

HOUSE BILL NO. 532

INTRODUCED BY BARDANOUE

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

IN THE HOUSE

January 27, 1983	Introduced and referred to Committee on Labor and Employment Relations.
January 28, 1983	Rereferred to Committee on State Administration.
February 11, 1983	Committee recommend bill do pass as amended. Report adopted.
February 12, 1983	Bill printed and placed on members' desks.
February 14, 1983	Second reading, do pass.
February 15, 1983	Considered correctly engrossed.
February 16, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 17, 1983	Introduced and referred to Committee on Labor and Employment Relations.
March 1, 1983	Rereferred to Committee on Judiciary.
March 14, 1983	Committee recommend bill be concurred in. Report adopted.
March 16, 1983	Second reading, concurred in.
March 18, 1983	Third reading, concurred in. Ayes, 50; Noes, 0.

IN THE HOUSE

March 18, 1983

Returned to House.

March 19, 1983

Sent to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *532*
2 INTRODUCED BY *Danmore*
3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
6 LANGUAGE IN CODE SECTIONS DEALING WITH THE WORKERS'
7 COMPENSATION DIVISION IN ORDER THAT REFERENCES TO THE
8 TREASURY FUND STRUCTURE CONFORM TO CHAPTER 28, LAWS OF 1981,
9 AS REQUIRED BY CHAPTER 28, SECTION 5, LAWS OF 1981; AMENDING
10 SECTIONS 39-71-206, 39-71-1004, 39-71-2303, 39-71-2304, AND
11 39-71-2321 THROUGH 39-71-2327, MCA; INSTRUCTING THE CODE
12 COMMISSIONER TO MAKE THE NECESSARY CHANGES; AND PROVIDING AN
13 EFFECTIVE DATE."
14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16 Section 1. Section 39-71-206, MCA, is amended to read:
17 "39-71-206. Legal advisers of division. (1) The
18 attorney general shall be the legal adviser of the division
19 and shall represent it in all proceedings whenever so
20 requested by the division or any member thereof.
21 (2) The division may, in the investigation and defense
22 of cases under plan No. 3 of the Workers' Compensation Act,
23 employ such other attorney or legal adviser as it deems
24 necessary and pay for the same out of the industrial
25 insurance account in the agency expendable trust fund."

1 Section 2. Section 39-71-1004, MCA, is amended to
2 read:
3 "39-71-1004. Industrial accident rehabilitation
4 account. (1) The payments provided in 39-71-1003 shall be
5 made from the industrial accident rehabilitation account in
6 the ~~agency~~ a special revenue fund. Payments to the account
7 shall be made on or before July 1 of each year as follows:
8 (a) by each employer operating under the provisions of
9 plan No. 1 of the Workers' Compensation Act, an amount to be
10 assessed by the division, not exceeding 1% of the
11 compensation paid to the employer's injured employees in
12 Montana for the preceding fiscal year;
13 (b) by each insurer insuring employers under the
14 provisions of plan No. 2 of the Workers' Compensation Act,
15 an amount to be assessed by the division, not exceeding 1%
16 of the compensation paid to injured employees of its insured
17 in Montana during the preceding fiscal year;
18 (c) by the division, an amount to be determined by the
19 division, not exceeding 1% of the compensation paid to
20 injured employees in Montana from the industrial insurance
21 ~~account--in--the--agency~~ expendable trust fund and the
22 occupational disease ~~account--in--the--agency~~ expendable trust
23 fund for the preceding fiscal year.
24 (2) Separate accounts of the amounts collected and
25 disbursements made from the industrial accident

1 rehabilitation account in the agency special revenue fund
 2 shall be kept for each of the plans. If in any fiscal year
 3 the amount collected from the employers under any plan
 4 exceeds the amount of payments for employees of the
 5 employers under such plan, the assessment against the
 6 employers under such plan for the following year shall be
 7 reduced.

8 (3) The payments herein provided for shall be made to
 9 the division, which shall credit the sums paid to the
 10 industrial accident rehabilitation account which shall be in
 11 the custody of the state treasurer. Disbursements from the
 12 account shall be made after approval by the department of
 13 social and rehabilitation services and upon audit and
 14 approval by the department of administration.

15 (4) No part of the funds allocated or contributed as
 16 herein provided and contemplated shall be used in payment of
 17 administrative expenses of the division or department of
 18 social and rehabilitation services."

19 Section 3. Section 39-71-2303, MCA, is amended to
 20 read:

21 "39-71-2303. Manner of electing -- contract or policy
 22 of insurance -- payment of premium. The division shall
 23 prescribe the procedure by which employers may elect to be
 24 bound by compensation plan No. 3, the effective time of such
 25 election, and the manner in which such election is

1 terminated for reasons other than default in payment of
 2 premiums. Every employer electing to be bound by
 3 compensation plan No. 3 shall receive from the division a
 4 contract or policy of insurance in a form approved by the
 5 division. The premium thereon shall be paid by the employer
 6 to the division at such times as the division shall
 7 prescribe and shall be paid over by the division to the
 8 state treasurer to the credit of the industrial insurance
 9 ~~account-in-the-agency~~ expendable trust fund."

10 Section 4. Section 39-71-2304, MCA, is amended to
 11 read:

12 "39-71-2304. Determination of rates and
 13 classifications by division. (1) The division is hereby
 14 given full power and authority to determine premium rates
 15 and classifications as in its judgment and experience and as
 16 a member of a rating organization as is otherwise provided
 17 for in this chapter may be necessary or expedient, provided
 18 that no change in the classification or rates prescribed
 19 shall be effective until 30 days after the date of the order
 20 making such change.

