded.

5 (b) a recipient of general relief who is performing  
6 work for a county of this state under the provisions of  
7 53-3-302 through 53-3-305 and any juvenile performing work  
8 under authorization of a district court judge in a  
9 delinquency prevention or rehabilitation program;

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

19 (d) students enrolled and in attendance in programs of  
20 vocational technical education approved by the state board  
21 of public education at designated postsecondary vocational  
22 technical centers.

23 (2) If the employer is a partnership or sole  
24 proprietorship, such employer may elect to include as an  
25 employee within the provisions of this chapter any member of

1 such partnership or the owner of the sole proprietorship  
 2 devoting full time to the partnership or proprietorship  
 3 business. In the event of such election, the employer must  
 4 serve upon the employer's insurer written notice naming the  
 5 partners or sole proprietor to be covered, and no partner or  
 6 sole proprietor shall be deemed an employee within this  
 7 chapter until such notice has been given. For premium  
 8 ratemaking and for the determination of weekly wage for  
 9 weekly compensation benefits, the insurance carrier shall  
 10 assume a salary or wage of such electing employee to be \$900  
 11 per-month not less than \$900 a month and not more than 1 1/2  
 12 times the average weekly wage as defined in this chapter."

13 Section 2. Section 39-71-205, MCA, is amended to read:

14 "39-71-205. Division authorized to charge certain fees  
 15 -- disposition of. (1) The division shall have power and  
 16 authority to charge and collect ~~the following fees~~ a fee

17 ~~(a) for copies of papers and records, not required to~~  
 18 ~~be certified or otherwise authenticated by the division, 15~~  
 19 ~~cents for each folio; including certified copies of~~  
 20 ~~documents and orders filed in its office, sufficient to~~  
 21 ~~recover the cost of the material and the time expended, as~~  
 22 ~~fixed by the administrator.~~

23 ~~(b) for certified copies of official documents and~~  
 24 ~~orders filed in its office, or of the evidence taken at any~~  
 25 ~~hearing, 20 cents for each folio~~

1 (2) The division shall have power and authority to fix  
 2 and collect reasonable charges for publications issued under  
 3 its authority.

4 (3) The fees charged and collected under this section  
 5 shall be paid monthly into the treasury of the state to the  
 6 credit of the earmarked revenue fund and shall be  
 7 accompanied by detailed statement thereof."

8 Section 3. Section 39-71-308, MCA, is amended to read:

9 "39-71-308. Neglect or refusal of public corporation  
 10 to file ~~monthly~~ payroll reports -- arbitrary assessment by  
 11 division. Whenever any public corporation insured by the  
 12 state compensation insurance fund neglects or refuses to  
 13 file ~~with the division monthly~~ prescribed payroll report  
 14 reports of its employees, the division may levy an  
 15 arbitrary assessment upon such public corporation in an  
 16 amount of \$25 ~~15~~ for each such assessment, which  
 17 assessments shall be collected in the manner provided in  
 18 this chapter for the collection of assessments."

19 Section 4. Section 39-71-403, MCA, is amended to read:

20 "39-71-403. Plan three exclusive for state agencies --  
 21 election of plan by other public corporations. (1) Where a  
 22 state agency is the employer, the terms, conditions, and  
 23 provisions of compensation plan No. 3 shall be exclusive,  
 24 compulsory, and obligatory upon both employer and employee.  
 25 Any sums necessary to be paid under the provisions of this

1 chapter by any state agency shall be considered to be  
 2 ordinary and necessary expense of the agency, and the agency  
 3 shall make appropriation of and pay such sums into the  
 4 ~~accident--or--administration-fund-as-the-case-may-be,~~ state  
 5 compensation insurance fund at the time and in the manner  
 6 provided for in this chapter, notwithstanding that the state  
 7 agency may have failed to anticipate such ordinary and  
 8 necessary expense in any budget, estimate of expenses,  
 9 appropriations, ordinances, or otherwise.

10 (2) A public corporation, other than a state agency,  
 11 may elect coverage under compensation plan No. 1, employer;  
 12 plan No. 2, insurer; or plan No. 3, state insurance fund;  
 13 separately or jointly with any other public corporation,  
 14 other than a state agency. A public corporation electing  
 15 compensation plan No. 1 may purchase reinsurance. A public  
 16 corporation electing compensation plan No. 1 is subject to  
 17 the same provisions as a private employer electing  
 18 compensation plan No. 1.

19 (3) A public corporation, other than a state agency,  
 20 that elects plan No. 1 may establish a fund sufficient to  
 21 pay the compensation and benefits provided for in this  
 22 chapter and chapter 72 and to discharge all liabilities that  
 23 reasonably incur during the fiscal year for which the  
 24 election is effective. Proceeds from the fund must be used  
 25 only to pay claims covered by this chapter and chapter 72

1 and for actual and necessary expenses required for the  
 2 efficient administration of the fund.

3 (4) All money in the fund established under subsection  
 4 (2) not needed to meet immediate expenditures must be  
 5 invested by the governing body of the public corporation,  
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 14 beginning July 1, 1973. Beginning July 1, 1974, the maximum  
 15 weekly compensation benefits shall not exceed the state's  
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19 (2) In cases where it is determined that periodic  
 20 disability benefits granted by the Social Security Act, ~~42~~  
 21 ~~U.S.C. 301 (1935),~~ are payable because of the injury, the  
 22 weekly benefits payable under this section are reduced, but  
 23 not below zero, by an amount equal, as nearly as practical,  
 24 to one-half the federal periodic benefits for such week,  
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13 amount as in subsection (1) above and the worker receives  
14 disability social security benefits, the offset entitlement  
15 granted to the insurer shall be reduced in the same  
16 proportionate amount as the compensation as long as the  
17 worker continues to receive disability social security  
18 benefits."

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