

SENATE BILL 425

Introduced by Harp

2/14	Introduced
2/14	Referred to Judiciary
2/15	Fiscal Note Requested
2/17	Hearing
2/17	Committee Report--Bill Passed
2/20	2nd Read Do Pass Motion Failed
2/20	2nd Reading Indefinitely Postponed
2/21	Fiscal Note Received

1 *Sen. HARP* BILL NO. *425*
2 INTRODUCED BY *HARP*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE OFFICE
5 OF WORKERS' COMPENSATION JUDGE; ESTABLISHING THE BOARD OF
6 INDUSTRIAL BENEFITS; PROVIDING FOR TRANSITION; AMENDING
7 SECTIONS 39-71-116, 39-71-204, 39-71-317, 39-71-414,
8 39-71-415, 39-71-611, 39-71-612, 39-71-614, 39-71-711,
9 39-71-741, 39-71-910, 39-71-1018, 39-71-1032, 39-71-1033,
10 39-71-2401, 39-71-2406, 39-71-2408, 39-71-2411, 39-72-102,
11 39-72-610 THROUGH 39-72-613, MCA; REPEALING SECTIONS
12 2-15-1014 AND 39-71-2901 THROUGH 39-71-2914, MCA; AND
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
14

15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because
17 it grants the board of industrial benefits authority to
18 adopt rules necessary for the performance of its duties.

19 It is the intent of the legislature that the board may
20 make rules necessary to carry out its purpose of reviewing
21 and deciding disputes under the workers' compensation and
22 occupational disease laws of this state. The board may make
23 rules regarding the conduct of its hearings and the
24 qualifications, appointment, and disqualification of its
25 hearing examiners so that decisions are rendered in a fair

1 and efficient manner. The common law and statutory rules of
2 evidence do not apply to hearings before the board but may
3 be referred to as appropriate for guidance in conducting
4 hearings.

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

6 NEW SECTION. **Section 1.** Board of industrial benefits
7 -- allocation -- composition -- salaries -- expenses --
8 rules. (1) There is a board of industrial benefits.

9
10 (2) The board is allocated to the department of
11 administration for administrative purposes only as provided
12 in 2-15-121. However, the board may hire its own personnel.

13 (3) The board is composed of three members appointed
14 by the governor as prescribed in 2-15-124.

15 (4) One member of the board shall have the
16 qualifications necessary for district court judges found in
17 Article VII, section 9, of the Montana constitution and is
18 designated the ex-officio workers' compensation judge. This
19 member shall have jurisdiction and authority to act as
20 workers' compensation judge as may be required.

21 (5) The board is designated a quasi-judicial board for
22 the purposes of 2-15-124. In addition to other benefits
23 provided state employees, each member of the board shall
24 receive an annual salary of \$45,000. While in office, a
25 member of the board shall devote his full time to board

1 duties and may not engage in any other profession,
2 occupation, or business.

3 (6) The purpose of the board is to review and decide
4 disputes arising out of the workers' compensation and
5 occupational disease laws of this state as provided in Title
6 39, chapters 71 and 72.

7 (7) All expenditures of the board, including but not
8 limited to salaries, benefits, travel expenses, rent,
9 equipment, and supplies, must be paid out of the workers'
10 compensation administration fund.

11 (8) The board may adopt rules necessary for the
12 performance of its duties.

13 **NEW SECTION. Section 2. Transition schedule -- terms**
14 **-- prehearing orders -- equipment and supplies.** Beginning on
15 [the effective date of this act], the judge of the workers'
16 compensation court and the members of the board of
17 industrial benefits shall cooperate as follows to assure a
18 smooth transfer of duties, equipment, and supplies:

19 (1) The board of industrial benefits shall be
20 appointed and activated on [the effective date of this act].
21 On July 1, 1989, the board shall acquire jurisdiction over
22 all cases not yet brought to hearing before the workers'
23 compensation court. The term of the workers' compensation
24 judge expires when decisions have been written on all cases
25 brought to hearing before July 1, 1989, and when any other

1 necessary business is concluded, except that the term
2 expires no later than December 31, 1989. Any decision or
3 other business not concluded by the court on December 31,
4 1989, comes under the jurisdiction of the board.

5 (2) The workers' compensation court shall accept
6 petitions and continue to conduct prehearing proceedings
7 through June 30, 1989. When, on July 1, 1989, the board
8 assumes jurisdiction over cases that have been filed with
9 but not heard by the workers' compensation court, the
10 parties to a case in which there have been prehearing orders
11 and the board are bound by the prehearing orders of the
12 court.

13 (3) On July 1, 1989, all equipment and supplies of the
14 workers' compensation court are transferred to the board.
15 The board shall provide staff, equipment, and supplies as
16 necessary to the workers' compensation judge during the
17 transition period from July 1, 1989, through December 31,
18 1989.

19 **NEW SECTION. Section 3. Hearing examiners -- evidence**
20 **-- rules.** (1) The board shall appoint impartial hearing
21 examiners to hear and decide disputed claims as necessary
22 for the proper administration of chapters 71 and 72 of this
23 title.

24 (2) A hearing examiner may not conduct a hearing in a
25 case in which he is an interested party. The board may

1 appoint a substitute to serve in the absence or
2 disqualification of a hearing examiner.

3 (3) The board and hearing examiners shall conduct
4 hearings as provided in Title 2, chapter 4, part 6, to the
5 extent that part 6 is applicable.

6 (4) In a hearing before the board or a hearing
7 examiner, the common law and statutory rules of evidence do
8 not apply. The board may adopt rules as are necessary to
9 provide procedures for conducting hearings before the board
10 and hearing examiners.

11 NEW SECTION. **Section 4. Jurisdiction.** (1) The board
12 has jurisdiction over a dispute arising under chapters 71
13 and 72 of this title concerning benefits, unless a provision
14 in chapter 71 or 72 gives another entity original
15 jurisdiction.

16 (2) The division of workers' compensation has
17 jurisdiction over a dispute:

18 (a) arising under chapter 71 or 72 not concerning
19 benefits; or

20 (b) if a specific provision of chapter 71 or 72 gives
21 the division original jurisdiction.

22 (3) An appeal may be made to the board from a final
23 order of the division.

24 (4) The board has continuing jurisdiction over all
25 prior orders of the board issued under chapters 71 and 72 of

1 this title. It may modify a prior order for good cause and
2 on a showing by the claimant or insurer that the conditions
3 or circumstances of the claimant have changed.