21 (2) The industrial insurance program shall be neither
 22 more nor less than self-supporting. Employments affected by
 23 the provisions hereof shall be divided by the division, as a
 24 member of a rating organization, into classes, whose rates
 25 may be readjusted at such times as the division as a member

1 of such rating organization may actuarially determine.
 2 Separate accounts shall be kept of the amounts collected and
 3 expended in each class for actuarially determining rates,
 4 but for payment of compensation and dividends, the
 5 industrial insurance ~~account~~ expendable trust fund shall be
 6 one and indivisible.

7 (3) The division as a member of such rating
 8 organization shall determine the hazards of the different
 9 classes of occupations or industries and fix the premiums
 10 therefor at the lowest rate consistent with maintenance of
 11 an actuarially sound industrial insurance fund and the
 12 creation of actuarially sound surplus and reserves, and for
 13 such purpose may adopt a system of schedule rating in such a
 14 manner as to take account of the peculiar hazard of each
 15 risk and shall utilize the experience and information
 16 afforded to it as a member of such rating organization.

17 (4) In addition, compensation plan No. 3 shall use an
 18 experience rating system for employers enrolled under it.
 19 This system shall reward employers with a better than
 20 average safety record, penalize employers with a worse than
 21 average safety record, and may provide for premium volume
 22 discount.

23 (5) The division in fixing rates shall provide for the
 24 expenses of administering the industrial insurance ~~account~~
 25 expendable trust fund allowed by law, the disbursements on

1 account of injuries and deaths of employees in each class,
 2 an actuarially sound catastrophe reserve, reserves
 3 actuarially determined to meet anticipated and unexpected
 4 losses, and such other reserves and surplus as may be
 5 determined by the division as a member of such rating
 6 organization. The amounts of such reserves and surplus shall
 7 be as determined from time to time by the division to be
 8 adequate but not excessive for the purposes intended."

9 Section 5. Section 39-71-2321, MCA, is amended to
 10 read:

11 "39-71-2321. What to be deposited in industrial
 12 insurance ~~account~~ expendable trust fund. All premiums,
 13 penalties, recoveries by subrogation, interest earned upon
 14 money belonging to the fund, and securities acquired by or
 15 through use of money shall be deposited in the industrial
 16 insurance ~~account-in-the-agency~~ expendable trust fund."

17 Section 6. Section 39-71-2322, MCA, is amended to
 18 read:

19 "39-71-2322. Money in industrial insurance ~~account~~
 20 fund held in trust -- disposition of funds upon repeal of
 21 chapter. The moneys coming into the industrial insurance
 22 ~~account-in-the-agency~~ expendable trust fund shall be held in
 23 trust for the purpose for which such moneys were collected,
 24 and if this chapter shall be hereafter repealed, such moneys
 25 shall be subject to such disposition as may be provided by

the legislature repealing this chapter. In default of such legislative provision, distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing."

Section 7. Section 39-71-2323, MCA, is amended to read:

"39-71-2323. Surplus in industrial insurance ~~account~~ expendable trust fund — payment of dividends. If at the end of any fiscal year there exists in the industrial insurance ~~account--in--the--agency~~ expendable trust fund an excess of assets over liabilities and a reasonable surplus, such liabilities to include necessary reserves, which excess may be divided safely, then the division may declare a dividend in such manner as the rules of the division may prescribe to those employers who have paid premiums into the industrial insurance ~~account--in--the--agency~~ expendable trust fund in excess of liabilities chargeable to them in the ~~account--in--the--agency~~ fund for that year. In determining the amount or proportion of the balance to which the employer is entitled as dividends, the division shall give consideration to the prior paid premiums and accident experience of each individual employer during the dividend year."

Section 8. Section 39-71-2324, MCA, is amended to read:

"39-71-2324. Investment of reserve — payment of

installments. The division shall turn over the reserve to the board of investments to be invested, and the same shall be invested by the board of investments as part of the long-term investment fund and out of the same and its earnings shall be paid the monthly installments and any lump sum then or thereafter arranged for. However, when there is sufficient money in the industrial insurance ~~account--in--the~~ agency expendable trust fund to meet such compensation payments, any surplus remaining may be invested as specified in this section."

Section 9. Section 39-71-2325, MCA, is amended to read:

"39-71-2325. Division to keep accounts of segregations. The division shall keep an accurate account of all such segregations of the industrial insurance ~~account--in--the--agency~~ expendable trust fund and shall divert from the ~~account fund~~ any sums necessary to meet monthly payments, pending the conversion into cash of any security, and in such case shall repay the same out of the cash realized from the security."

Section 10. Section 39-71-2326, MCA, is amended to read:

"39-71-2326. Disbursements out of industrial ~~accident account~~ insurance expendable trust fund — employer to pay warrant if funds insufficient. Disbursements out of the

1 industrial insurance ~~account in the agency expendable trust~~
 2 fund shall be made by the division. If at any time there is
 3 not sufficient money in the ~~account fund~~ with which to pay
 4 any warrants drawn thereon, the employer on account of whose
 5 workers the warrant was drawn shall pay the same, and upon
 6 his next contribution to the ~~account fund~~, he shall be
 7 credited with the amount so paid, with interest thereon at
 8 the rate of 6% per annum from the date of such payment to
 9 the date upon which the next assessment becomes payable; and
 10 if the amount of the credit exceeds the amount of such
 11 assessment, he shall have a warrant upon such ~~account fund~~
 12 for the excess; and if the warrant is not paid for want of
 13 funds, it shall be credited to the employer and be applied
 14 upon succeeding assessments."

15 Section 11. Section 39-71-2327, MCA, is amended to
 16 read:

17 "39-71-2327. Earnings of industrial insurance ~~account~~
 18 ~~expendable trust fund~~ to be credited to ~~account fund~~ --
 19 improper use a felony. All earnings made by the industrial
 20 insurance ~~account in the agency expendable trust~~ fund by
 21 reason of interest paid for the deposit thereof or otherwise
 22 shall be credited to and become a part of the ~~account funds~~,
 23 and the making of profit, either directly or indirectly, by
 24 any person out of the use of the ~~account fund~~ shall
 25 constitute a felony and on conviction thereof shall subject

1 the person making such profit to imprisonment in the state
 2 penitentiary for a term not exceeding 2 years or a fine not
 3 exceeding \$5,000 or both such fine and imprisonment."

