

SENATE BILL NO. 315

INTRODUCED BY RAPP-SVRCEK, SMITH, OWENS, BECK, B. BROWN,  
ELLIOTT, STANG, HARP, MERCER, MARKS, THAYER, WILLIAMS,  
VAUGHN, DARKO, VAN VALKENBURG

IN THE SENATE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
FEBRUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1989	PRINTING REPORT.
	SECOND READING, DO PASS.
	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 49; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
MARCH 20, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 27, 1989	SECOND READING, CONCURRED IN.
MARCH 29, 1989	THIRD READING, CONCURRED IN. AYES, 93; NOES, 2.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 29, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

MARCH 30, 1989

REPORTED CORRECTLY ENROLLED.

MARCH 31, 1989

SIGNED BY PRESIDENT.

IN THE HOUSE

MARCH 31, 1989

SIGNED BY SPEAKER.

IN THE SENATE

MARCH 31, 1989

DELIVERED TO GOVERNOR.

APRIL 6, 1989

RETURNED FROM GOVERNOR WITH  
RECOMMENDED AMENDMENTS.

APRIL 11, 1989

SECOND READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS NOT CONCURRED IN.

APRIL 12, 1989

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 13, 1989

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 14, 1989

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 15, 1989

SECOND READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 17, 1989

FREE CONFERENCE COMMITTEE REPORT  
ADOPTED.

IN THE SENATE

APRIL 18, 1989

THIRD READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

*Senate* BILL NO. *315*

INTRODUCED BY

*Bob Riva*

*SMITH*

*HARRY MERCER*

*Mark*

A BILL FOR AN ACT ENTITLED: *AN ACT REQUIRING THE STATE*

WORKERS' COMPENSATION INSURANCE FUND AND PRIVATE WORKERS'

COMPENSATION INSURERS TO ALLOW AN EMPLOYER THE OPTION OF

INCLUDING A MEDICAL DEDUCTIBLE TERM IN ANY WORKERS'

COMPENSATION POLICY; PROVIDING THAT BENEFITS PAID UNDER A

MEDICAL DEDUCTIBLE TERM MAY NOT BE INCLUDED BY THE STATE

WORKERS' COMPENSATION INSURANCE FUND FOR THE PURPOSE OF

SETTING AN EMPLOYER'S INSURANCE RATE; AMENDING SECTION

39-71-2304, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1.** Deductible option for medical

benefits. (1) In order to lower the amount an employer is required to pay to obtain workers' compensation insurance coverage under this chapter, a workers' compensation policy issued by the state compensation insurance fund under plan No. 3 or by a private insurer under plan No. 2 may offer a deductible for the medical, hospital, and related services allowed under 39-71-704. The medical deductible must be in the amount of \$500 per claim.

(2) If the insured employer chooses to offer a medical deductible, the insured employer is liable for the amount of

the deductible for the medical benefits paid for each otherwise compensable claim of work injury suffered by an employee.

(3) The insured employer may:

(a) pay the deductible amount of covered medical benefits directly to the provider of medical or related services; or

(b) contract with the insurer to have the insurer pay the entire cost of the covered medical benefits directly to the provider of medical or related services and then seek reimbursement from the insured employer for the deductible amount.

(4) If the insured employer does not pay the deductible amount directly to the medical provider or reimburse the insurer for an amount the insurer has paid out on behalf of the insured employer under the medical deductible, the insurer shall pay the compensable medical claim and seek recovery from the insured employer for the amount paid out under the medical deductible.

(5) If an insured employer who has contracted with an insurer for a medical deductible does not pay the medical deductible amount either directly to the medical provider or to the insurer through reimbursement, the amount paid by the insurer on the claim may be included as benefits paid in a determination of the insured employer's rate.

1       **Section 2.** Section 39-71-2304, MCA, is amended to  
2 read:

3       "39-71-2304. Determination of rates and  
4 classifications by division. (1) The division ~~is hereby~~  
5 ~~given full power and authority to~~ shall determine premium  
6 rates and classifications as in its judgment and experience  
7 may be necessary or expedient, ~~provided that no~~ However, a  
8 change in the classification or rates prescribed ~~shall~~ may  
9 ~~not be effective until 30 days after the date of the order~~  
10 making ~~such~~ the change.

11       (2) The industrial insurance program ~~shall~~ must be  
12 neither more nor less than self-supporting. Employments  
13 affected by the provisions ~~hereof shall~~ of this chapter must  
14 be divided by the division into classes, whose rates may be  
15 readjusted at ~~such~~ times as the division may actuarially  
16 determine. Separate accounts ~~shall~~ must be kept of the  
17 amounts collected and expended in each class for actuarially  
18 determining rates, ~~but except that the money paid under the~~  
19 medical deductible provided for in [section 1] may not be  
20 included as an amount collected. However, for payment of  
21 compensation and dividends, the industrial insurance  
22 expendable trust fund ~~shall~~ must be one and indivisible.