4 NEW SECTION. **Section 5. Petition.** A claimant or an
5 insurer who has a dispute concerning any benefits under
6 chapter 71 or 72 of this title may petition the board for a
7 determination of the dispute after satisfying dispute
8 resolution requirements otherwise provided in this chapter.
9 The board or hearing examiner, after a hearing, shall make a
10 determination of the dispute in accordance with the law as
11 set forth in chapters 71 and 72 of this title. If the
12 dispute relates to benefits due a claimant under chapter 71
13 or 72, the board or hearing examiner shall fix and determine
14 any benefits to be paid and specify the manner of payment.
15 The penalties and assessments allowed against an insurer
16 under chapters 71 and 72 are the exclusive penalties and
17 assessments that can be assessed by the board and its
18 hearing examiners against an insurer for a dispute arising
19 under chapter 71 or 72.

20 NEW SECTION. **Section 6. Procedure.** (1) (a) In a case
21 arising out of chapter 71 or 72 of this title, the parties
22 must first pursue mediation. If the dispute is not resolved
23 through mediation, a party may petition the board for a
24 hearing. A hearing must be held by a hearing examiner who
25 shall make findings of fact, conclusions of law, and an

1 order that must be furnished to each party.

2 (b) The order of the hearing examiner is final and
3 binding unless a party initiates further review by the board
4 within 30 days after it is mailed to the last-known address
5 of the party. This period may be extended by the board for
6 good cause.

7 (2) In all cases, findings of fact must be based
8 exclusively on the evidence in the record and on matters
9 officially noticed. If findings of fact are set forth in
10 statutory language, they must be accompanied by a concise
11 and explicit statement of the underlying facts supporting
12 the findings. Each conclusion of law must be supported by
13 legal authority, a reasoned opinion, or both.

14 NEW SECTION. Section 7. Review by board. (1) (a) An
15 interested party who is dissatisfied with a decision of a
16 hearing examiner, or of the division if the division has
17 initial jurisdiction, may request review by the board.

18 (b) The hearing examiner or division shall promptly
19 transmit to the board all records pertinent to the review
20 including a transcript if one was prepared. The party
21 requesting the review shall pay all costs of preparing a
22 transcript and transmitting the record to the board.

23 (2) The board shall confine its review to the record
24 before the hearing examiner or the division, except that the
25 board may allow a party to present additional evidence if

1 the board finds:

2 (a) the additional evidence is material; and

3 (b) there was a good reason for the party's failure to
4 present the offered evidence to the hearing examiner or the
5 division.

6 (3) The board may remand a case to the hearing
7 examiner or the division if the board finds that further
8 proceedings at that level are appropriate.

9 (4) The board may reject the conclusions of law and
10 interpretations of administrative rules of the hearing
11 examiner or the division but may not reject or modify the
12 findings of fact unless it determines from the review of the
13 record, and states with particularity in the order, that:

14 (a) the findings were not based on competent
15 substantial evidence; or

16 (b) the proceedings on which the findings were based
17 did not comply with essential requirements of law.

18 (5) When the board renders an order and furnishes a
19 copy of the order to each party, the order is final unless a
20 party requests a rehearing within 10 days or initiates
21 judicial review within 30 days of the date the final order
22 was mailed to the party's last-known address.

23 NEW SECTION. Section 8. Finality of board's decision
24 -- judicial review. (1) Within 30 days after the date of
25 mailing of the board's final order, a party may seek

judicial review of the order by filing a petition for judicial review in the district court of the county in which the party resides. The petition must be served on the board and all interested parties in the manner provided in the Montana Rules of Civil Procedure. On its own motion, the division or board must be made a party.

(2) Except as provided in [sections 7 through 11] the provisions of Title 2, chapter 4, part 7, apply to a proceeding for judicial review.

NEW SECTION. Section 9. Witness fee. A witness subpoenaed for a hearing before the board or a hearing examiner is allowed a fee at a rate fixed by the board. In the case of a dispute arising under chapter 71 or 72 of this title, the fee must be paid by the party subpoenaing the witness unless costs are awarded to a claimant as provided in those chapters.

NEW SECTION. Section 10. Increase in award for unreasonable delay or unreasonable refusal to pay. If an insurer unreasonably delays or unreasonably refuses payment of a workers' compensation or occupational disease claim, either before or after issuance of an order, the hearing examiner or board may increase by a 20% penalty the amount of compensation benefits due the claimant between the time compensation benefits were delayed or refused and the date of the order granting a claimant compensation benefits. This

penalty may be imposed only once for the same period.

(2) The hearing examiner or board shall determine the issue of unreasonable delay or unreasonable refusal to pay. The finding is good cause to rescind, alter, or amend an order, decision, or award previously made by adding the penalty provided by subsection (1).

(3) A finding of unreasonableness under this section does not constitute a finding that the insurer acted in bad faith or violated the unfair trade practices provisions of Title 33, chapter 18.

NEW SECTION. Section 11. Signing of petitions, pleadings, motions, and other papers -- requirements -- sanctions. (1) Every petition, pleading, motion, or other paper of a party appearing before the board or a hearing examiner and represented by an attorney must be signed by at least one attorney of record in his individual name. The signer's address also must be stated. A party who is not represented by an attorney shall sign his petition, pleading, motion, or other paper and state his address.

(2) The signature of an attorney or party constitutes certification by him that:

(a) he has read the petition, pleading, motion, or other paper;

(b) to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded

1 in fact;

2 (c) it is warranted by existing law or by a good-faith
3 argument for the extension, modification, or reversal of
4 existing law; and

5 (d) it is not interposed for any improper purpose,
6 such as to harass or to cause unnecessary delay or needless
7 increase in the cost of litigation.

8 (3) If a petition, pleading, motion, or other paper is
9 signed in violation of this section, the board or hearing
10 examiner, upon motion or upon its own initiative, shall
11 impose an appropriate sanction upon the person who signed
12 it, a represented party, or both. The sanction may include
13 an order to pay to the other party or parties the amount of
14 the reasonable expense incurred because of the filing of the
15 petition, pleading, motion, or other paper, including
16 reasonable attorney fees.

17 **NEW SECTION. Section 12.** Board modification of awards
18 of workers' compensation court. Under chapters 71 and 72 of
19 this title, the board may, on petition of a claimant or an
20 insurer showing that the claimant's disability has changed,
21 review, diminish, or increase the benefits awarded by the
22 workers' compensation judge prior to January 1, 1990, or
23 received under a settlement agreement entered into prior to
24 July 1, 1989.