4 NEW SECTION. Section 12. Code commissioner to make
 5 changes. Whenever a reference to a treasury fund type, fund,
 6 or account appears in any new material enacted by the 48th
 7 legislature and approved by the governor, whether in new
 8 sections or amended sections, the code commissioner, in
 9 consultation with the department of administration and the
 10 legislative fiscal analyst, shall change the reference in
 11 that material as necessary to reflect the fund structure
 12 provided for in 17-2-102. The code commissioner may make
 13 other incidental changes to reflect the intent of this
 14 section and 17-2-102 without changing the meaning.

15 NEW SECTION. Section 13. Effective date. This act is
 16 effective July 1, 1983.

-End-

Rereferred and

Approved by Committee
on State Administration

HOUSE BILL NO. 532

INTRODUCED BY BARDANOVE

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE LANGUAGE IN CODE SECTIONS DEALING WITH THE WORKERS' COMPENSATION DIVISION IN ORDER THAT REFERENCES TO THE TREASURY FUND STRUCTURE CONFORM TO CHAPTER 28, LAWS OF 1981, AS REQUIRED BY CHAPTER 28, SECTION 5, LAWS OF 1981; AMENDING SECTIONS 39-71-206, 39-71-1004, 39-71-2303, 39-71-2304, AND 39-71-2321 THROUGH 39-71-2327, MCA; INSTRUCTING THE CODE COMMISSIONER TO MAKE THE NECESSARY CHANGES; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 39-71-206, MCA, is amended to read:

"39-71-206. Legal advisers of division. (1) The attorney general shall be the legal adviser of the division and shall represent it in all proceedings whenever so requested by the division or any member thereof.

(2) The division may, in the investigation and defense of cases under plan No. 3 of the Workers' Compensation Act, employ such other attorney or legal adviser as it deems necessary and pay for the same out of the industrial insurance account in the agency expendable trust fund."

Section 2. Section 39-71-1004, MCA, is amended to read:

"39-71-1004. Industrial accident rehabilitation account. (1) The payments provided in 39-71-1003 shall be made from the industrial accident rehabilitation account in the--agency a SIAIE special revenue fund. Payments to the account shall be made on or before July 1 of each year as follows:

(a) by each employer operating under the provisions of plan No. 1 of the Workers' Compensation Act, an amount to be assessed by the division, not exceeding 1% of the compensation paid to the employer's injured employees in Montana for the preceding fiscal year;

(b) by each insurer insuring employers under the provisions of plan No. 2 of the Workers' Compensation Act, an amount to be assessed by the division, not exceeding 1% of the compensation paid to injured employees of its insured in Montana during the preceding fiscal year;

(c) by the division, an amount to be determined by the division, not exceeding 1% of the compensation paid to injured employees in Montana from the industrial insurance account--in--the--agency expendable trust fund and the occupational disease account--in--the--agency expendable trust fund for the preceding fiscal year.

(2) Separate accounts of the amounts collected and

1 disbursements made from the industrial accident
2 rehabilitation account in the agency STATE special revenue
3 fund shall be kept for each of the plans. If in any fiscal
4 year the amount collected from the employers under any plan
5 exceeds the amount of payments for employees of the
6 employers under such plan, the assessment against the
7 employers under such plan for the following year shall be
8 reduced.

9 (3) The payments herein provided for shall be made to
10 the division, which shall credit the sums paid to the
11 industrial accident rehabilitation account which shall be in
12 the custody of the state treasurer. Disbursements from the
13 account shall be made after approval by the department of
14 social and rehabilitation services and upon audit and
15 approval by the department of administration.

16 (4) No part of the funds allocated or contributed as
17 herein provided and contemplated shall be used in payment of
18 administrative expenses of the division or department of
19 social and rehabilitation services."

20 Section 3. Section 39-71-2303, MCA, is amended to
21 read:

22 "39-71-2303. Manner of electing -- contract or policy
23 of insurance -- payment of premium. The division shall
24 prescribe the procedure by which employers may elect to be
25 bound by compensation plan No. 3, the effective time of such

1 election, and the manner in which such election is
2 terminated for reasons other than default in payment of
3 premiums. Every employer electing to be bound by
4 compensation plan No. 3 shall receive from the division a
5 contract or policy of insurance in a form approved by the
6 division. The premium thereon shall be paid by the employer
7 to the division at such times as the division shall
8 prescribe and shall be paid over by the division to the
9 state treasurer to the credit of the industrial insurance
10 ~~account-in-the-agency~~ expendable trust fund."

11 Section 4. Section 39-71-2304, MCA, is amended to
12 read:

13 "39-71-2304. Determination of rates and
14 classifications by division. (1) The division is hereby
15 given full power and authority to determine premium rates
16 and classifications as in its judgment and experience and as
17 a member of a rating organization as is otherwise provided
18 for in this chapter may be necessary or expedient, provided
19 that no change in the classification or rates prescribed
20 shall be effective until 30 days after the date of the order
21 making such change.

22 (2) The industrial insurance program shall be neither
23 more nor less than self-supporting. Employments affected by
24 the provisions hereof shall be divided by the division, as a
25 member of a rating organization, into classes, whose rates

1 may be readjusted at such times as the division as a member
 2 of such rating organization may actuarially determine.
 3 Separate accounts shall be kept of the amounts collected and
 4 expended in each class for actuarially determining rates,
 5 but for payment of compensation and dividends, the
 6 industrial insurance account ~~expendable trust fund~~ shall be
 7 one and indivisible.