23       (3) The division shall determine the hazards of the  
24 different classes of occupations or industries and fix the  
25 premiums ~~therefor~~ for the classes at the lowest rate

1 consistent with maintenance of an actuarially sound  
2 industrial insurance fund and the creation of actuarially  
3 sound surplus and reserves, and for ~~such~~ that purpose may  
4 adopt a system of schedule rating in ~~such~~ a manner as to  
5 take account of the peculiar hazard of each risk and shall  
6 utilize the experience and information afforded to it. To  
7 the extent that a hazard of a class or a peculiar hazard of  
8 a particular risk is determined by benefits paid in regard  
9 to the hazard, money paid under a medical deductible as  
10 provided in [section 1] may not be included as benefits  
11 paid.

12       (4) In addition, compensation plan No. 3 ~~shall~~ must  
13 use an experience rating system for employers enrolled under  
14 it. This system ~~shall~~ must reward employers with a better  
15 than average safety record, and penalize employers with a  
16 worse than average safety record, and may provide for  
17 premium volume discount. To the extent that an employer's  
18 experience rating or safety record is based on benefits  
19 paid, money paid under a medical deductible as provided in  
20 [section 1] may not be included as benefits paid so as to  
21 penalize an employer or otherwise harm or lower his  
22 experience rating.

23       (5) The division in fixing rates shall provide for the  
24 expenses of administering the industrial insurance  
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~~ any other reserves and surplus as may be  
5 determined by the division. The amounts of ~~such~~ the reserves  
6 and surplus ~~shall~~ must be as determined from time to time by  
7 the division to be adequate but not excessive for the  
8 purposes intended.

9 (6) The division shall charge a minimum annual premium  
10 on each contract and policy of insurance sufficient to cover  
11 the cost of administering the contract or policy."

12 NEW SECTION. **Section 3. Extension of authority.** Any  
13 existing authority to make rules on the subject of the  
14 provisions of [this act] is extended to the provisions of  
15 [this act].

16 NEW SECTION. **Section 4. Codification instruction.**  
17 [Section 1] is intended to be codified as an integral part  
18 of Title 39, chapter 71, part 4, and the provisions of Title  
19 39, chapter 71, part 4, apply to [section 1].

20 NEW SECTION. **Section 5. Applicability.** [This act]  
21 applies to workers' compensation policies issued after  
22 September 30, 1989, unless an employer and insurer agree to  
23 renegotiate a workers' compensation policy in effect on [the  
24 effective date of this act] to include a term allowing for a  
25 medical deductible.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB315, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 315 requires the State Workers' Compensation Insurance fund and private workers' compensation insurers to allow an employer the option of including a medical deductible term in any workers' compensation policy; providing that benefits paid under a medical deductible term may not be included by the State Workers' Compensation Insurance Fund for the purpose of setting an employer's insurance rate.

ASSUMPTIONS:

1. The computer system must be able to determine when an employer must be billed for reimbursement (recognize when the \$500 minimum has not been satisfied).
2. The system must be able to bill for medical paid against the deductible and receipt payment of reimbursement from the employer. This billing process will also evaluate the employer's account for delinquency:
  - billings for reimbursement will be on the same form as billings for premium.
  - billings for reimbursement will be assigned a reasonable due date in the same manner as premiums.
  - payments received (income) will continue to be applied to the employer's account based on the oldest due date regardless of type of bill.
  - reimbursement payments not received timely will be referred for collection and noticing will take place but policy cancellation will not take place for nonpayment.
  - non payment of the claim deductible will be grounds for reassignment of policy type on the following quarter.
3. The system must be able to reimburse the employer for payments made out of pocket against the medical deductible.
4. The system must be able to identify by employer, classification, and claim summary amounts paid and billed against the deductible.
5. The system must be able to bill a different rate for the deductible option than the non-deductible option.
6. The system will need additional on-line inquiry and batch processing to track and respond to employers.
7. This bill will require the development of an alternative "deductible" rate for each classification code, thereby requiring an actuarial study and rate development process change.
8. 10,000 policyholders will request a deductible option.
9. The State Compensation Insurance Fund will be required to notify its policyholders and change its forms, instructions, letters, etc.
10. This bill will require the addition of two FTE's (grades 10 and 7) in the policy services section and one FTE (grade 8) in the accounting section to respond to questions, process applications and track deductible amounts.



RAY/SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

2/8/89

DATE

PAUL RAPP-SVRCEK, PRIMARY SPONSOR

DATE

Fiscal Note for SB315, as introduced

**SB 315**

Fiscal Note Request SB315 as introduced

Form BD-15

Page 2

FISCAL IMPACT:

	<u>FY90</u>			<u>FY91</u>		
	<u>Current</u>	<u>Proposed</u>		<u>Current</u>	<u>Proposed</u>	
<u>Expenditures:</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
Personal Services	\$5,215,697	\$5,266,744	\$ 51,047	\$5,226,735	\$5,277,782	\$ 51,047
Operating Services	3,138,047	3,262,307	124,260	3,139,044	3,171,044	32,000
Capital Outlay	202,911	214,911	12,000	125,784	125,784	-0-
Local Assistance, Grants						
Benefits & Claims	529,442	529,442	-0-	511,999	511,999	-0-
Transfers	439,815	439,815	-0-	441,165	441,165	-0-
TOTAL EXPENDITURES	\$9,525,912	\$9,713,219	\$187,307	\$9,444,727	\$9,527,774	\$ 83,047

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The additional staff required for this bill and the computer system enhancements will be ongoing costs.