25 **Section 13.** Section 39-71-116, MCA, is amended to

1 read:

2 "39-71-116. **Definitions.** Unless the context otherwise
3 requires, words and phrases employed in this chapter have
4 the following meanings:

5 (1) "Average weekly wage" means the mean weekly
6 earnings of all employees under covered employment, as
7 defined and established annually by the Montana department
8 of labor and industry. It is established at the nearest
9 whole dollar number and must be adopted by the division of
10 workers' compensation prior to July 1 of each year.

11 (2) "Beneficiary" means:

12 (a) a surviving spouse living with or legally entitled
13 to be supported by the deceased at the time of injury;

14 (b) an unmarried child under the age of 18 years;

15 (c) an unmarried child under the age of 22 years who
16 is a full-time student in an accredited school or is
17 enrolled in an accredited apprenticeship program;

18 (d) an invalid child over the age of 18 years who is
19 dependent upon the decedent for support at the time of
20 injury;

21 (e) a parent who is dependent upon the decedent for
22 support at the time of the injury (however, such a parent is
23 a beneficiary only when no beneficiary, as defined in
24 subsections (2)(a) through (2)(d) of this section, exists);
25 and

1 (f) a brother or sister under the age of 18 years if
 2 dependent upon the decedent for support at the time of the
 3 injury (however, such a brother or sister is a beneficiary
 4 only until the age of 18 years and only when no beneficiary,
 5 as defined in subsections (2)(a) through (2)(e) of this
 6 section, exists).

7 (3) "Board" means the board of industrial benefits
 8 provided for in [section 1].

9 (4) "Casual employment" means employment not in the
 10 usual course of trade, business, profession, or occupation
 11 of the employer.

12 (5) "Child" includes a posthumous child, a
 13 dependent stepchild, and a child legally adopted prior to
 14 the injury.

15 (6) "Days" means calendar days, unless otherwise
 16 specified.

17 (7) "Department" means the department of labor and
 18 industry.

19 (8) "Division" means the division of workers'
 20 compensation of the department of labor and industry
 21 provided for in 2-15-1702.

22 (9) "Fiscal year" means the period of time between
 23 July 1 and the succeeding June 30.

24 (10) "Insurer" means an employer bound by
 25 compensation plan No. 1, an insurance company transacting

1 business under compensation plan No. 2, the state
 2 compensation insurance fund under compensation plan No. 3,
 3 or the uninsured employers' fund provided for in part 5 of
 4 this chapter.

5 (11) "Invalid" means one who is physically or
 6 mentally incapacitated.

7 (12) "Maximum healing" means the status reached
 8 when a worker is as far restored medically as the permanent
 9 character of the work-related injury will permit.

10 (13) "Order" means any decision, rule, direction,
 11 requirement, or standard of the division or any other
 12 determination arrived at or decision made by the division.

13 (14) "Payroll", "annual payroll", or "annual
 14 payroll for the preceding year" means the average annual
 15 payroll of the employer for the preceding calendar year or,
 16 if the employer shall not have operated a sufficient or any
 17 length of time during such calendar year, 12 times the
 18 average monthly payroll for the current year; provided, that
 19 an estimate may be made by the division for any employer
 20 starting in business where no average payrolls are
 21 available, such estimate to be adjusted by additional
 22 payment by the employer or refund by the division, as the
 23 case may actually be, on December 31 of such current year.

24 (15) "Permanent partial disability" means a
 25 condition, after a worker has reached maximum healing, in

1 which a worker:

2 (a) has a medically determined physical restriction as
3 a result of an injury as defined in 39-71-119; and

4 (b) is able to return to work in the worker's job pool
5 pursuant to one of the options set forth in 39-71-1012 but
6 suffers impairment or partial wage loss, or both.

7 ~~{15}~~(16) "Permanent total disability" means a condition
8 resulting from injury as defined in this chapter, after a
9 worker reaches maximum healing, in which a worker is unable
10 to return to work in the worker's job pool after exhausting
11 all options set forth in 39-71-1012.

12 ~~{16}~~(17) The term "physician" includes "surgeon" and in
13 either case means one authorized by law to practice his
14 profession in this state.

15 ~~{17}~~(18) The "plant of the employer" includes the place
16 of business of a third person while the employer has access
17 to or control over such place of business for the purpose of
18 carrying on his usual trade, business, or occupation.

19 ~~{18}~~(19) "Public corporation" means the state or any
20 county, municipal corporation, school district, city, city
21 under commission form of government or special charter,
22 town, or village.

23 ~~{19}~~(20) "Reasonably safe place to work" means that the
24 place of employment has been made as free from danger to the
25 life or safety of the employee as the nature of the

1 employment will reasonably permit.

2 ~~{20}~~(21) "Reasonably safe tools and appliances" are
3 such tools and appliances as are adapted to and are
4 reasonably safe for use for the particular purpose for which
5 they are furnished.

6 ~~{21}~~(22) "Temporary total disability" means a condition
7 resulting from an injury as defined in this chapter that
8 results in total loss of wages and exists until the injured
9 worker reaches maximum healing.

10 ~~{22}~~(23) "Year", unless otherwise specified, means
11 calendar year."

12 **Section 14.** Section 39-71-204, MCA, is amended to
13 read:

14 "39-71-204. Rescission, alteration, or amendment by
15 division of its orders, decisions, or awards -- effect --
16 appeal. (1) The division has continuing jurisdiction over
17 all its orders, decisions, and awards and may, at any time,
18 upon notice, and after opportunity to be heard is given to
19 the parties in interest, rescind, alter, or amend any such
20 order, decision, or award made by it upon good cause
21 appearing therefor.

22 (2) Any order, decision, or award rescinding,
23 altering, or amending a prior order, decision, or award has
24 the same effect as original orders or awards.

25 (3) If a party is aggrieved by a division order, the

1 party may appeal the dispute to the workers¹--compensation
2 judge board."

3 **Section 15.** Section 39-71-317, MCA, is amended to
4 read:

5 "39-71-317. Employer not to terminate worker for
6 filing claim -- preference -- jurisdiction over dispute. (1)
7 An employer may not use as grounds for terminating a worker
8 the filing of a claim under this chapter or chapter 72 of
9 this title.

10 (2) When an injured worker is capable of returning to
11 work within 2 years from the date of injury and has received
12 a medical release to return to work, the worker must be
13 given a preference over other applicants for a comparable
14 position that becomes vacant if the position is consistent
15 with the worker's physical condition and vocational
16 abilities.

17 (3) This preference applies only to employment with
18 the employer for whom the employee was working at the time
19 the injury occurred.