8 (3) The division as a member of such rating
 9 organization shall determine the hazards of the different
 10 classes of occupations or industries and fix the premiums
 11 therefor at the lowest rate consistent with maintenance of
 12 an actuarially sound industrial insurance fund and the
 13 creation of actuarially sound surplus and reserves, and for
 14 such purpose may adopt a system of schedule rating in such a
 15 manner as to take account of the peculiar hazard of each
 16 risk and shall utilize the experience and information
 17 afforded to it as a member of such rating organization.

18 (4) In addition, compensation plan No. 3 shall use an
 19 experience rating system for employers enrolled under it.
 20 This system shall reward employers with a better than
 21 average safety record, penalize employers with a worse than
 22 average safety record, and may provide for premium volume
 23 discount.

24 (5) The division in fixing rates shall provide for the
 25 expenses of administering the industrial insurance account

1 ~~expendable trust fund~~ allowed by law, the disbursements on
 2 account of injuries and deaths of employees in each class,
 3 an actuarially sound catastrophe reserve, reserves
 4 actuarially determined to meet anticipated and unexpected
 5 losses, and such other reserves and surplus as may be
 6 determined by the division as a member of such rating
 7 organization. The amounts of such reserves and surplus shall
 8 be as determined from time to time by the division to be
 9 adequate but not excessive for the purposes intended."

10 Section 5. Section 39-71-2321, MCA, is amended to
 11 read:

12 "39-71-2321. What to be deposited in industrial
 13 insurance account ~~expendable trust fund~~. All premiums,
 14 penalties, recoveries by subrogation, interest earned upon
 15 money belonging to the fund, and securities acquired by or
 16 through use of money shall be deposited in the industrial
 17 insurance ~~account-in-the-agency~~ ~~expendable trust~~ fund."

18 Section 6. Section 39-71-2322, MCA, is amended to
 19 read:

20 "39-71-2322. Money in industrial insurance account
 21 ~~fund~~ held in trust -- disposition of funds upon repeal of
 22 chapter. The moneys coming into the industrial insurance
 23 ~~account-in-the-agency~~ ~~expendable trust~~ fund shall be held in
 24 trust for the purpose for which such moneys were collected,
 25 and if this chapter shall be hereafter repealed, such moneys

shall be subject to such disposition as may be provided by the legislature repealing this chapter. In default of such legislative provision, distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing."

Section 7. Section 39-71-2323, MCA, is amended to read:

"39-71-2323. Surplus in industrial insurance ~~account~~ expendable trust fund -- payment of dividends. If at the end of any fiscal year there exists in the industrial insurance ~~account--in--the--agency~~ expendable trust fund an excess of assets over liabilities and a reasonable surplus, such liabilities to include necessary reserves, which excess may be divided safely, then the division may declare a dividend in such manner as the rules of the division may prescribe to those employers who have paid premiums into the industrial insurance ~~account--in--the--agency~~ expendable trust fund in excess of liabilities chargeable to them in the ~~account--in--the--agency~~ fund for that year. In determining the amount or proportion of the balance to which the employer is entitled as dividends, the division shall give consideration to the prior paid premiums and accident experience of each individual employer during the dividend year."

Section 8. Section 39-71-2324, MCA, is amended to read:

"39-71-2324. Investment of reserve -- payment of installments. The division shall turn over the reserve to the board of investments to be invested, and the same shall be invested by the board of investments as part of the long-term investment fund and out of the same and its earnings shall be paid the monthly installments and any lump sum then or thereafter arranged for. However, when there is sufficient money in the industrial insurance ~~account--in--the~~ agency expendable trust fund to meet such compensation payments, any surplus remaining may be invested as specified in this section."

Section 9. Section 39-71-2325, MCA, is amended to read:

"39-71-2325. Division to keep accounts of segregations. The division shall keep an accurate account of all such segregations of the industrial insurance ~~account--in--the--agency~~ expendable trust fund and shall divert from the ~~account fund~~ any sums necessary to meet monthly payments, pending the conversion into cash of any security, and in such case shall repay the same out of the cash realized from the security."

Section 10. Section 39-71-2326, MCA, is amended to read:

"39-71-2326. Disbursements out of industrial ~~accident~~ account insurance expendable trust fund -- employer to pay

warrant if funds insufficient. Disbursements out of the industrial insurance ~~account-in-the-agency expendable trust~~ fund shall be made by the division. If at any time there is not sufficient money in the ~~account fund~~ with which to pay any warrants drawn thereon, the employer on account of whose workers the warrant was drawn shall pay the same, and upon his next contribution to the ~~account fund~~, he shall be credited with the amount so paid, with interest thereon at the rate of 6% per annum from the date of such payment to the date upon which the next assessment becomes payable; and if the amount of the credit exceeds the amount of such assessment, he shall have a warrant upon such ~~account fund~~ for the excess; and if the warrant is not paid for want of funds, it shall be credited to the employer and be applied upon succeeding assessments."

Section 11. Section 39-71-2327, MCA, is amended to read:

"39-71-2327. Earnings of industrial insurance ~~account expendable trust fund~~ to be credited to ~~account fund~~ -- improper use a felony. All earnings made by the industrial insurance ~~account--in--the--agency expendable trust~~ fund by reason of interest paid for the deposit thereof or otherwise shall be credited to and become a part of the ~~account fund~~, and the making of profit, either directly or indirectly, by any person out of the use of the ~~account fund~~ shall

constitute a felony and on conviction thereof shall subject the person making such profit to imprisonment in the state penitentiary for a term not exceeding 2 years or a fine not exceeding \$5,000 or both such fine and imprisonment."

~~NEW SECTION.~~ Section 12. Code commissioner to make changes. Whenever a reference to a treasury fund type, fund, or account appears in any new material enacted by the 48th legislature and approved by the governor, whether in new sections or amended sections, the code commissioner, in consultation with the department of administration and the legislative fiscal analyst, shall change the reference in that material as necessary to reflect the fund structure provided for in 17-2-102. The code commissioner may make other incidental changes to reflect the intent of this section and 17-2-102 without changing the meaning.