TECHNICAL NOTES:

The changes to computer programs cannot be accomplished by September 30, 1989.

**SB 315**



APPROVED BY COMMITTEE  
ON LABOR & EMPLOYMENT  
RELATIONS

SENATE BILL NO. 315

INTRODUCED BY RAPP-SVRCEK, SMITH, OWENS, BECK, B. BROWN,  
ELLIOTT, STANG, HARP, MERCER, MARKS, THAYER, WILLIAMS,  
VAUGHN, DARKO, VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE  
WORKERS' COMPENSATION INSURANCE FUND AND PRIVATE WORKERS'  
COMPENSATION INSURERS TO ALLOW AN EMPLOYER THE OPTION OF  
INCLUDING A MEDICAL DEDUCTIBLE TERM IN ANY WORKERS'  
COMPENSATION POLICY; PROVIDING THAT BENEFITS PAID UNDER A  
MEDICAL DEDUCTIBLE TERM MAY NOT BE INCLUDED BY THE STATE  
WORKERS' COMPENSATION INSURANCE FUND FOR THE PURPOSE OF  
SETTING AN EMPLOYER'S INSURANCE RATE; AMENDING SECTION  
39-71-2304, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Deductible option for medical  
benefits. (1) In order to lower the amount an employer is  
required to pay to obtain workers' compensation insurance  
coverage under this chapter, a workers' compensation policy  
issued by the state compensation insurance fund under plan  
No. 3 or by a private insurer under plan No. 2 may offer a  
deductible for the medical, hospital, and related services  
allowed under 39-71-704. The medical deductible must be in  
the amount of \$500 OFFERED IN AMOUNTS OF \$500 INCREMENTS, UP

TO A TOTAL OF \$2,500 per claim.

(2) If the insured employer chooses to offer a medical  
deductible, the insured employer is liable for the amount of  
the deductible for the medical benefits paid for each  
otherwise compensable claim of work injury suffered by an  
employee.

(3) The insured employer may: SHALL

~~(a) pay the deductible amount of covered medical~~  
~~benefits directly to the provider of medical or related~~  
~~services; or~~

~~(b) contract with the insurer to have the insurer pay~~  
~~the entire cost of the covered medical benefits directly to~~  
~~the provider of medical or related services and then seek~~  
~~reimbursement from the insured employer for the deductible~~  
~~amount. THE INSURER IS ENTITLED TO REIMBURSEMENT ONLY FOR~~  
~~MEDICAL, HOSPITAL, AND RELATED SERVICES ALLOWED UNDER~~  
~~39-71-704, UP TO THE AMOUNT OF THE DEDUCTIBLE.~~

~~(4) If the insured employer does not pay the~~  
~~deductible amount directly to the medical provider or~~  
~~reimburse the insurer for an amount the insurer has paid out~~  
~~on behalf of the insured employer under the medical~~  
~~deductible, the insurer shall pay the compensable medical~~  
~~claim and seek recovery from the insured employer for the~~  
~~amount paid out under the medical deductible.~~

~~(5)(4)~~ If an insured employer who has contracted with

1 an insurer for a medical deductible does not pay the medical  
2 deductible amount either directly to the medical provider or  
3 to the insurer through reimbursement, the amount paid by the  
4 insurer on the claim may be included as benefits paid in a  
5 determination of the insured employer's rate.

6 **Section 2.** Section 39-71-2304, MCA, is amended to  
7 read:

8 "39-71-2304. Determination of rates and  
9 classifications by division. (1) The division ~~is hereby~~  
10 ~~given full power and authority to~~ shall determine premium  
11 rates and classifications as in its judgment and experience  
12 may be necessary or expedient, ~~provided that no~~ However, a  
13 change in the classification or rates prescribed ~~shall may~~  
14 not be effective until 30 days after the date of the order  
15 making ~~such the~~ change.

16 (2) The industrial insurance program ~~shall must~~ be  
17 neither more nor less than self-supporting. Employments  
18 affected by the provisions ~~hereof shall of this chapter must~~  
19 be divided by the division into classes, whose rates may be  
20 readjusted at ~~such~~ times as the division may actuarially  
21 determine. Separate accounts ~~shall must~~ be kept of the  
22 amounts collected and expended in each class for actuarially  
23 determining rates, but except that the money paid under the  
24 medical deductible provided for in [section 1] may not be  
25 included as an amount collected. However, for payment of

1 compensation and dividends, the industrial insurance  
2 expendable trust fund ~~shall must~~ be one and indivisible.