20 (4) The division, department, and workers¹
21 compensation---court board do not have jurisdiction to
22 administer or resolve a dispute under this section.
23 Exclusive jurisdiction is with the district court."

24 **Section 16.** Section 39-71-414, MCA, is amended to
25 read:

1 "39-71-414. Subrogation. (1) If an action is
2 prosecuted as provided for in 39-71-412 or 39-71-413 and
3 except as otherwise provided in this section, the insurer is
4 entitled to subrogation for all compensation and benefits
5 paid or to be paid under the Workers' Compensation Act. The
6 insurer's right of subrogation is a first lien on the claim,
7 judgment, or recovery.

8 (2) (a) If the injured employee intends to institute
9 the third party action, he shall give the insurer reasonable
10 notice of his intention to institute the action.

11 (b) The injured employee may request that the insurer
12 pay a proportionate share of the reasonable cost of the
13 action, including attorneys' fees.

14 (c) The insurer may elect not to participate in the
15 cost of the action. If this election is made, the insurer
16 waives 50% of its subrogation rights granted by this
17 section.

18 (d) If the injured employee or the employee's personal
19 representative institutes the action, the employee is
20 entitled to at least one-third of the amount recovered by
21 judgment or settlement less a proportionate share of
22 reasonable costs, including attorneys' fees, if the amount
23 of recovery is insufficient to provide the employee with
24 that amount after payment of subrogation.

25 (3) If an injured employee refuses or fails to

1 institute the third party action within 1 year from the date
 2 of injury, the insurer may institute the action in the name
 3 of the employee and for the employee's benefit or that of
 4 the employee's personal representative. If the insurer
 5 institutes the action, it shall pay to the employee any
 6 amount received by judgment or settlement which is in excess
 7 of the amounts paid or to be paid under the Workers'
 8 Compensation Act after the insurer's reasonable costs,
 9 including attorneys' fees for prosecuting the action, have
 10 been deducted from the recovery.

11 (4) An insurer may enter into compromise agreements in
 12 settlement of subrogation rights.

13 (5) If the amount of compensation and other benefits
 14 payable under the Workers' Compensation Act have not been
 15 fully determined at the time the employee, the employee's
 16 heirs or personal representatives, or the insurer have
 17 settled in any manner the action as provided for in this
 18 section, the division board shall determine what proportion
 19 of the settlement shall be allocated under subrogation. ~~The~~
 20 ~~division's determination may be appealed to the workers'~~
 21 ~~compensation judge.~~

22 (6) (a) The insurer is entitled to full subrogation
 23 rights under this section, even though the claimant is able
 24 to demonstrate damages in excess of the workers'
 25 compensation benefits and the third-party recovery combined.

1 The insurer may subrogate against the entire settlement or
 2 award of a third party claim brought by the claimant or his
 3 personal representative, without regard to the nature of the
 4 damages.

5 (b) If no survival action exists and the parties reach
 6 a settlement of a wrongful death claim without apportionment
 7 of damages by a court or jury, the insurer may subrogate
 8 against the entire settlement amount, without regard to the
 9 parties' apportionment of the damages, unless the insurer is
 10 a party to the settlement agreement."

11 **Section 17.** Section 39-71-415, MCA, is amended to
 12 read:

13 "39-71-415. Procedure for resolving disputes regarding
 14 independent contractor status. (1) If an individual,
 15 employer, or insurer has a dispute as to whether an
 16 individual is an independent contractor or an employee as
 17 defined in this chapter, any party may petition a department
 18 of labor and industry appeals referee for resolution of the
 19 dispute in accordance with 39-51-1109 and may appeal from a
 20 decision of the appeals referee in the same manner as
 21 prescribed in 39-51-2403 and 39-51-2404.

22 (2) If a claimant and insurer have a dispute over
 23 benefits and the dispute involves an issue of whether the
 24 claimant is an independent contractor or employee as defined
 25 in this chapter, either party may petition the workers'

1 ~~compensation-judge board~~ for resolution of the dispute in
2 ~~accordance-with-39-71-2985.~~

3 (3) Notwithstanding the provisions of subsection (1),
4 an individual may apply to the division for an exemption
5 from the Workers' Compensation Act in accordance with
6 39-71-401."

7 **Section 18.** Section 39-71-611, MCA, is amended to
8 read:

9 "39-71-611. Costs and attorneys' fees payable on
10 denial of claim or termination of benefits later found
11 compensable. (1) The insurer shall pay reasonable costs and
12 attorney fees as established by the ~~workers'--compensation~~
13 ~~court board~~ if:

14 (a) the insurer denies liability for a claim for
15 compensation or terminates compensation benefits;

16 (b) the claim is later adjudged compensable by the
17 ~~workers'--compensation-court board~~; and

18 (c) in the case of attorneys' fees, the ~~workers'~~
19 ~~compensation--court board~~ determines that the insurer's
20 actions in denying liability or terminating benefits were
21 unreasonable.

22 (2) A finding of unreasonableness against an insurer
23 made under this section does not constitute a finding that
24 the insurer acted in bad faith or violated the unfair trade
25 practices provisions of Title 33, chapter 18."

1 **Section 19.** Section 39-71-612, MCA, is amended to
2 read:

3 "39-71-612. Costs and attorneys' fees that may be
4 assessed against an insurer by ~~workers'--compensation-judge~~
5 ~~board~~. (1) If an insurer pays or submits a written offer of
6 payment of compensation under chapter 71 or 72 of this title
7 but controversy relates to the amount of compensation due,
8 the case is brought before the ~~workers'--compensation--judge~~
9 ~~board~~ for adjudication of the controversy, and the award
10 granted by the ~~judge board~~ is greater than the amount paid
11 or offered by the insurer, a reasonable attorney's fee and
12 costs as established by the ~~workers'--compensation--judge~~
13 ~~board~~ if the case has gone to a hearing may be awarded by
14 the ~~judge board~~ in addition to the amount of compensation.

15 (2) An award of attorneys' fees under subsection (1)
16 may only be made if it is determined that the actions of the
17 insurer were unreasonable. Any written offer of payment made
18 30 days or more before the date of hearing must be
19 considered a valid offer of payment for the purposes of this
20 section.

21 (3) A finding of unreasonableness against an insurer
22 made under this section does not constitute a finding that
23 the insurer acted in bad faith or violated the unfair trade
24 practices provisions of Title 33, chapter 18."