~~NEW SECTION.~~ Section 13. Effective date. This act is effective July 1, 1983.

-End-

HOUSE BILL NO. 532

INTRODUCED BY BARDANOUYE

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE LANGUAGE IN CODE SECTIONS DEALING WITH THE WORKERS' COMPENSATION DIVISION IN ORDER THAT REFERENCES TO THE TREASURY FUND STRUCTURE CONFORM TO CHAPTER 28, LAWS OF 1981, AS REQUIRED BY CHAPTER 28, SECTION 5, LAWS OF 1981; AMENDING SECTIONS 39-71-206, 39-71-1004, 39-71-2303, 39-71-2304, AND 39-71-2321 THROUGH 39-71-2327, MCA; INSTRUCTING THE CODE COMMISSIONER TO MAKE THE NECESSARY CHANGES; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 39-71-206, MCA, is amended to read:

"39-71-206. Legal advisers of division. (1) The attorney general shall be the legal adviser of the division and shall represent it in all proceedings whenever so requested by the division or any member thereof.

(2) The division may, in the investigation and defense of cases under plan No. 3 of the Workers' Compensation Act, employ such other attorney or legal adviser as it deems necessary and pay for the same out of the industrial insurance account in the agency expendable trust fund."

Section 2. Section 39-71-1004, MCA, is amended to read:

"39-71-1004. Industrial accident rehabilitation account. (1) The payments provided in 39-71-1003 shall be made from the industrial accident rehabilitation account in the--agency a STATE special revenue fund. Payments to the account shall be made on or before July 1 of each year as follows:

(a) by each employer operating under the provisions of plan No. 1 of the Workers' Compensation Act, an amount to be assessed by the division, not exceeding 1% of the compensation paid to the employer's injured employees in Montana for the preceding fiscal year;

(b) by each insurer insuring employers under the provisions of plan No. 2 of the Workers' Compensation Act, an amount to be assessed by the division, not exceeding 1% of the compensation paid to injured employees of its insured in Montana during the preceding fiscal year;

(c) by the division, an amount to be determined by the division, not exceeding 1% of the compensation paid to injured employees in Montana from the industrial insurance account--in--the--agency expendable trust fund and the occupational disease account--in--the--agency expendable trust fund for the preceding fiscal year.

(2) Separate accounts of the amounts collected and

1 disbursements made from the industrial accident
2 rehabilitation account in the agency STATE special revenue
3 fund shall be kept for each of the plans. If in any fiscal
4 year the amount collected from the employers under any plan
5 exceeds the amount of payments for employees of the
6 employers under such plan, the assessment against the
7 employers under such plan for the following year shall be
8 reduced.

9 (3) The payments herein provided for shall be made to
10 the division, which shall credit the sums paid to the
11 industrial accident rehabilitation account which shall be in
12 the custody of the state treasurer. Disbursements from the
13 account shall be made after approval by the department of
14 social and rehabilitation services and upon audit and
15 approval by the department of administration.

16 (4) No part of the funds allocated or contributed as
17 herein provided and contemplated shall be used in payment of
18 administrative expenses of the division or department of
19 social and rehabilitation services."

20 Section 3. Section 39-71-2303, MCA, is amended to
21 read:

22 "39-71-2303. Manner of electing -- contract or policy
23 of insurance -- payment of premium. The division shall
24 prescribe the procedure by which employers may elect to be
25 bound by compensation plan No. 3, the effective time of such

1 election, and the manner in which such election is
2 terminated for reasons other than default in payment of
3 premiums. Every employer electing to be bound by
4 compensation plan No. 3 shall receive from the division a
5 contract or policy of insurance in a form approved by the
6 division. The premium thereon shall be paid by the employer
7 to the division at such times as the division shall
8 prescribe and shall be paid over by the division to the
9 state treasurer to the credit of the industrial insurance
10 account-in-the-agency expendable trust fund."

11 Section 4. Section 39-71-2304, MCA, is amended to
12 read:

13 "39-71-2304. Determination of rates and
14 classifications by division. (1) The division is hereby
15 given full power and authority to determine premium rates
16 and classifications as in its judgment and experience and as
17 a member of a rating organization as is otherwise provided
18 for in this chapter may be necessary or expedient, provided
19 that no change in the classification or rates prescribed
20 shall be effective until 30 days after the date of the order
21 making such change.

22 (2) The industrial insurance program shall be neither
23 more nor less than self-supporting. Employments affected by
24 the provisions hereof shall be divided by the division, as a
25 member of a rating organization, into classes, whose rates

1 may be readjusted at such times as the division as a member
2 of such rating organization may actuarially determine.
3 Separate accounts shall be kept of the amounts collected and
4 expended in each class for actuarially determining rates,
5 but for payment of compensation and dividends, the
6 Industrial insurance ~~account~~ expendable trust fund shall be
7 one and indivisible.

8 (3) The division as a member of such rating
9 organization shall determine the hazards of the different
10 classes of occupations or industries and fix the premiums
11 therefor at the lowest rate consistent with maintenance of
12 an actuarially sound Industrial insurance fund and the
13 creation of actuarially sound surplus and reserves, and for
14 such purpose may adopt a system of schedule rating in such a
15 manner as to take account of the peculiar hazard of each
16 risk and shall utilize the experience and information
17 afforded to it as a member of such rating organization.

18 (4) In addition, compensation plan No. 3 shall use an
19 experience rating system for employers enrolled under it.
20 This system shall reward employers with a better than
21 average safety record, penalize employers with a worse than
22 average safety record, and may provide for premium volume
23 discount.