3 (3) The division shall determine the hazards of the  
4 different classes of occupations or industries and fix the  
5 premiums ~~therefor for the classes~~ at the lowest rate  
6 consistent with maintenance of an actuarially sound  
7 industrial insurance fund and the creation of actuarially  
8 sound surplus and reserves, and for ~~such that~~ purpose may  
9 adopt a system of schedule rating in ~~such~~ a manner as to  
10 take account of the peculiar hazard of each risk and shall  
11 utilize the experience and information afforded to it. To  
12 the extent that a hazard of a class or a peculiar hazard of  
13 a particular risk is determined by benefits paid in regard  
14 to the hazard, money paid under a medical deductible as  
15 provided in [section 1] may not be included as benefits  
16 paid.

17 (4) In addition, compensation plan No. 3 ~~shall must~~  
18 use an experience rating system for employers enrolled under  
19 it. This system ~~shall must~~ reward employers with a better  
20 than average safety record, and penalize employers with a  
21 worse than average safety record, and may provide for  
22 premium volume discount. To the extent that an employer's  
23 experience rating or safety record is based on benefits  
24 paid, money paid under a medical deductible as provided in  
25 [section 1] may not be included as benefits paid so as to

1 penalize an employer or otherwise harm or lower his  
 2 experience rating.

3 (5) The division in fixing rates shall provide for the  
 4 expenses of administering the industrial insurance  
 5 expendable trust fund allowed by law, the disbursements on  
 6 account of injuries and deaths of employees in each class,  
 7 an actuarially sound catastrophe reserve, reserves  
 8 actuarially determined to meet anticipated and unexpected  
 9 losses, and such any other reserves and surplus as may be  
 10 determined by the division. The amounts of such the reserves  
 11 and surplus ~~shall~~ must be as determined from time to time by  
 12 the division to be adequate but not excessive for the  
 13 purposes intended.

14 (6) The division shall charge a minimum annual premium  
 15 on each contract and policy of insurance sufficient to cover  
 16 the cost of administering the contract or policy."

17 NEW SECTION. Section 3. Extension of authority. Any  
 18 existing authority to make rules on the subject of the  
 19 provisions of [this act] is extended to the provisions of  
 20 [this act].

21 NEW SECTION. Section 4. Codification instruction.  
 22 [Section 1] is intended to be codified as an integral part  
 23 of Title 39, chapter 71, part 4, and the provisions of Title  
 24 39, chapter 71, part 4, apply to [section 1].

25 NEW SECTION. Section 5. Applicability. [This act]

1 applies to workers' compensation policies issued after  
 2 September 30, 1989, unless an employer and insurer agree to  
 3 renegotiate a workers' compensation policy in effect on [the  
 4 effective date of this act] to include a term allowing for a  
 5 medical deductible.

-End-

## SENATE BILL NO. 315

INTRODUCED BY RAPP-SVRCEK, SMITH, OWENS, BECK, B. BROWN,  
ELLIOTT, STANG, HARP, MERCER, MARKS, THAYER, WILLIAMS,  
VAUGHN, DARKO, VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE  
WORKERS' COMPENSATION INSURANCE FUND AND PRIVATE WORKERS'  
COMPENSATION INSURERS TO ALLOW AN EMPLOYER THE OPTION OF  
INCLUDING A MEDICAL DEDUCTIBLE TERM IN ANY WORKERS'  
COMPENSATION POLICY; PROVIDING THAT BENEFITS PAID UNDER A  
MEDICAL DEDUCTIBLE TERM MAY NOT BE INCLUDED BY THE STATE  
WORKERS' COMPENSATION INSURANCE FUND FOR THE PURPOSE OF  
SETTING AN EMPLOYER'S INSURANCE RATE; AMENDING SECTION  
39-71-2304, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Deductible option for medical  
benefits. (1) In order to lower the amount an employer is  
required to pay to obtain workers' compensation insurance  
coverage under this chapter, a workers' compensation policy  
issued by the state compensation insurance fund under plan  
No. 3 or by a private insurer under plan No. 2 may offer a  
deductible for the medical, hospital, and related services  
allowed under 39-71-704. The medical deductible must be in  
the amount of \$500 OFFERED IN AMOUNTS OF \$500 INCREMENTS, UP

TO A TOTAL OF \$2,500 per claim.

(2) If the insured employer chooses to offer a medical  
deductible, the insured employer is liable for the amount of  
the deductible for the medical benefits paid for each  
otherwise compensable claim of work injury suffered by an  
employee.

(3) The insured employer may: SHALL

~~(a) pay the deductible amount of covered medical~~  
~~benefits directly to the provider of medical or related~~  
~~services; or~~

~~(b) contract with the insurer to have the insurer pay~~  
~~the entire cost of the covered medical benefits directly to~~  
~~the provider of medical or related services and then seek~~  
~~reimbursement from the insured employer for the deductible~~  
~~amount. THE INSURER IS ENTITLED TO REIMBURSEMENT ONLY FOR~~  
~~MEDICAL, HOSPITAL, AND RELATED SERVICES ALLOWED UNDER~~  
~~39-71-704, UP TO THE AMOUNT OF THE DEDUCTIBLE.~~

~~(4) If the insured employer does not pay the~~  
~~deductible amount directly to the medical provider or~~  
~~reimburse the insurer for an amount the insurer has paid out~~  
~~on behalf of the insured employer under the medical~~  
~~deductible, the insurer shall pay the compensable medical~~  
~~claim and seek recovery from the insured employer for the~~  
~~amount paid out under the medical deductible.~~

~~(5) (4) If an insured employer who has contracted with~~

an insurer for a medical deductible does not pay the medical deductible amount either directly to the medical provider or to the insurer through reimbursement, the amount paid by the insurer on the claim may be included as benefits paid in a determination of the insured employer's rate.