25 **Section 20.** Section 39-71-614, MCA, is amended to

1 read:

2 "39-71-614. Calculation of attorney fees --
3 limitation. (1) The amount of an attorney's fee assessed
4 against an insurer under 39-71-611 or 39-71-612 must be
5 based exclusively on the time spent by the attorney in
6 representing the claimant on the issues brought to hearing.
7 The attorney must document the time spent, but the judge
8 board is not bound by the documentation submitted.

9 (2) The judge board shall determine a reasonable
10 attorney fee and assess costs. The hourly rate applied to
11 the time spent must be based on the attorney's customary and
12 current hourly rate for legal work performed in this state,
13 subject to a maximum established by the division.

14 (3) This section does not restrict a claimant and an
15 attorney from entering into a contingency fee arrangement
16 under which the attorney receives a percentage of the amount
17 of compensation payments received by the claimant because of
18 the efforts of the attorney. However, an amount equal to any
19 fee and costs assessed against an insurer under 39-71-611 or
20 39-71-612 and this section must be deducted from the fee an
21 attorney is entitled to from the claimant under a
22 contingency fee arrangement."

23 **Section 21.** Section 39-71-711, MCA, is amended to
24 read:

25 "39-71-711. Impairment evaluation -- ratings. (1) An

1 impairment rating:

2 (a) is a purely medical determination and must be
3 determined by an impairment evaluator after a claimant has
4 reached maximum healing;

5 (b) must be based on the current edition of the Guides
6 to Evaluation of Permanent Impairment published by the
7 American Medical Association; and

8 (c) must be expressed as a percentage of the whole
9 person.

10 (2) A claimant or insurer, or both, may obtain an
11 impairment rating from a physician of the party's choice. If
12 the claimant and insurer cannot agree upon the rating, the
13 procedure in subsection (3) must be followed.

14 (3) (a) Upon request of the claimant or insurer, the
15 division shall direct the claimant to an evaluator for a
16 rating. The evaluator shall:

17 (i) evaluate the claimant to determine the degree of
18 impairment, if any, that exists due to the injury; and

19 (ii) submit a report to the division, the claimant, and
20 the insurer.

21 (b) Unless the following procedure is followed, the
22 insurer shall begin paying the impairment award, if any,
23 within 30 days of the evaluator's mailing of the report:

24 (i) Either the claimant or the insurer, within 15 days
25 after the date of mailing of the report by the first

1 evaluator, may request that the claimant be evaluated by a
2 second evaluator. If a second evaluation is requested, the
3 division shall direct the claimant to a second evaluator,
4 who shall determine the degree of impairment, if any, that
5 exists due to the injury.

6 (ii) The reports of both examinations must be submitted
7 to a third evaluator, who may also examine the claimant or
8 seek other consultation. The three evaluators shall consult
9 with one another, and then the third evaluator shall submit
10 a final report to the division, the claimant, and the
11 insurer. The final report must state the degree of
12 impairment, if any, that exists due to the injury.

13 (iii) Unless either party disputes the rating in the
14 final report as provided in subsection (6), the insurer
15 shall begin paying the impairment award, if any, within 45
16 days of the date of mailing of the report by the third
17 evaluator.

18 (4) The division shall appoint impairment evaluators
19 to render ratings under subsection (1). The division shall
20 adopt rules that set forth the qualifications of evaluators
21 and the locations of examinations. An evaluator must be a
22 physician licensed under Title 37, chapter 3. The division
23 may seek nominations from the board of medical examiners.

24 (5) The cost of impairment evaluations is assessed to
25 the insurer, except that the cost of an evaluation under

1 subsection (3)(b)(i) or (3)(b)(ii) is assessed to the
2 requesting party.

3 (6) A party may dispute a final impairment rating
4 rendered under subsection (3)(b)(ii) by filing a petition
5 with the workers'-compensation-court board within 15 days of
6 the evaluator's mailing of the report. Disputes over
7 impairment ratings are not subject to 39-71-605 or to
8 mandatory mediation.

9 (7) An impairment rating rendered under subsection (3)
10 is presumed correct. This presumption is rebuttable. "

11 **Section 22.** Section 39-71-723, MCA, is amended to
12 read:

13 "39-71-723. How compensation to be divided among
14 beneficiaries. Compensation due to beneficiaries shall be
15 paid to the surviving spouse, if any, or if none, then
16 divided equally among or for the benefit of the children. In
17 cases where beneficiaries are a surviving spouse and
18 stepchildren of such spouse, the compensation shall be
19 divided equally among all beneficiaries. Compensation due to
20 beneficiaries as defined in subsections (2)(e) and (2)(f) of
21 39-71-116, where there is more than one, shall be divided
22 equitably among them, and the question of dependency and
23 amount thereof shall be a question of fact for determination
24 by the division board."

25 **Section 23.** Section 39-71-741, MCA, is amended to

1 read:

2 "39-71-741. Compromise settlements, lump-sum payments,
3 and lump-sum advance payments. (1) (a) Benefits may be
4 converted in whole to a lump sum:

5 (i) if a claimant and an insurer dispute the initial
6 compensability of an injury; and

7 (ii) if the claimant and insurer agree to a settlement.

8 (b) The agreement is subject to division approval. The
9 division may disapprove an agreement under this section only
10 if there is not a reasonable dispute over compensability.

11 (c) Upon approval, the agreement constitutes a
12 compromise and release settlement and may not be reopened by
13 the division or by any court.

14 (d) The parties' failure to reach an agreement is not
15 a dispute over which a mediator or the workers¹-compensation
16 court board has jurisdiction.

17 (2) (a) If an insurer has accepted initial liability
18 for an injury, permanent total and permanent partial wage
19 supplement benefits may be converted in whole to a lump-sum
20 payment.

21 (b) The conversion may be made only upon agreement
22 between a claimant and an insurer.

23 (c) The agreement is subject to division approval. The
24 division may approve an agreement if:

25 (i) there is a reasonable dispute concerning the

1 amount of the insurer's future liability or benefits; or

2 (ii) the amount of the insurer's projected liability is
3 reasonably certain and the settlement amount is not
4 substantially less than the present value of the insurer's
5 liability.

6 (d) The parties' failure to reach agreement is not a
7 dispute over which a mediator or the workers¹-compensation
8 court board has jurisdiction.

9 (e) Upon approval, the agreement constitutes a
10 compromise and release settlement and may not be reopened by
11 the division or by any court.

12 (3) (a) Permanent partial wage supplement benefits may
13 be converted in part to a lump-sum advance.

14 (b) The conversion may be made only upon agreement
15 between a claimant and an insurer.