24 (5) The division in fixing rates shall provide for the
25 expenses of administering the Industrial insurance ~~account~~

1 expendable trust fund allowed by law, the disbursements on
2 account of injuries and deaths of employees in each class,
3 an actuarially sound catastrophe reserve, reserves
4 actuarially determined to meet anticipated and unexpected
5 losses, and such other reserves and surplus as may be
6 determined by the division as a member of such rating
7 organization. The amounts of such reserves and surplus shall
8 be as determined from time to time by the division to be
9 adequate but not excessive for the purposes intended."

10 Section 5. Section 39-71-2321, MCA, is amended to
11 read:

12 "39-71-2321. What to be deposited in industrial
13 insurance ~~account~~ expendable trust fund. All premiums,
14 penalties, recoveries by subrogation, interest earned upon
15 money belonging to the fund, and securities acquired by or
16 through use of money shall be deposited in the industrial
17 insurance ~~account-in-the-agency~~ expendable trust fund."

18 Section 6. Section 39-71-2322, MCA, is amended to
19 read:

20 "39-71-2322. Money in industrial insurance ~~account~~
21 fund held in trust -- disposition of funds upon repeal of
22 chapter. The moneys coming into the industrial insurance
23 ~~account-in-the-agency~~ expendable trust fund shall be held in
24 trust for the purpose for which such moneys were collected,
25 and if this chapter shall be hereafter repealed, such moneys

shall be subject to such disposition as may be provided by the legislature repealing this chapter. In default of such legislative provision, distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing."

Section 7. Section 39-71-2323, MCA, is amended to read:

"39-71-2323. Surplus in industrial insurance ~~account~~ expendable trust fund -- payment of dividends. If at the end of any fiscal year there exists in the industrial insurance ~~account--in--the--agency~~ expendable trust fund an excess of assets over liabilities and a reasonable surplus, such liabilities to include necessary reserves, which excess may be divided safely, then the division may declare a dividend in such manner as the rules of the division may prescribe to those employers who have paid premiums into the industrial insurance ~~account--in--the--agency~~ expendable trust fund in excess of liabilities chargeable to them in the ~~account--in~~ the--agency fund for that year. In determining the amount or proportion of the balance to which the employer is entitled as dividends, the division shall give consideration to the prior paid premiums and accident experience of each individual employer during the dividend year."

Section 8. Section 39-71-2324, MCA, is amended to read:

"39-71-2324. Investment of reserve -- payment of installments. The division shall turn over the reserve to the board of investments to be invested, and the same shall be invested by the board of investments as part of the long-term investment fund and out of the same and its earnings shall be paid the monthly installments and any lump sum then or thereafter arranged for. However, when there is sufficient money in the industrial insurance ~~account--in--the~~ agency expendable trust fund to meet such compensation payments, any surplus remaining may be invested as specified in this section."

Section 9. Section 39-71-2325, MCA, is amended to read:

"39-71-2325. Division to keep accounts of segregations. The division shall keep an accurate account of all such segregations of the industrial insurance ~~account--in~~ the--agency expendable trust fund and shall divert from the ~~account fund~~ any sums necessary to meet monthly payments, pending the conversion into cash of any security, and in such case shall repay the same out of the cash realized from the security."

Section 10. Section 39-71-2326, MCA, is amended to read:

"39-71-2326. Disbursements out of industrial ~~accident~~ account insurance expendable trust fund -- employer to pay

1 warrant if funds insufficient. Disbursements out of the
 2 industrial insurance ~~account-in-the-agency expendable trust~~
 3 fund shall be made by the division. If at any time there is
 4 not sufficient money in the account fund with which to pay
 5 any warrants drawn thereon, the employer on account of whose
 6 workers the warrant was drawn shall pay the same, and upon
 7 his next contribution to the account fund, he shall be
 8 credited with the amount so paid, with interest thereon at
 9 the rate of 6% per annum from the date of such payment to
 10 the date upon which the next assessment becomes payable; and
 11 if the amount of the credit exceeds the amount of such
 12 assessment, he shall have a warrant upon such account fund
 13 for the excess; and if the warrant is not paid for want of
 14 funds, it shall be credited to the employer and be applied
 15 upon succeeding assessments."

16 Section 11. Section 39-71-2327, MCA, is amended to
 17 read:

18 "39-71-2327. Earnings of industrial insurance account
 19 ~~expendable trust fund~~ to be credited to account fund --
 20 improper use a felony. All earnings made by the industrial
 21 insurance ~~account--in--the--agency expendable trust~~ fund by
 22 reason of interest paid for the deposit thereof or otherwise
 23 shall be credited to and become a part of the account funds,
 24 and the making of profit, either directly or indirectly, by
 25 any person out of the use of the account fund shall

1 constitute a felony and on conviction thereof shall subject
 2 the person making such profit to imprisonment in the state
 3 penitentiary for a term not exceeding 2 years or a fine not
 4 exceeding \$5,000 or both such fine and imprisonment."

5 NEW SECTION. Section 12. Code commissioner to make
 6 changes. Whenever a reference to a treasury fund type, fund,
 7 or account appears in any new material enacted by the 48th
 8 legislature and approved by the governor, whether in new
 9 sections or amended sections, the code commissioner, in
 10 consultation with the department of administration and the
 11 legislative fiscal analyst, shall change the reference in
 12 that material as necessary to reflect the fund structure
 13 provided for in 17-2-102. The code commissioner may make
 14 other incidental changes to reflect the intent of this
 15 section and 17-2-102 without changing the meaning.