**Section 2.** Section 39-71-2304, MCA, is amended to read:

"39-71-2304. Determination of rates and classifications by division. (1) The division ~~is hereby given full power and authority to~~ shall determine premium rates and classifications as in its judgment and experience may be necessary or expedient, ~~provided that no~~ However, a change in the classification or rates prescribed ~~shall may~~ not be effective until 30 days after the date of the order making such the change.

(2) The industrial insurance program ~~shall must~~ be neither more nor less than self-supporting. Employments affected by the provisions ~~hereof shall~~ of this chapter must be divided by the division into classes, whose rates may be readjusted at such times as the division may actuarially determine. Separate accounts ~~shall must~~ be kept of the amounts collected and expended in each class for actuarially determining rates, but except that the money paid under the medical deductible provided for in [section 1] may not be included as an amount collected. However, for payment of

compensation and dividends, the industrial insurance expendable trust fund ~~shall must~~ be one and indivisible.

(3) The division shall determine the hazards of the different classes of occupations or industries and fix the premiums therefor for the classes at the lowest rate consistent with maintenance of an actuarially sound industrial insurance fund and the creation of actuarially sound surplus and reserves, and for ~~such that~~ that purpose may adopt a system of schedule rating in such a manner as to take account of the peculiar hazard of each risk and shall utilize the experience and information afforded to it. To the extent that a hazard of a class or a peculiar hazard of a particular risk is determined by benefits paid in regard to the hazard, money paid under a medical deductible as provided in [section 1] may not be included as benefits paid.

(4) In addition, compensation plan No. 3 ~~shall must~~ use an experience rating system for employers enrolled under it. This system ~~shall must~~ reward employers with a better than average safety record, and penalize employers with a worse than average safety record, and may provide for premium volume discount. To the extent that an employer's experience rating or safety record is based on benefits paid, money paid under a medical deductible as provided in [section 1] may not be included as benefits paid so as to

1 penalize an employer or otherwise harm or lower his  
 2 experience rating.

3 (5) The division in fixing rates shall provide for the  
 4 expenses of administering the industrial insurance  
 5 expendable trust fund allowed by law, the disbursements on  
 6 account of injuries and deaths of employees in each class,  
 7 an actuarially sound catastrophe reserve, reserves  
 8 actuarially determined to meet anticipated and unexpected  
 9 losses, and ~~such~~ any other reserves and surplus as may be  
 10 determined by the division. The amounts of ~~such~~ the reserves  
 11 and surplus ~~shall~~ must be as determined from time to time by  
 12 the division to be adequate but not excessive for the  
 13 purposes intended.

14 (6) The division shall charge a minimum annual premium  
 15 on each contract and policy of insurance sufficient to cover  
 16 the cost of administering the contract or policy."

17 NEW SECTION. Section 3. Extension of authority. Any  
 18 existing authority to make rules on the subject of the  
 19 provisions of [this act] is extended to the provisions of  
 20 [this act].

21 NEW SECTION. Section 4. Codification instruction.  
 22 [Section 1] is intended to be codified as an integral part  
 23 of Title 39, chapter 71, part 4, and the provisions of Title  
 24 39, chapter 71, part 4, apply to [section 1].

25 NEW SECTION. Section 5. Applicability. [This act]

1 applies to workers' compensation policies issued after  
 2 September 30, 1989, unless an employer and insurer agree to  
 3 renegotiate a workers' compensation policy in effect on [the  
 4 effective date of this act] to include a term allowing for a  
 5 medical deductible.

-End-

## SENATE BILL NO. 315

INTRODUCED BY RAPP-SVRCEK, SMITH, OWENS, BECK, B. BROWN,  
ELLIOTT, STANG, HARP, MERCER, MARKS, THAYER, WILLIAMS,  
VAUGHN, DARKO, VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE  
WORKERS' COMPENSATION INSURANCE FUND AND PRIVATE WORKERS'  
COMPENSATION INSURERS TO ALLOW AN EMPLOYER THE OPTION OF  
INCLUDING A MEDICAL DEDUCTIBLE TERM IN ANY WORKERS'  
COMPENSATION POLICY; PROVIDING THAT BENEFITS PAID UNDER A  
MEDICAL DEDUCTIBLE TERM MAY NOT BE INCLUDED BY THE STATE  
WORKERS' COMPENSATION INSURANCE FUND FOR THE PURPOSE OF  
SETTING AN EMPLOYER'S INSURANCE RATE; AMENDING SECTION  
39-71-2304, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Deductible option for medical  
benefits. (1) In order to lower the amount an employer is  
required to pay to obtain workers' compensation insurance  
coverage under this chapter, a workers' compensation policy  
issued by the state compensation insurance fund under plan  
No. 3 or by a private insurer under plan No. 2 may offer a  
deductible for the medical, hospital, and related services  
allowed under 39-71-704. The medical deductible must be in  
the amount of \$500 OFFERED IN AMOUNTS OF \$500 INCREMENTS, UP

TO A TOTAL OF \$2,500 per claim.