16 (c) The agreement is subject to division approval. The
17 division may approve an agreement if the parties demonstrate
18 that the claimant has financial need that:

19 (i) relates to the necessities of life or relates to
20 an accumulation of debt incurred prior to injury; and

21 (ii) arises subsequent to the date of injury or arises
22 because of reduced income as a result of the injury.

23 (d) The parties' failure to reach an agreement is not
24 a dispute over which a mediator or the workers¹-compensation
25 court board has jurisdiction.

(4) Permanent total disability benefits may be converted to a lump-sum advance. The total of all lump-sum advance payments to a claimant may not exceed \$20,000. A conversion may be made only upon the written application of the injured worker with the concurrence of the insurer. Approval of the lump-sum advance payment rests in the discretion of the division. The approval or award of a lump-sum advance payment by the division or court board must be the exception. It may be given only if the worker has demonstrated financial need that:

(a) relates to:

(i) the necessities of life;

(ii) an accumulation of debt incurred prior to the injury; or

(iii) a self-employment venture as set forth in 39-71-1026; and

(b) arises subsequent to the date of injury or arises because of reduced income as a result of the injury.

(5) (a) An insurer may recoup any lump-sum advance amortized at the rate established by the division, prorated biweekly over the projected duration of the compensation period.

(b) The rate adopted by the division must be based on the average rate for United States 10-year treasury bills in the previous calendar year, rounded to the nearest whole

number.

(c) If the projected compensation period is the claimant's lifetime, the life expectancy must be determined by using the most recent table of life expectancy as published by the United States national center for health statistics.

(6) The division has full power, authority, and jurisdiction to allow, approve, or condition compromise settlements or lump-sum advances agreed to by workers and insurers. All such compromise settlements and lump-sum payments are void without the approval of the division. Approval by the division must be in writing. The division shall directly notify a claimant of a division order approving or denying a claimant's compromise or lump-sum payment.

(7) Subject to 39-71-2401, a dispute between a claimant and an insurer regarding the conversion of biweekly payments into a lump-sum advance under subsection (4) is considered a dispute, for which a mediator and the ~~workers'~~ workers'-compensation--court board have jurisdiction to make a determination. If an insurer and a claimant agree to a compromise and release settlement or a lump-sum advance but the division disapproves the agreement, the parties may request the ~~workers'-compensation-court~~ board to review the division's decision."

Section 24. Section 39-71-910, MCA, is amended to read:

"39-71-910. Procedure for resolving disputes as to liability under part. (1) If an employee was employed or retained in employment under the provisions of this part and a dispute or controversy arises as to payment of benefits or the liability therefor, the division board shall hold a hearing and resolve all disputes. On motion made in writing by the employer, ~~carrier, or industrial insurance fund~~ insurer, the administrator board shall join the fund as a party defendant.

(2) The division board, within 5 days of the entry of an order joining the fund as a party defendant, shall give the fund written notice thereof not less than 20 days before the date of hearing and shall include the name of the employee and the employer insurer and the date of the alleged injury or disability. The fund named as a defendant shall have 10 days after the date of notification to file objections to being named as a party defendant. On the date of the hearing at which the liability of the parties is determined, the hearing--examiner board first shall hear arguments and take evidence concerning the joinder as party defendant. If the fund has filed timely objection and if argument and evidence warrant, the hearing--examiner board shall grant a motion to dismiss.

(3) At the time of the hearing, the employer insurer and fund may appear, cross-examine witnesses, give evidence, and defend both on the issue of liability of the employer insurer to the employee and on the issue of the liability of the fund.

(4) The hearing-examiner board shall make findings of fact and conclusions of law determining the respective liability of the employer insurer and the fund."

Section 25. Section 39-71-1018, MCA, is amended to read:

"39-71-1018. Division's order of determination -- exception -- hearing. (1) The division shall issue an initial order of determination within 10 working days of receipt of a report from a rehabilitation panel. If the initial order of determination differs from the findings and recommendations of the panel, the order must state the reasons for the difference.

(2) Within 10 working days from the date the initial order of determination is mailed, a party may submit a written exception to the order. On its own motion or at the request of any party, the division shall conduct a hearing. The division shall issue a final order of determination within 20 working days of the hearing.

(3) If no party submits an exception within 10 working days, the initial order of determination becomes the final

1 order of determination and must be issued by the division.

2 (4) Within 10 working days after the date of mailing
3 of the division's final order of determination, an appeal
4 may be taken to the workers'-compensation-court board."

5 **Section 26.** Section 39-71-1032, MCA, is amended to
6 read:

7 "39-71-1032. Termination of benefits for
8 noncooperation with rehabilitation provider or the
9 department of social and rehabilitation services -- division
10 hearing and appeal. (1) If an insurer believes a worker is
11 refusing unreasonably to cooperate with the rehabilitation
12 provider or the department of social and rehabilitation
13 services, the insurer, with 14 days' notice to the worker
14 and division on a form approved by the division, may
15 terminate any rehabilitation benefits the worker is
16 receiving under this part until the worker cooperates. If
17 the worker is receiving wage supplement benefits, those
18 benefits must continue until the division's determination
19 under subsection (3) is made.

20 (2) The worker may contest the insurer's termination
21 of benefits by filing a written exception to the division
22 within 10 working days after the date of the 14-day notice.
23 The worker or insurer may request a hearing or the division
24 may hold a hearing on its own motion. The division shall
25 issue an order within 30 days of the hearing.

1 (3) If no exceptions are timely filed or the division
2 determines the worker unreasonably refused to cooperate, the
3 insurer may terminate wage loss supplement benefits the
4 worker is receiving until the worker cooperates with the
5 rehabilitation provider. If the worker prevails at a hearing
6 before the division, it may award attorney fees and costs to
7 the worker under 39-71-612.

8 (4) Within 10 working days after the division mails
9 its order to the party's last-known address, a party may
10 appeal to the workers'-compensation-court board."

11 **Section 27.** Section 39-71-1033, MCA, is amended to
12 read:

13 "39-71-1033. Division jurisdiction over rehabilitation
14 disputes -- appeals. In addition to pursuing the hearing
15 opportunities provided in 39-71-1018 and 39-71-1032, a party
16 may bring a dispute arising under the provisions of this
17 part, except for a dispute over which the department of
18 social and rehabilitation services has jurisdiction under
19 39-71-1019, before the division under the contested case
20 provisions of the Montana Administrative Procedure Act,
21 Title 2, chapter 4, part 6, and any rules promulgated by the
22 division. Within 10 days after mailing of the division's
23 final order, an interested party may appeal to the workers'-
24 compensation-court board."