16 NEW SECTION. Section 13. Effective date. This act is
 17 effective July 1, 1983.

-End-

1 HOUSE BILL NO. 532

2 INTRODUCED BY BARDANOUVE

3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
6 LANGUAGE IN CODE SECTIONS DEALING WITH THE WORKERS'
7 COMPENSATION DIVISION IN ORDER THAT REFERENCES TO THE
8 TREASURY FUND STRUCTURE CONFORM TO CHAPTER 28, LAWS OF 1981,
9 AS REQUIRED BY CHAPTER 28, SECTION 5, LAWS OF 1981; AMENDING
10 SECTIONS 39-71-206, 39-71-1004, 39-71-2303, 39-71-2304, AND
11 39-71-2321 THROUGH 39-71-2327, MCA; INSTRUCTING THE CODE
12 COMMISSIONER TO MAKE THE NECESSARY CHANGES; AND PROVIDING AN
13 EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 39-71-206, MCA, is amended to read:

17 "39-71-206. Legal advisers of division. (1) The
18 attorney general shall be the legal adviser of the division
19 and shall represent it in all proceedings whenever so
20 requested by the division or any member thereof.

21 (2) The division may, in the investigation and defense
22 of cases under plan No. 3 of the Workers' Compensation Act,
23 employ such other attorney or legal adviser as it deems
24 necessary and pay for the same out of the industrial
25 insurance account in the agency expendable trust fund."

1 Section 2. Section 39-71-1004, MCA, is amended to
2 read:

3 "39-71-1004. Industrial accident rehabilitation
4 account. (1) The payments provided in 39-71-1003 shall be
5 made from the industrial accident rehabilitation account in
6 the--agency a STATE special-revenue fund. Payments to the
7 account shall be made on or before July 1 of each year as
8 follows:

9 (a) by each employer operating under the provisions of
10 plan No. 1 of the Workers' Compensation Act, an amount to be
11 assessed by the division, not exceeding 1% of the
12 compensation paid to the employer's injured employees in
13 Montana for the preceding fiscal year;

14 (b) by each insurer insuring employers under the
15 provisions of plan No. 2 of the Workers' Compensation Act,
16 an amount to be assessed by the division, not exceeding 1%
17 of the compensation paid to injured employees of its insured
18 in Montana during the preceding fiscal year;

19 (c) by the division, an amount to be determined by the
20 division, not exceeding 1% of the compensation paid to
21 injured employees in Montana from the industrial insurance
22 account--in--the--agency expendable trust fund and the
23 occupational disease account--in--the--agency expendable trust
24 fund for the preceding fiscal year.

25 (2) Separate accounts of the amounts collected and

1 disbursements made from the industrial accident
2 rehabilitation account in the agency STATE special revenue
3 fund shall be kept for each of the plans. If in any fiscal
4 year the amount collected from the employers under any plan
5 exceeds the amount of payments for employees of the
6 employers under such plan, the assessment against the
7 employers under such plan for the following year shall be
8 reduced.

9 (3) The payments herein provided for shall be made to
10 the division, which shall credit the sums paid to the
11 industrial accident rehabilitation account which shall be in
12 the custody of the state treasurer. Disbursements from the
13 account shall be made after approval by the department of
14 social and rehabilitation services and upon audit and
15 approval by the department of administration.

16 (4) No part of the funds allocated or contributed as
17 herein provided and contemplated shall be used in payment of
18 administrative expenses of the division or department of
19 social and rehabilitation services."

20 Section 3. Section 39-71-2303, MCA, is amended to
21 read:

22 "39-71-2303. Manner of electing -- contract or policy
23 of insurance -- payment of premium. The division shall
24 prescribe the procedure by which employers may elect to be
25 bound by compensation plan No. 3, the effective time of such

1 election, and the manner in which such election is
2 terminated for reasons other than default in payment of
3 premiums. Every employer electing to be bound by
4 compensation plan No. 3 shall receive from the division a
5 contract or policy of insurance in a form approved by the
6 division. The premium thereon shall be paid by the employer
7 to the division at such times as the division shall
8 prescribe and shall be paid over by the division to the
9 state treasurer to the credit of the industrial insurance
10 account-in-the-agency expendable trust fund."

11 Section 4. Section 39-71-2304, MCA, is amended to
12 read:

13 "39-71-2304. Determination of rates and
14 classifications by division. (1) The division is hereby
15 given full power and authority to determine premium rates
16 and classifications as in its judgment and experience and as
17 a member of a rating organization as is otherwise provided
18 for in this chapter may be necessary or expedient, provided
19 that no change in the classification or rates prescribed
20 shall be effective until 30 days after the date of the order
21 making such change.

22 (2) The industrial insurance program shall be neither
23 more nor less than self-supporting. Employments affected by
24 the provisions hereof shall be divided by the division, as a
25 member of a rating organization, into classes, whose rates

1 may be readjusted at such times as the division as a member
 2 of such rating organization may actuarially determine.
 3 Separate accounts shall be kept of the amounts collected and
 4 expended in each class for actuarially determining rates,
 5 but for payment of compensation and dividends, the
 6 industrial insurance ~~account~~ expendable trust fund shall be
 7 one and indivisible.

8 (3) The division as a member of such rating
 9 organization shall determine the hazards of the different
 10 classes of occupations or industries and fix the premiums
 11 therefor at the lowest rate consistent with maintenance of
 12 an actuarially sound industrial insurance fund and the
 13 creation of actuarially sound surplus and reserves, and for
 14 such purpose may adopt a system of schedule rating in such a
 15 manner as to take account of the peculiar hazard of each
 16 risk and shall utilize the experience and information
 17 afforded to it as a member of such rating organization.

18 (4) In addition, compensation plan No. 3 shall use an
 19 experience rating system for employers enrolled under it.
 20 This system shall reward employers with a better than
 21 average safety record, penalize employers with a worse than
 22 average safety record, and may provide for premium volume
 23 discount.

24 (5) The division in fixing rates shall provide for the
 25 expenses of administering the industrial insurance account

1 ~~expendable trust fund~~ allowed by law, the disbursements on
 2 account of injuries and deaths of employees in each class,
 3 an actuarially sound catastrophe reserve, reserves
 4 actuarially determined to meet anticipated and unexpected
 5 losses, and such other reserves and surplus as may be
 6 determined by the division as a member of such rating
 7 organization. The amounts of such reserves and surplus shall
 8 be as determined from time to time by the division to be
 9 adequate but not excessive for the purposes intended."