(2) If the insured employer chooses to offer a medical  
deductible, the insured employer is liable for the amount of  
the deductible for the medical benefits paid for each  
otherwise compensable claim of work injury suffered by an  
employee.

(3) The insured employer may: SHALL

~~{a}--pay--the--deductible--amount--of--covered--medical~~  
~~benefits--directly--to--the--provider--of--medical--or--related~~  
~~services;--or~~

~~{b} contract with the insurer to have the insurer pay~~  
~~the entire cost of the covered medical benefits directly to~~  
~~the provider of medical or related services and then seek~~  
~~reimbursement from the insured employer for the deductible~~  
~~amount. THE INSURER IS ENTITLED TO REIMBURSEMENT ONLY FOR~~  
~~MEDICAL, HOSPITAL, AND RELATED SERVICES ALLOWED UNDER~~  
~~39-71-704, UP TO THE AMOUNT OF THE DEDUCTIBLE.~~

~~{4}--if--the--insured--employer--does--not--pay--the~~  
~~deductible--amount--directly--to--the--medical--provider--or~~  
~~reimburse--the--insurer--for--an--amount--the--insurer--has--paid--out~~  
~~on--behalf--of--the--insured--employer--under--the--medical~~  
~~deductible,--the--insurer--shall--pay--the--compensable--medical~~  
~~claim--and--seek--recovery--from--the--insured--employer--for--the~~  
~~amount--paid--out--under--the--medical--deductible.~~

~~{5}{4}~~ If an insured employer who has contracted with

an insurer for a medical deductible does not pay the medical deductible amount either directly to the medical provider or to the insurer through reimbursement, the amount paid by the insurer on the claim may be included as benefits paid in a determination of the insured employer's rate.

**Section 2.** Section 39-71-2304, MCA, is amended to read:

"39-71-2304. Determination of rates and classifications by division. (1) The division ~~is hereby given full power and authority to shall~~ determine premium rates and classifications as in its judgment and experience may be necessary or expedient, ~~provided that no~~ However, a change in the classification or rates prescribed ~~shall may~~ not be effective until 30 days after the date of the order making such the change.

(2) The industrial insurance program ~~shall must~~ be neither more nor less than self-supporting. Employments affected by the provisions hereof ~~shall of this chapter must~~ be divided by the division into classes, whose rates may be readjusted at such times as the division may actuarially determine. Separate accounts ~~shall must~~ be kept of the amounts collected and expended in each class for actuarially determining rates, but except that the money paid under the medical deductible provided for in [section 1] may not be included as an amount collected. However, for payment of

compensation and dividends, the industrial insurance expendable trust fund ~~shall must~~ be one and indivisible.

(3) The division shall determine the hazards of the different classes of occupations or industries and fix the premiums therefor for the classes at the lowest rate consistent with maintenance of an actuarially sound industrial insurance fund and the creation of actuarially sound surplus and reserves, and for ~~such that~~ purpose may adopt a system of schedule rating in such a manner as to take account of the peculiar hazard of each risk and shall utilize the experience and information afforded to it. To the extent that a hazard of a class or a peculiar hazard of a particular risk is determined by benefits paid in regard to the hazard, money paid under a medical deductible as provided in [section 1] may not be included as benefits paid.

(4) In addition, compensation plan No. 3 ~~shall must~~ use an experience rating system for employers enrolled under it. This system ~~shall must~~ reward employers with a better than average safety record, and penalize employers with a worse than average safety record, and may provide for premium volume discount. To the extent that an employer's experience rating or safety record is based on benefits paid, money paid under a medical deductible as provided in [section 1] may not be included as benefits paid so as to



1 penalize an employer or otherwise harm or lower his  
 2 experience rating.

3 (5) The division in fixing rates shall provide for the  
 4 expenses of administering the industrial insurance  
 5 expendable trust fund allowed by law, the disbursements on  
 6 account of injuries and deaths of employees in each class,  
 7 an actuarially sound catastrophe reserve, reserves  
 8 actuarially determined to meet anticipated and unexpected  
 9 losses, and ~~such~~ any other reserves and surplus as may be  
 10 determined by the division. The amounts of ~~such~~ the reserves  
 11 and surplus ~~shall~~ must be as determined from time to time by  
 12 the division to be adequate but not excessive for the  
 13 purposes intended.

14 (6) The division shall charge a minimum annual premium  
 15 on each contract and policy of insurance sufficient to cover  
 16 the cost of administering the contract or policy."

17 NEW SECTION. Section 3. Extension of authority. Any  
 18 existing authority to make rules on the subject of the  
 19 provisions of [this act] is extended to the provisions of  
 20 [this act].

21 NEW SECTION. Section 4. Codification instruction.  
 22 [Section 1] is intended to be codified as an integral part  
 23 of Title 39, chapter 71, part 4, and the provisions of Title  
 24 39, chapter 71, part 4, apply to [section 1].