25 **Section 28.** Section 39-71-2401, MCA, is amended to

1 read:

2 "39-71-2401. Disputes -- jurisdiction -- evidence --
3 settlement requirements -- mediation. (1) A dispute
4 concerning benefits arising under this chapter or chapter
5 72, other than the disputes described in subsection (2),
6 must be brought before a department mediator as provided in
7 this part. If a dispute still exists after the parties
8 satisfy the mediation requirements in this part, either
9 party may petition the workers'-compensation-court board for
10 a resolution.

11 (2) A dispute arising under this chapter that does not
12 concern benefits or a dispute for which a specific provision
13 of this chapter gives the division jurisdiction must be
14 brought before the division.

15 (3) An appeal from a division order may be made to the
16 workers'-compensation-court board.

17 (4) The common law and statutory rules of evidence do
18 not apply in a case brought to hearing before the division.

19 (5) Except as otherwise provided in this chapter,
20 before a party may bring a dispute concerning benefits
21 before a mediator, the parties shall attempt to settle as
22 follows:

23 (a) The party making a demand shall present the other
24 party with a specific written demand that contains
25 sufficient explanation and documentary evidence to enable

1 the other party to thoroughly evaluate the demand.

2 (b) The party receiving the demand shall respond in
3 writing within 15 working days of receipt. If the demand is
4 denied in whole or in part, the response shall state the
5 basis of the denial.

6 (c) Upon motion of a party, the mediator has the
7 authority to dismiss a petition if he finds that either
8 party did not comply with this subsection, but the
9 mediator's decision may be reviewed by the workers'-
10 compensation-court board upon motion of a party.

11 (d) Nothing in this subsection relieves a party of an
12 obligation otherwise contained in this chapter."

13 **Section 29.** Section 39-71-2406, MCA, is amended to
14 read:

15 "39-71-2406. Purpose. The purpose of this part is to
16 prevent when possible the filing ~~in~~ with the workers'-
17 compensation-court board of actions by claimants or insurers
18 relating to claims under chapter 71 or 72 of this title if
19 an equitable and reasonable resolution of the dispute may be
20 effected at an earlier stage. To achieve this purpose, this
21 part provides for a procedure for mandatory, nonbinding
22 mediation."

23 **Section 30.** Section 39-71-2408, MCA, is amended to
24 read:

25 "39-71-2408. Mandatory, nonbinding mediation. (1)

Except as otherwise provided, in a dispute arising under chapter 71 or 72 of this title, the insurer and claimant shall mediate any issue concerning benefits and the mediator shall issue a report following the mediation process recommending a solution to the dispute before either party may file a petition in with the ~~workers'-compensation-court~~.

(2) The resolution recommended by the mediator is without administrative or judicial authority and is not binding on the parties."

Section 31. Section 39-71-2411, MCA, is amended to read:

"39-71-2411. Mediation procedure. (1) Except as otherwise provided, a claimant or an insurer having a dispute relating to benefits under chapter 71 or 72 of this title may petition the department for mediation of the dispute.

(2) A party may take part in mediation proceedings with or without representation.

(3) The mediator shall review the division file for the case and may receive any additional documentation or evidence either party submits.

(4) The mediator shall request that each party offer argument summarizing the party's position. A party's argument must include the evidence the party would present if the case were being presented to the ~~worker's~~

~~compensation-judge board~~ but is not limited by the rules of evidence.

(5) After the parties have presented all their information and evidence to the mediator, he shall recommend a solution to the parties within a reasonable time to be established by rule.

(6) A party shall notify the mediator within 45 days of the mailing of his report whether the party accepts the mediator's recommendation. If either party does not accept the mediator's recommendation, the party may petition the ~~workers'-compensation--court~~ board for resolution of the dispute.

(7) (a) If a mediator determines that either party failed to cooperate in the mediation process, the mediator shall prepare a written report setting forth the determination and the grounds for the determination. The report must be mailed to the parties and to the ~~workers'-compensation--court~~ board. Unless a party disputes the determination as set forth in subsection (7)(c), the parties shall repeat the mediation process, but only one time.

(b) A mediator may determine that a party has failed to cooperate in the mediation process only if the party failed to:

(i) supply information or offer a summary of the party's position as reasonably requested by the mediator;

1 (ii) attend scheduled mediation conferences unless
2 excused by the mediator; or

3 (iii) listen to and review the information and position
4 offered by the opposing party.

5 (c) If a party disputes a mediator's determination
6 that the party failed to cooperate in the mediation process,
7 the party may file a petition with the workers'-compensation
8 court board. Upon receipt of a petition, the court board
9 shall summon the parties and the mediator to determine by
10 oral discussion whether the mediator's determination of
11 noncooperation is supportable. If the court board finds that
12 the mediator's determination is supportable, the court board
13 may order the parties to attempt a second time to mediate
14 their dispute."

15 **Section 32.** Section 39-72-102, MCA, is amended to
16 read:

17 "39-72-102. Definitions. As used in this chapter,
18 unless the context requires otherwise, the following
19 definitions apply:

20 (1) "Beneficiary" is as defined in 39-71-116.

21 (2) "Board" means the board of industrial benefits
22 provided for in [section 1].

23 (2)(3) "Child" is as defined in 39-71-116.

24 (3)(4) "Disablement" means the event of becoming
25 physically incapacitated by reason of an occupational

1 disease from performing work in the worker's job pool.
2 Silicosis, when complicated by active pulmonary
3 tuberculosis, is presumed to be total disablement.
4 "Disability", "total disability", and "totally disabled" are
5 synonymous with "disablement", but they have no reference to
6 "permanent partial disability".

7 (4)(5) "Division" is as defined in 39-71-116.

8 (5)(6) "Employee" is as defined in 39-71-118.

9 (6)(7) "Employer" is as defined in 39-71-117.

10 (7)(8) "Independent contractor" is as defined in
11 39-71-120.

12 (8)(9) "Insurer" is as defined in 39-71-116.

13 (9)(10) "Invalid" is as defined in 39-71-116.

14 (10)(11) "Occupational disease" means harm, damage, or
15 death as set forth in 39-71-119(1) arising out of or
16 contracted in the course and scope of employment and caused
17 by events occurring on more than a single day or work shift.
18 The term does not include a physical or mental condition
19 arising from emotional or mental stress or from a
20 nonphysical stimulus or activity.

21 (11)(12) "Order" is as defined in 39-71-116.