10 Section 5. Section 39-71-2321, MCA, is amended to
 11 read:

12 "39-71-2321. What to be deposited in industrial
 13 insurance ~~account~~ expendable trust fund. All premiums,
 14 penalties, recoveries by subrogation, interest earned upon
 15 money belonging to the fund, and securities acquired by or
 16 through use of money shall be deposited in the industrial
 17 insurance ~~account-in-the-agency~~ expendable trust fund."

18 Section 6. Section 39-71-2322, MCA, is amended to
 19 read:

20 "39-71-2322. Money in industrial insurance ~~account~~
 21 fund held in trust -- disposition of funds upon repeal of
 22 chapter. The moneys coming into the industrial insurance
 23 ~~account-in-the-agency~~ expendable trust fund shall be held in
 24 trust for the purpose for which such moneys were collected,
 25 and if this chapter shall be hereafter repealed, such moneys

1 shall be subject to such disposition as may be provided by
2 the legislature repealing this chapter. In default of such
3 legislative provision, distribution thereof shall be in
4 accordance with the justice of the matter, due regard being
5 had to obligations of compensation incurred and existing."

6 Section 7. Section 39-71-2323, MCA, is amended to
7 read:

8 "39-71-2323. Surplus in industrial insurance account
9 ~~expendable trust fund~~ -- payment of dividends. If at the end
10 of any fiscal year there exists in the industrial insurance
11 ~~account--in--the--agency~~ ~~expendable trust~~ fund an excess of
12 assets over liabilities and a reasonable surplus, such
13 liabilities to include necessary reserves, which excess may
14 be divided safely, then the division may declare a dividend
15 in such manner as the rules of the division may prescribe to
16 those employers who have paid premiums into the industrial
17 insurance ~~account--in--the--agency~~ ~~expendable trust~~ fund in
18 excess of liabilities chargeable to them in the ~~account--in~~
19 ~~the--agency~~ fund for that year. In determining the amount or
20 proportion of the balance to which the employer is entitled
21 as dividends, the division shall give consideration to the
22 prior paid premiums and accident experience of each
23 individual employer during the dividend year."

24 Section 8. Section 39-71-2324, MCA, is amended to
25 read:

1 "39-71-2324. Investment of reserve -- payment of
2 installments. The division shall turn over the reserve to
3 the board of investments to be invested, and the same shall
4 be invested by the board of investments as part of the
5 long-term investment fund and out of the same and its
6 earnings shall be paid the monthly installments and any lump
7 sum then or thereafter arranged for. However, when there is
8 sufficient money in the industrial insurance ~~account--in--the~~
9 ~~agency~~ ~~expendable trust~~ fund to meet such compensation
10 payments, any surplus remaining may be invested as specified
11 in this section."

12 Section 9. Section 39-71-2325, MCA, is amended to
13 read:

14 "39-71-2325. Division to keep accounts of
15 segregations. The division shall keep an accurate account of
16 all such segregations of the industrial insurance ~~account--in~~
17 ~~the--agency~~ ~~expendable trust~~ fund and shall divert from the
18 ~~account fund~~ any sums necessary to meet monthly payments,
19 pending the conversion into cash of any security, and in
20 such case shall repay the same out of the cash realized from
21 the security."

22 Section 10. Section 39-71-2326, MCA, is amended to
23 read:

24 "39-71-2326. Disbursements out of industrial ~~accident~~
25 ~~account~~ ~~insurance~~ ~~expendable trust fund~~ -- employer to pay

1 warrant if funds insufficient. Disbursements out of the
 2 industrial insurance account--in-the-agency expendable trust
 3 fund shall be made by the division. If at any time there is
 4 not sufficient money in the account fund with which to pay
 5 any warrants drawn thereon, the employer on account of whose
 6 workers the warrant was drawn shall pay the same, and upon
 7 his next contribution to the account fund, he shall be
 8 credited with the amount so paid, with interest thereon at
 9 the rate of 6% per annum from the date of such payment to
 10 the date upon which the next assessment becomes payable; and
 11 if the amount of the credit exceeds the amount of such
 12 assessment, he shall have a warrant upon such account fund
 13 for the excess; and if the warrant is not paid for want of
 14 funds, it shall be credited to the employer and be applied
 15 upon succeeding assessments."

16 Section 11. Section 39-71-2327, MCA, is amended to
 17 read:

18 "39-71-2327. Earnings of industrial insurance account
 19 expendable trust fund to be credited to account fund --
 20 improper use a felony. All earnings made by the industrial
 21 insurance account--in--the--agency expendable trust fund by
 22 reason of interest paid for the deposit thereof or otherwise
 23 shall be credited to and become a part of the account fund,
 24 and the making of profit, either directly or indirectly, by
 25 any person out of the use of the account fund shall

1 constitute a felony and on conviction thereof shall subject
 2 the person making such profit to imprisonment in the state
 3 penitentiary for a term not exceeding 2 years or a fine not
 4 exceeding \$5,000 or both such fine and imprisonment."

5 NEW SECTION. Section 12. Code commissioner to make
 6 changes. Whenever a reference to a treasury fund type, fund,
 7 or account appears in any new material enacted by the 48th
 8 legislature and approved by the governor, whether in new
 9 sections or amended sections, the code commissioner, in
 10 consultation with the department of administration and the
 11 legislative fiscal analyst, shall change the reference in
 12 that material as necessary to reflect the fund structure
 13 provided for in 17-2-102. The code commissioner may make
 14 other incidental changes to reflect the intent of this
 15 section and 17-2-102 without changing the meaning.

16 NEW SECTION. Section 13. Effective date. This act is
 17 effective July 1, 1983.

-End-