25 NEW SECTION. Section 5. Applicability. [This act]

1 applies to workers' compensation policies issued after  
 2 September 30, 1989, unless an employer and insurer agree to  
 3 renegotiate a workers' compensation policy in effect on [the  
 4 effective date of this act] to include a term allowing for a  
 5 medical deductible.

-End-

Free Conference Committee Report  
on SB 315  
Report No. 1, April 14, 1989

Mr President and Mr. Speaker:

We, your Free Conference Committee on SB 315 met and considered:  
SB 315 (reference copy -- salmon) in its entirety

We recommend that SB 315 (reference copy -- salmon) be amended as follows:

1. Title, line 6.

Following: "AN ACT"

Insert: "GENERALLY REVISING THE LAW RELATING TO WORKERS' COMPENSATION;"

2. Title, line 14.

Following: "MCA;"

Insert: "CONTINGENTLY REPEALING CHAPTER 428, LAWS OF 1989;"

3. Page 3, line 2.

Strike: "either directly to the medical provider or"

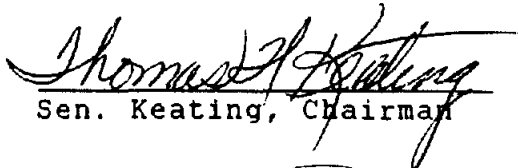
4. Page 6.

Following: line 5

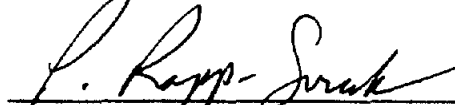
Insert: "NEW SECTION. Section 6. Contingent repealer. If Senate Bill 405 is not passed and approved, Chapter 428, Laws of 1989, is repealed."

And that this Free Conference Committee Report be adopted.


FOR THE SENATE

  
Sen. Keating, Chairman

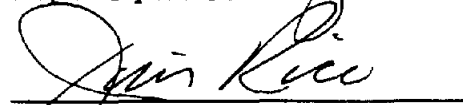
  
Sen. Aklestad

  
Sen. Rapp-Svrcek

FOR THE HOUSE

  
Rep. Driscoll, Chairman

  
Rep. Squires

  
Rep. Rice

ADOPT

REJECT

SB 315

## SENATE BILL NO. 315

INTRODUCED BY RAPP-SVRCEK, SMITH, OWENS, BECK, B. BROWN,  
ELLIOTT, STANG, HARP, MERCER, MARKS, THAYER, WILLIAMS,  
VAUGHN, DARKO, VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
LAW RELATING TO WORKERS' COMPENSATION; REQUIRING THE STATE  
WORKERS' COMPENSATION INSURANCE FUND AND PRIVATE WORKERS'  
COMPENSATION INSURERS TO ALLOW AN EMPLOYER THE OPTION OF  
INCLUDING A MEDICAL DEDUCTIBLE TERM IN ANY WORKERS'  
COMPENSATION POLICY; PROVIDING THAT BENEFITS PAID UNDER A  
MEDICAL DEDUCTIBLE TERM MAY NOT BE INCLUDED BY THE STATE  
WORKERS' COMPENSATION INSURANCE FUND FOR THE PURPOSE OF  
SETTING AN EMPLOYER'S INSURANCE RATE; AMENDING SECTION  
39-71-2304, MCA; CONTINGENTLY REPEALING CHAPTER 428, LAWS OF  
1989; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1.** Deductible option for medical  
benefits. (1) In order to lower the amount an employer is  
required to pay to obtain workers' compensation insurance  
coverage under this chapter, a workers' compensation policy  
issued by the state compensation insurance fund under plan  
No. 3 or by a private insurer under plan No. 2 may offer a  
deductible for the medical, hospital, and related services

allowed under 39-71-704. The medical deductible must be in  
the-amount-of-\$500 OFFERED IN AMOUNTS OF \$500 INCREMENTS, UP  
TO A TOTAL OF \$2,500 per claim.

(2) If the insured employer chooses to offer a medical  
deductible, the insured employer is liable for the amount of  
the deductible for the medical benefits paid for each  
otherwise compensable claim of work injury suffered by an  
employee.

(3) The insured employer may: SHALL

~~{a}--pay--the--deductible--amount--of--covered--medical~~  
~~benefits--directly--to--the--provider--of--medical--or--related~~  
~~services;--or~~

~~{b} contract with the insurer to have the insurer pay~~  
~~the entire cost of the covered medical benefits directly to~~  
~~the provider of medical or related services and then seek~~  
~~reimbursement from the insured employer for the deductible~~  
~~amount. THE INSURER IS ENTITLED TO REIMBURSEMENT ONLY FOR~~  
~~MEDICAL, HOSPITAL, AND RELATED SERVICES ALLOWED UNDER~~  
~~39-71-704, UP TO THE AMOUNT OF THE DEDUCTIBLE.~~

~~{a}--if--the--insured--employer--does--not--pay--the~~  
~~deductible--amount--directly--to--the--medical--provider--or~~  
~~reimburse--the--insurer--for--an--amount--the--insurer--has--paid--out~~  
~~on--behalf--of--the--insured--employer--under--the--medical~~  
~~deductible;--the--insurer--shall--pay--the--compensable--medical~~  
~~claim--and--seek--recovery--from--the--insured--employer--for--the~~

1 ~~amount-paid-out-under-the-medical-deductible:~~

2 ~~{5}{4}~~ If an insured employer who has contracted with  
3 an insurer for a medical deductible does not pay the medical  
4 deductible amount ~~either-directly-to-the-medical-provider-or~~  
5 to the insurer through reimbursement, the amount paid by the  
6 insurer on the claim may be included as benefits paid in a  
7 determination of the insured employer's rate.