22 (12)(13) "Pneumoconiosis" means a chronic dust disease
23 of the lungs arising out of employment in coal mines and
24 includes anthracosis, coal workers' pneumoconiosis,
25 silicosis, or anthracosilicosis arising out of such

1 employment.

2 ~~{13}~~(14) "Silicosis" means a chronic disease of the
3 lungs caused by the prolonged inhalation of silicon dioxide
4 (SiO₂) and characterized by small discrete nodules of
5 fibrous tissue similarly disseminated throughout both lungs,
6 causing the characteristic x-ray pattern, and by other
7 variable clinical manifestations.

8 ~~{14}~~(15) "Wages" is as defined in 39-71-123.

9 ~~{15}~~(16) "Year" is as defined in 39-71-116~~{8}~~(9) and
10 39-71-116~~{22}~~(23)."

11 **Section 33.** Section 39-72-610, MCA, is amended to
12 read:

13 "39-72-610. Report of and examinations conducted by
14 medical panel. (1) At a hearing held before the division-or
15 the-workers'-compensation-judge board, there is a rebuttable
16 presumption that the report of the medical panel and any
17 medical examination reports by members of the medical panel
18 are correct.

19 (2) The claimant or the insurer may present additional
20 medical information in order to rebut the medical
21 examination report of a panel member or a panel report."

22 **Section 34.** Section 39-72-611, MCA, is amended to
23 read:

24 "39-72-611. Hearing on determination -- when. Upon the
25 division's own motion or if a claimant or an insurer

1 requests that a hearing be held by-the-division prior to the
2 time---the---division---issues---its issuance of a final
3 determination concerning the claimant's entitlement to
4 occupational disease benefits, the division board shall hold
5 a hearing."

6 **Section 35.** Section 39-72-612, MCA, is amended to
7 read:

8 "39-72-612. Rehearing---and---appeal---to---workers'-
9 compensation--judge Hearings. (1) Within 20 days after the
10 division has issued its order of determination as to whether
11 the claimant is entitled to benefits under this chapter, a
12 party may request a rehearing hearing before the board. In
13 order-to-perfect-an--appeal--to--the--workers'-compensation
14 judge,--the--appealing-party-must-request-a-rehearing-before
15 the-division--The-division-may-grant-a-rehearing-and,--if--a
16 rehearing-is-granted,--the-division's-final-determination-may
17 not--be--issued--until--after-the-rehearing--If-the-division
18 does--not--grant---a---rehearing,---the---division's---final
19 determination-is-issued-on-the-date-the-rehearing-is-denied-

20 (2) Appeals from a final determination of the division
21 shall be made to the workers'-compensation-judge board
22 within 30 days after the division has issued its final
23 determination. The judge board, after a hearing held
24 pursuant-to-39-71-2903-and-39-71-2904, shall make a final
25 determination concerning the claimant's claim. The-judge-may

1 overrule--the-division-only-on-the-basis-that-the-division's
2 determination-is:

3 (a)--in--violation--of--constitutional---or---statutory
4 provisions;

5 (b)--in--excess--of--the--statutory--authority--of--the
6 agency;

7 (c)--made-upon-unlawful-procedure;

8 (d)--affected-by-other-error-of-law;

9 (e)--clearly--erroneous--in--view--of---the---reliabler
10 probative;--and-substantial-evidence-on-the-whole-record;--or

11 (f)--arbitrary-or-capricious-or-characterized-by--abuse
12 of---discretion---or---clearly---unwarranted---exercise---of
13 discretion:"

14 **Section 36.** Section 39-72-613, MCA, is amended to
15 read:

16 "39-72-613. Costs and attorney fees. (1) If an insurer
17 requests that a hearing be held before the division board
18 and the claim is determined compensable by the division
19 board after the hearing and the insurer does not appeal the
20 division's board's decision to the workers'-compensation
21 judge district court, reasonable costs and attorney fees, as
22 determined by the division board, shall be paid to the
23 claimant's attorney by the insurer.

24 (2) If an insurer appeals a decision of the division
25 to--the--workers'-compensation-judge-or-from-the-judge board

1 to the supreme district court and the claim is determined
2 compensable, reasonable costs and attorney fees, as
3 determined by the workers'-compensation-judge board, shall
4 be paid to the claimant's attorney by the insurer for
5 proceedings before the division; the--workers'-compensation
6 judge; board and the supreme district court."

7 **NEW SECTION. Section 37.** Repealer. Sections 2-15-1014
8 and 39-71-2901 through 39-71-2914, MCA, are repealed.

9 **NEW SECTION. Section 38.** Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 **NEW SECTION. Section 39.** Codification instruction.
14 (1) [Section 1] is intended to be codified as an integral
15 part of Title 2, chapter 15, part 10, and the provisions of
16 Title 2, chapter 15, part 10, apply to [section 1].

17 (2) [Sections 3 through 12] are intended to be
18 codified as an integral part of Title 39, chapter 71, and
19 the provisions of Title 39, chapter 71, apply to [sections 3
20 through 12].

21 **NEW SECTION. Section 40.** Effective date. [This act]
22 is effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1 *Shurt* BILL NO. 425
2 INTRODUCED BY *HARP*
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE OFFICE
5 OF WORKERS' COMPENSATION JUDGE; ESTABLISHING THE BOARD OF
6 INDUSTRIAL BENEFITS; PROVIDING FOR TRANSITION; AMENDING
7 SECTIONS 39-71-116, 39-71-204, 39-71-317, 39-71-414,
8 39-71-415, 39-71-611, 39-71-612, 39-71-614, 39-71-711,
9 39-71-741, 39-71-910, 39-71-1018, 39-71-1032, 39-71-1033,
10 39-71-2401, 39-71-2406, 39-71-2408, 39-71-2411, 39-72-102,
11 39-72-610 THROUGH 39-72-613, MCA; REPEALING SECTIONS
12 2-15-1014 AND 39-71-2901 THROUGH 39-71-2914, MCA; AND
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

16 A statement of intent is required for this bill because
17 it grants the board of industrial benefits authority to
18 adopt rules necessary for the performance of its duties.

19 It is the intent of the legislature that the board may
20 make rules necessary to carry out its purpose of reviewing
21 and deciding disputes under the workers' compensation and
22 occupational disease laws of this state. The board may make
23 rules regarding the conduct of its hearings and the
24 qualifications, appointment, and disqualification of its
25 hearing examiners so that decisions are rendered in a fair

There is no change on SB 425 and will not
be reprinted. Please refer to introduced
(white for complete text.)