8 **Section 2.** Section 39-71-2304, MCA, is amended to  
9 read:

10 "39-71-2304. Determination of rates and  
11 classifications by division. (1) The division ~~is hereby~~  
12 ~~given full power and authority to~~ shall determine premium  
13 rates and classifications as in its judgment and experience  
14 may be necessary or expedient, ~~provided that no~~ However, a  
15 change in the classification or rates prescribed ~~shall may~~  
16 not be effective until 30 days after the date of the order  
17 making such the change.

18 (2) The industrial insurance program ~~shall must~~ be  
19 neither more nor less than self-supporting. Employments  
20 affected by the provisions ~~hereof shall~~ of this chapter must  
21 be divided by the division into classes, whose rates may be  
22 readjusted at such times as the division may actuarially  
23 determine. Separate accounts ~~shall must~~ be kept of the  
24 amounts collected and expended in each class for actuarially  
25 determining rates, but except that the money paid under the

1 medical deductible provided for in [section 1] may not be  
2 included as an amount collected. However, for payment of  
3 compensation and dividends, the industrial insurance  
4 expendable trust fund ~~shall must~~ be one and indivisible.

5 (3) The division shall determine the hazards of the  
6 different classes of occupations or industries and fix the  
7 premiums ~~therefor for the classes~~ at the lowest rate  
8 consistent with maintenance of an actuarially sound  
9 industrial insurance fund and the creation of actuarially  
10 sound surplus and reserves, and for ~~such that~~ purpose may  
11 adopt a system of schedule rating in such a manner as to  
12 take account of the peculiar hazard of each risk and shall  
13 utilize the experience and information afforded to it. To  
14 the extent that a hazard of a class or a peculiar hazard of  
15 a particular risk is determined by benefits paid in regard  
16 to the hazard, money paid under a medical deductible as  
17 provided in [section 1] may not be included as benefits  
18 paid.

19 (4) In addition, compensation plan No. 3 ~~shall must~~  
20 use an experience rating system for employers enrolled under  
21 it. This system ~~shall must~~ reward employers with a better  
22 than average safety record, and penalize employers with a  
23 worse than average safety record, and may provide for  
24 premium volume discount. To the extent that an employer's  
25 experience rating or safety record is based on benefits

1 paid, money paid under a medical deductible as provided in  
 2 [section 1] may not be included as benefits paid so as to  
 3 penalize an employer or otherwise harm or lower his  
 4 experience rating.

5 (5) The division in fixing rates shall provide for the  
 6 expenses of administering the industrial insurance  
 7 expendable trust fund allowed by law, the disbursements on  
 8 account of injuries and deaths of employees in each class,  
 9 an actuarially sound catastrophe reserve, reserves  
 10 actuarially determined to meet anticipated and unexpected  
 11 losses, and such any other reserves and surplus as may be  
 12 determined by the division. The amounts of such the reserves  
 13 and surplus shall must be as determined from time to time by  
 14 the division to be adequate but not excessive for the  
 15 purposes intended.

16 (6) The division shall charge a minimum annual premium  
 17 on each contract and policy of insurance sufficient to cover  
 18 the cost of administering the contract or policy."

19 NEW SECTION. Section 3. Extension of authority. Any  
 20 existing authority to make rules on the subject of the  
 21 provisions of [this act] is extended to the provisions of  
 22 [this act].

23 NEW SECTION. Section 4. Codification instruction.  
 24 [Section 1] is intended to be codified as an integral part  
 25 of Title 39, chapter 71, part 4, and the provisions of Title

1 39, chapter 71, part 4, apply to [section 1].

2 NEW SECTION. Section 5. Applicability. [This act]  
 3 applies to workers' compensation policies issued after  
 4 September 30, 1989, unless an employer and insurer agree to  
 5 renegotiate a workers' compensation policy in effect on [the  
 6 effective date of this act] to include a term allowing for a  
 7 medical deductible.

8 NEW SECTION. SECTION 6. CONTINGENT REPEALER. IF  
 9 SENATE BILL NO. 405 IS NOT PASSED AND APPROVED, CHAPTER 428,  
 10 LAWS OF 1989, IS REPEALED.

-End-

GOVERNOR'S AMENDMENTS  
TO SENATE BILL 315  
(REFERENCE COPY)  
April 5, 1989

1. Page 3, line 2.  
Strike: "either directly to the medical provider or"

-END-

SB 315